

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CYNTHIA MARIE LINCOLN, Personal  
Representative of the Estate of PAUL W.  
ELLSWORTH, Deceased,

UNPUBLISHED  
February 23, 1999

Plaintiff- Appellant,

v

No. 194291  
Genesee Circuit Court  
LC No. 95-034222 NO

SKATELAND ARENA and MCCOMBS  
ENTERPRISES, INC.,

Defendants-Appellees.

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Before: McDonald, P.J., Jansen and Talbot, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition and dismissing her complaint with prejudice. We affirm.

Plaintiff's decedent was roller skating at defendants' rink. After leaving the skating surface and entering the snack bar, he collided with another child. He fell backwards, struck his head on a nearby table, and fell to the floor unconscious. He stopped breathing and efforts to resuscitate him were unsuccessful. Plaintiff filed this wrongful death action, claiming that defendants were negligent in providing an unsafe premises in general, placing the table too close to the doorway, failing to provide proper supervision in the snack bar, failing to direct traffic in and out of the snack bar, failing to provide adequate lighting, failing to provide adequate protective devices, and failing to warn. Defendants moved for summary disposition under MCR 2.116(C)(10), arguing that plaintiff's claim was barred by the Roller Skating Safety Act (RSSA), MCL 445.1721, *et seq.*; MSA 18.485(1) *et seq.* The trial court agreed and dismissed the complaint.

The RSSA requires roller skating center operators to post the duties of skaters and spectators and the duties, obligations, and liabilities of operators as prescribed in the act in conspicuous places, to maintain the posted signs, to comply with the safety standards specified in the roller skating safety standards published by the roller skating rink operators association, and to maintain roller skating

equipment and skating surfaces according to the same safety standards. MCL 445.1723; MSA 18.485(3). It requires skaters to read posted signs, to maintain reasonable control of their speed and course at all times, and to maintain a proper lookout to avoid other skaters and objects. MCL 445.1724; MSA 18.485(4). The RSSA also contains an assumption of the risk provision, § 5, which provides:

Each person who participates in roller skating accepts the danger that inheres in that activity insofar as the dangers are obvious and necessary. Those dangers include, but are not limited to, injuries that result from collisions with other roller skaters or other spectators, injuries that result from falls, and injuries which involve objects or artificial structures properly within the intended travel of the roller skater which are not otherwise attributable to the operator's breach of his or her common law duties. [MCL 445.1725; MSA 18.485(5).]

Pursuant to § 5, a skater assumes the risks of injuries that result from a collision or a fall, and recovery from the rink operator is precluded. However, a skater does not assume the risk of the rink operator's violation of its prescribed duties as enumerated in § 3 of the RSSA; therefore, if a violation of § 3 is alleged and proven, the rink operator is "liable in a civil action for damages for that portion of the loss or damage resulting from the violation." *Dale v Beta-C, Inc*, 227 Mich App 57, 67; 574 NW2d 697 (1997); MCL 445.1726; MSA 18.485(6). If the injury involves objects or artificial structures properly within the intended travel of the skater, the skater's assumption of risk is limited by the rink operator's breach of a common-law duty. *Id.* at 69. In other words, the rink operator remains liable "for injuries sustained as a result of objects not properly present on or about the physical premises (such as defects in the structure of the building)." *Id.* at 69-70.

Plaintiff's decedent's injuries were caused in part by a collision with another skater and in part by the presence of the table in the snack bar. There is nothing in the safety standards or common law which prohibits a rink operator from maintaining a snack bar or providing furniture for patrons utilizing the snack bar. Because a dining table in a dining area is "properly present on or about the physical premises," and was not, by virtue of its design or placement unreasonably dangerous, the risk of both the collision with the other skater and the fall against the table was assumed by plaintiff's decedent and thus defendants are not liable. The only arguable violation of the safety standards alleged in plaintiff's complaint relate to the need for floor supervisors. However, standards require one floorguard to direct, supervise and assist every 200 skaters and the evidence established that defendants had at least two floorguards on duty for the 175 skaters in the building. Therefore, the trial court properly concluded that the assumption of risk provision of the RSSA shielded defendants from liability in this case and properly granted defendants' motion for summary disposition.

Affirmed.

/s/ Gary R. McDonald  
/s/ Kathleen Jansen  
/s/ Michael J. Talbot