

STATE OF MAINE

SUPERIOR COURT

Case No. - 07AG-572009

Sagadahoc, ss.

TAMMY SCHMOLLER and LES GIBSON,
as parents and next friends of K.G.,
a minor,

Plaintiffs

v.

Docket No. BATSC-CV-07-073

HOWARD SPORTS, INC.

and

HOWARD SPORTS-TOPSHAM, INC.

Defendants

DECISION AND ORDER

This matter comes before the court on the defendants' motion for summary judgment. Oral argument was held May 5, 2009 on a consolidated basis in three related pending cases against Howard Sports-Topsham.

The issues presented in this case for purposes of summary judgment are legally identical to those presented in *Laurence v. Howard Sports-Topsham, Inc.*, Sag. CV-07-62, in which the court has today issued a detailed written order regarding summary judgment in that case. The court hereby adopts and incorporates by reference its reasoning in the *Laurence* order of this date.

For the reasons stated, it is ORDERED as follows:

1. The defendant Howard Sports, Inc.'s motion for summary judgment is GRANTED, without objection.
2. The defendant Howard Sports-Topsham, Inc.'s motion for summary judgment on the claims for intentional infliction of emotional distress

(Count III), negligent supervision (Count IV), vicarious liability (Count V), and punitive damages is GRANTED. As to Counts IV and V the order is without objection.

3. The defendant Howard Sports-Topsham, Inc.'s motion for summary judgment on the claims for negligence (Count I) and negligent infliction of emotional distress (Count II) is DENIED.

Pursuant to M.R. Civ. P. 79(a), the Clerk is hereby directed to incorporate this Decision and Order by reference in the docket.

Dated 5-5, 2009


Justice, Superior Court