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Tort Claims Proceed Against Roller Rink

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A woman injured in a roller-skating mishap did not forfeit her right to claim that a rink was run negligently solely because of the potentially hazardous nature of skating, Northern District Judge David Hurd has ruled. He said that while people generally do not have legal recourse if injured in recreational sporting events where a danger is "known, apparent, or reasonably foreseeable," they can still sustain an action for liability in some circumstances.

His Aug. 15 ruling in *Diaz v. High Rollers Recreational Center*, 6:11-cv-838, rejected the argument by the operators of an Amsterdam rink that plaintiff Brenda Diaz is precluded from bringing suit because of the risky nature of skating and the obvious dangers posed by other skaters. Diaz broke her ankle in July 2010 when she said a young male skater who others had seen skating too fast and weaving among the slower-moving skaters knocked her over from behind. The rink said it had guides on hand to monitor the skaters and had not seen a youth skating dangerously.

Citing *Morgan v. State*, 90 NY2d 471 (1997), Hurd said a skater does not assume the risks associated with another's reckless conduct. Adopting the rink's stance that it cannot face liability "would lead to the illogical conclusion that any recreational facility owner is completely relieved of liability as long as the reckless conduct of a participant, no matter how dangerous is apparent to the other participants," Hurd wrote. He denied the rink's motion for summary judgment and set a trial date for Oct. 7 in Utica.

David Jaroslawicz of Jaroslawicz & Jaros in Manhattan represented Diaz. Keith Tola and Rondiene Novitz of Crusier, Mitchell & Novitz in Melville defended the rink.