

Bond Case Briefs

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SCHOOLS - NEW YORK

Philippou v. Baldwin Union Free School Dist.

Supreme Court, Appellate Division, Second Department, New York - April 17, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 02556

School districts failed to establish, prima facie, that injured student assumed risk of being injured in wrestling match when mats that had been taped together came apart during the match.

Student and his mother brought personal injury action against two school districts involved in wrestling match, seeking damages for injuries allegedly sustained when two wrestling mats which had been taped together came apart during a match.

The Supreme Court, Appellate Division, held that school districts failed to establish, prima facie, that injured student assumed risk of being injured in wrestling match.

If the playing surface is as safe as it appears to be, and the condition in question is not concealed such that it unreasonably increases risk assumed by the players, the doctrine of assumption of risk applies. However, a board of education, its employees, agents and organized athletic councils must exercise ordinary reasonable care to protect student athletes voluntarily involved in extracurricular sports from unassumed, concealed or unreasonably increased risks.

The districts' moving papers failed to demonstrate, prima facie, that allegedly dangerous condition caused by improperly taped or secured mats did not unreasonably increase risk of injury inherent in sport of wrestling.