

# **Bond Case Briefs**

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## **NEGLIGENCE - NEW YORK**

### **Annitto v. Smithtown Central School District**

**Supreme Court, Appellate Division, Second Department, New York - November 2, 2022 - N.Y.S.3d ----2022 WL 16626086 - 2022 N.Y. Slip Op. 06098**

Mother, on behalf of high school football player, brought personal injury action against school district, alleging that district was negligent in supervising football player during off-season weight-training test, during which he lost control of bar weighing 295 pounds, causing one of his fingers to be crushed.

The Supreme Court, Suffolk County, granted district's motion for summary judgment. Mother appealed.

The Supreme Court, Appellate Division, held that:

- Doctrine of primary assumption of risk did not negate district's duty to safeguard football player from risks that led to incident, and
- Genuine issues of material fact precluded summary judgment.

Doctrine of primary assumption of risk did not negate school district's duty to safeguard high school football player from risks that led to incident during off-season weight-training test, in which football player lost control of bar weighing 295 pounds, causing one of his fingers to be crushed, although weight test was related to the football player's conditioning and was occasioned by his membership on football team; the only risks football player assumed were those that were inherent in the sport of football, and the risk that football coach would fail to provide adequate supervision during the weight test, causing the football player's finger to be crushed, was not a risk assumed when football player chose to join the football team.

Genuine issues of material fact existed as to whether student assistant inadequately spotted high school football player during weight-training test, whether assistant had sufficient time to render assistance but negligently failed to perceive the difficulty encountered by the football player or react appropriately, or whether football coach negligently entrusted that task to assistant, precluding summary judgment in personal injury action against school district, alleging that during test, football player lost control of bar weighing 295 pounds, causing one of his fingers to be crushed between the bar and the support rack.