

12-Person Jury

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DOROTHY BROWN  
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COOK COUNTY, IL

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

2020L004684

LAIAH ZUNIGA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 MAJOR LEAGUE BASEBALL, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )  
 )  
 CHICAGO CUBS BASEBALL CLUB, LLC, )  
 )  
 Respondent in Discovery. )

No.

*Plaintiff demands trial by jury*

**COMPLAINT AT LAW**

Plaintiff LAIAH ZUNIGA, through her attorneys, CLIFFORD LAW OFFICES, P.C., complains of Defendant MAJOR LEAGUE BASEBALL (“MLB”) and Respondent in Discovery CHICAGO CUBS BASEBALL CLUB, LLC (“CUBS”), as follows:

1. On and before August 27, 2018, the CUBS exclusively owned, operated, and managed a facility known as Wrigley Field located at 1060 W. Addison Street in the City of Chicago, County of Cook, State of Illinois.
2. On and before August 27, 2018, Defendant MLB was an association consisting of professional baseball teams from many different cities within the United States and Canada. The CUBS are one of two MLB member-franchises based in Chicago, Illinois, who play their home games at Wrigley Field.
3. On August 27, 2018, Plaintiff LAIAH ZUNIGA attended a baseball game at Wrigley Field between the Chicago Cubs and the New York Mets.
4. On August 27, 2018, Plaintiff LAIAH ZUNIGA was seated in Club Box Outfield,

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aisle 6, row 2, seat 4 at Wrigley Field, when she was struck in the face by a baseball traveling at a high rate of speed, causing severe facial orthopedic, nerve, and dental injuries.

5. On and before August 27, 2018, Defendant MLB and the CUBS were aware that patrons have suffered serious injuries (i.e., blindness, skull fractures, severe concussions, brain hemorrhages) or been killed by baseballs entering the stands at a high rate of speed in foul territory at Wrigley Field and other MLB team fields. For instance, in July 2008, a seven-year-old fan was struck in the head and suffered a fractured skull and brain swelling after being struck by a foul ball at Wrigley Field.

6. In a typical MLB game, 35-40 batted balls enter the stands, and some of those balls can enter the stands at or near 100 miles per hour. So it is unreasonable, and in some cases impossible, to expect patrons to avoid being hit. And each year over 1700 fans are injured by baseballs entering the stands at a high rate of speed.

7. The most dangerous areas are the exposed areas along the first and third baselines in foul territory. In these hot zones, there is no netting and the patrons are exposed. Plaintiff LAIAH ZUNIGA was sitting in a hot zone when she was struck by the baseball.

8. Before August 27, 2018, Defendant MLB executives, including the Commissioner, and players have acknowledged this danger posed to patrons. Some players refuse to allow their loved ones to sit close to the field unless they are directly behind the netting. The players, through their union, have even demanded that the netting be extended.

9. In light of that known risk of serious injury and death, before August 27, 2018, Defendant MLB caused spectator netting to be erected in Wrigley Field and other member fields for the protection of fans like Plaintiff LAIAH ZUNIGA. For instance, MLB has mandated that spectator netting be located behind home plate in the area formally known as the “slaughter pen.”

Upon information and belief, MLB has also required that temporary netting be erected during batting practice for fan safety.

10. Defendants intended that netting would protect patrons like Plaintiff LAIAH ZUNIGA from being struck by baseballs traveling at a high rate of speed. And Defendant MLB knew patrons like Plaintiff LAIAH ZUNIGA would rely upon that netting to protect them from being struck by baseballs. In light of comments made by Defendant MLB about studying this danger and ways to eliminate it, patrons like Plaintiff LAIAH ZUNIGA have relied on Defendant MLB to take sufficient steps to protect them from that danger.

11. But even after the spectator netting was erected, patrons like Plaintiff LAIAH ZUNIGA have continued to be seriously injured by baseballs being hit into the stands at high rates of speed, including on several occasions before the August 27, 2018 incident at Wrigley Field involving Plaintiff LAIAH ZUNIGA. In fact, Defendant MLB and the CUBS have increased the risk of injury to patrons not only by failing to extend the netting further, but also by including distractions during the game, increasing the pace of the game, and encouraging the use of mobile devices during the game.

12. Defendant MLB oversees the member-franchises like the CUBS, and prior to August 27, 2018, Defendant MLB had the power to mandate that those teams take steps to increase fan safety, including extending the netting for the protection of patrons like Plaintiff LAIAH ZUNIGA.

13. Other major sports have extended spectator netting in light of similar risks. In 2002, the NHL mandated netting after a young girl was killed at a game.

14. In Japan, netting at baseball stadiums extends from foul pole to foul pole.

15. But, in 2015, after an “in-depth study,” Defendant MLB only “recommended” to

the member-clubs that netting be extended between the near ends of both dugouts and within 70 feet of home plate. Realizing that recommendation did not go far enough to protect fans from the known danger of serious injury and death, some MLB teams extended the protective netting beyond that recommendation to further lessen that risk. For instance, the St. Louis Cardinals extended the netting to the far-end of the dugouts; had Defendant MLB required the CUBS to similarly extended the netting at Wrigley Field, Plaintiff LAIAH ZUNIGA would not have been injured.

**COUNT I**

**NEGLIGENCE - MLB**

16. Plaintiff incorporates the allegations in paragraphs 1-15.

17. On and before August 27, 2018, Defendant MLB owed patrons like Plaintiff LAIAH ZUNIGA a duty of reasonable care to protect them from the known risk of serious injury or death posed by baseballs being hit into the stands.

18. On and before August 27, 2018, Defendant MLB voluntarily undertook a duty to protect patrons like Plaintiff LAIAH ZUNIGA from the known risk of serious injury or death posed by baseballs being hit into the stands.

19. On August 27, 2018, Plaintiff LAIAH ZUNIGA was struck by a baseball traveling at a high rate of speed that was not stopped by the spectator netting.

20. On and before August 27, 2018, Defendant MLB, through its employees and/or agents, negligently:

- a. Failed to mandate spectator netting of a height, type, and in a manner that would prevent patrons like Plaintiff LAIAH ZUNIGA from being injured;
- b. Failed to assess, or re-assess, MLB member teams' spectator netting to determine if it was of a height, type, and in a manner that would prevent patrons like LAIAH ZUNIGA from being injured in light of multiple incidents of injuries to patrons

caused by baseballs being hit into the stands;

- c. Failed to properly warn patrons like Plaintiff LAIAH ZUNIGA of the risk of serious injury or death posed by baseballs being hit into the stands;
- d. Failed to properly warn Plaintiff LAIAH ZUNIGA of the risk of serious injury or death posed by baseballs being hit into the stands;
- e. Failed to take steps to protect patrons like Plaintiff LAIAH ZUNIGA from the risk of serious injury or death posed by baseballs being hit into the stands; and
- f. Failed to take steps to protect Plaintiff LAIAH ZUNIGA from the risk of serious injury or death posed by baseballs being hit into the stands.

21. As a direct and proximate result of one or more of the above-alleged acts or omissions of Defendant MLB, Plaintiff LAIAH ZUNIGA suffered injuries of a personal, pecuniary, and permanent nature.

WHEREFORE Plaintiff LAIAH ZUNIGA demands judgment against Defendant MAJOR LEAGUE BASEBALL in an amount in excess of fifty thousand dollars (\$50,000.00).

## **COUNT II**

### **RESPONDENT IN DISCOVERY – CUBS**

Pursuant to 735 ILCS 5/2-402, Plaintiff designates CHICAGO CUBS BASEBALL CLUB, LLC as a Respondent in Discovery as an entity Plaintiff believes has information essential to the determination of who should be properly named as Defendants in this action, and states as follows

22. Plaintiff incorporates allegations 1-15 above.

23. At all times pertinent hereto, the CUBS owned, operated, managed, and maintained Wrigley Field.

24. New research shows the risk of fans being hit and seriously injured by a foul ball at baseball games has increased since 1992, when the Illinois General Assembly debated of whether to enact the Baseball Facility Liability Act. See Grow, Nathaniel and Flagel, Zachary,

*The Faulty Law and Economics of the 'Baseball Rule,'* William & Mary Law Review, Vol. 60 (2018 Forthcoming), at 23-33, available at [poseidon01.ssrn.com](http://poseidon01.ssrn.com) (last visited April 6, 2018).

25. Also since 1992, the number of foul balls during Cubs games at Wrigley Field as increased from 41.50 to 51.60 per game, thereby increasing the risk of serious injury to fans like Plaintiff.

26. The CUBS have been aware of that increased risk due to, *inter alia*, the number of fans that have continued to be seriously injured by foul balls at Wrigley Field every year, including:

- in July 2008, a seven-year-old was struck in the head by a foul ball that knocked him immediately unconscious; he was taken to the hospital where he was diagnosed with a skull fracture and brain swelling, and put into a medically-induced coma;
- on May 9, 2011, a woman was struck in the face by a foul ball; she was taken to Illinois Masonic Hospital and was admitted for three days; she had surgery for her injuries;
- on August 23, 2015, a woman was taken by stretcher to the hospital after being struck in the head by a foul ball as she sat along the first-base line; she was struck so hard, the ball bounced back onto the field;
- on July 16, 2016, a fan was struck in the head with a foul ball; he suffered a concussion and is permanently deaf in his right ear;
- in July 2017, a thirteen-year-old was struck in the face by a foul ball; she was taken to the emergency room and underwent surgery to repair her facial fractures.

Thus, the CUBS were aware of facts that would have put a reasonable person on notice of the risk of serious harm to fans from foul balls entering the stands.

27. Prior to August 27, 2018, the CUBS installed safety nets to protect spectators like

Plaintiff LAIAH ZUNIGA. But, since 1992, fans have asked the CUBS to extend that safety netting.

WHEREFORE Plaintiff LAIAH ZUNIGA names CHICAGO CUBS BASEBALL CLUB, LLC as a Respondent in Discovery.

Respectfully submitted,

s/Tracy A. Brammeier  
Attorney for Plaintiff

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