TRAUB LIEBERMAN

NEWS & EVENTS

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Partner Jonathan R. Harwood Obtained Summary Judgment in a Case Involving a Wedding Guest Injured in a Fall

Related Attorneys: Jonathan R. Harwood

On September 30, 2019, Traub Lieberman partner Jonathan Harwood obtained summary judgment in an action involving a guest injured in a fall at a wedding. Traub Lieberman's client owned the property where the fall occurred. Plaintiff fell while exiting a row of seats after the bridal party had recessed down the aisle. Plaintiff claimed that she tripped over the raised side of a paper runner that had been placed in the aisle at the property. Plaintiff brought an action against Traub Lieberman's client (the owner of the building) and the florist that had provided the runner. The owner had provided the bridal party with access to the property but did not assist in the set up for the wedding or have any employees present during the ceremony. The florist had supplied the runner for the wedding. The florist commenced a third-party action against the bride, whose wedding party had actually placed the runner in the aisle. Plaintiff asserted that the runner had become bunched and crumpled during the ceremony, creating a dangerous condition. She further asserted that the owner was responsible for her injuries since the dangerous condition existed on its property and it should have an employee present to insure no dangerous conditions existed.

During the course of discovery, Mr. Harwood established that no one representing the owner was present during the wedding, had any involvement in the placement of the runner or had received any complaints about the runner. In support of the motion for summary judgment Mr. Harwood introduced pictures showing, in conjunction with deposition testimony, that there were no problems with the runner minutes before plaintiff's fall. Mr. Harwood also argued that the alleged defect did not involve the property itself, absolving the owner of any obligation to plaintiff. In granting the motion for summary judgment, the court held that evidence and testimony showed that the owner neither created the condition nor had actual or constructive notice that any dangerous condition existed. The court also held that there the owner did not have any duty to have a representative present during the wedding since the property itself was not dangerous or defective. Finally, the court held that the condition of the runner was open and obvious and not inherently dangerous.

The insured argued that the two provisions were inconsistent and thus created an ambiguity that had to be interpreted in a manner most beneficial to the insured. Mr. Harwood argued that this was an incorrect reading of New York law. In support of this argument Mr. Harwood cited case law holding that, under New York law, exclusions in insurance policies are read in a seriatim, and not cumulative, fashion Under this approach, it was argued, if any one exclusion applies there can be no coverage since no one exclusion can be regarded as inconsistent with another. Application of this principle, it was argued, required the court to apply the exclusion in the endorsement, which precluded coverage for any claim involving bodily injury to the insured's employee. The court agreed, holding that "if any single exclusion in the policy applies, coverage is denied." Since the exclusion in the endorsement applied, the court found the policy did not apply and dismissed the complaint against Traub Lieberman's client.