

# Appellate Division Upholds Dismissal Of Plaintiff's Negligence Case At PNC Arts Center

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April 1, 2019 | by Thomas F. Dorn, Jr

In *Spigai v. Live Nation Worldwide, Inc.* (A-4242-16T4), the Appellate Division affirmed the dismissal of plaintiff Christine Spigai's personal injury negligence claims against defendants New Jersey Turnpike Authority/Garden State Parkway and Live Nation Worldwide, Inc. for an accident that happened at defendant PNC Bank Arts Center. Plaintiff and her friends had "lawn seats" at PNC Bank Arts Center which is owned by the Turnpike Authority and operated by Live Nation Worldwide. For anyone who has been to the Arts Center for a concert you know that the "lawn seats" section means trying to find a spot to stand and find elbow room in the crowd of concertgoers. It rained before and during the concert. After the concert plaintiff got separated from her friends; a shuttle bus had taken her friends to the lot where they had parked. Plaintiff chose not to wait for the next shuttle bus so she followed a crowd of people down a grassy hill. Instead of using a staircase plaintiff decided to simply follow the crowd down the wet, grassy slope. As she was talking to her husband on her cell phone, wearing flip-flops and carrying a chair, a tote bag and a tarp, plaintiff slipped and fell on the wet grass and broke her leg.

The Turnpike Authority, a public entity, argued that it was immune from liability under New Jersey's Tort Claims Act. Live Nation argued that it did not breach any duty of care to plaintiff. Plaintiff hired a liability expert who claimed that defendants failed to assess the risk of accidents at the Arts Center, failed to have a surveillance plan, failed to provide physical barriers and ropes to concertgoers and contended that plaintiff had no alternative but to use the wet, grassy slope to get to her car. In order to prevail in a case against a public entity, a plaintiff is required to prove that there was a dangerous condition and that the public entity's negligence was "palpably unreasonable". The trial judge ruled that a grassy hill made wet from rain was not a dangerous condition and there was no evidence of the Turnpike's conduct being palpably unreasonable. As to Live Nation, the trial judge held that plaintiff chose not to wait for the shuttle and chose not to use the staircase. The judge stated that the fact that grass is slippery when wet is common knowledge. Plaintiff's case was dismissed.

The Appellate Division agreed for the same reasons the trial judge had found.

Having been to concerts at the Arts Center I know that there are a few muddy areas leading to the parking lots and in the lawn seats section. Although plaintiff's injuries were significant New Jersey courts will dismiss a case if there is no duty of care owed to a plaintiff. It didn't help that plaintiff was on her cell phone, wearing flimsy footwear and had her arms full. With these facts, there was no way this case was going to a jury.