

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SHAWN HARRISON,	§
	§ No. 667, 2006
Plaintiff Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
EXTREME NITE CLUB and	§ C.A. No. 05C-11-021
SECURITY STAFF,	§
	§
Defendants Below-	§
Appellees.	§

Submitted: July 13, 2007  
Decided: August 28, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

**ORDER**

This 28th day of August 2007, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The plaintiff-appellant, Shawn Harrison, filed an appeal from the Superior Court’s November 27, 2006 bench ruling granting the motion for judgment as a matter of law of the defendants-appellees, Extreme Nite Club and its Security Staff (the “Club”), pursuant to Superior Court Civil Rule 50(a) (1). We find no merit to the appeal. Accordingly, we affirm.

(2) The record reflects that Harrison filed a negligence action against the Club, claiming that he incurred medical bills and sustained lost

wages as the result of injuries suffered on March 21, 2004, when he was escorted off the Club premises by security. Following discovery, the case was set for trial. Prior to trial, the Club filed a motion *in limine* asking the Superior Court to exclude any expert testimony on behalf of Harrison at trial related to permanency or causation on the ground that Harrison had failed to properly identify any such expert or the scope of any such expert's testimony in discovery. The Superior Court granted the Club's motion *in limine*.

(3) The pretrial stipulation contained the following stipulated facts: a) an incident occurred at Extreme Nite Club on March 21, 2004; b) Harrison was unemployed prior to the incident; c) Harrison was being escorted from the premises by security; d) Harrison threw an object at a patron and was placed in a security hold; e) Harrison broke free of the security hold and ran for the door; f) Harrison stumbled while running through the crowd; g) Harrison was subdued by security staff and arrested by Dover police; h) Harrison obtained employment after the incident; i) Harrison did not see a doctor until five days after the incident; j) Harrison's diagnosis was a contusion to the arm and he was immediately discharged; and k) Harrison has no other diagnosed injuries related to the incident.

(4) The trial transcript reflects that, on the day of trial, Harrison had no fact witnesses, no medical witnesses, and no witnesses to authenticate evidence he intended to introduce. Nevertheless, Harrison insisted on going forward with trial. Following a lengthy colloquy between Harrison and the Superior Court judge regarding the fact stipulations contained in the pretrial stipulation and Harrison's lack of an expert to testify regarding his injuries, the Club moved for judgment as a matter of law.<sup>1</sup> Giving Harrison the benefit of all reasonable inferences and viewing the evidence in the light most favorable to him, the judge granted the Club's motion and dismissed the case.

(5) Rule 50(a) (1) provides as follows: "If during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue, the Court may determine the issue against the party and may grant a motion for judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue." This Court has held that "[T]he defendant is entitled to judgment as a matter of law if the plaintiff fails to

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<sup>1</sup> Super. Ct. R. 50(a) (1).

establish a prima facie case of negligence, or under no reasonable view of the evidence could a jury find in favor of the plaintiff.”<sup>2</sup>

(6) The record in this case clearly reflects that there was no legally sufficient evidentiary basis for a reasonable jury to find that the Club was negligent or that Harrison’s injuries and losses were proximately caused by the Club’s negligence, nor was there a sufficient evidentiary basis for a reasonable jury to determine the amount of the damages allegedly sustained by Harrison. Therefore, the Superior Court properly granted the Club’s motion for a directed verdict and dismissed Harrison’s claims.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>2</sup> *Pipher v. Parsell*, Del. Supr., No. 215, 2006, Holland, J. (June 19, 2007) (quoting *Eustice v. Rupert*, 460 A.2d 507, 509 (Del. 1983)).