



that game by employees/agents of the CUBS knowing he was not provided a ticket.

4. On August 29, 2017, Plaintiff JOHN LOOS was seated in section 135, row 11, seat 107 at Wrigley Field, when he was struck in the face by a baseball traveling at a high rate of speed, causing severe facial orthopedic and optic injuries.

5. On and before August 29, 2017, Defendants 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 JOHN LOOS was sitting in a hot zone when he was struck by the baseball.

8. Before August 29, 2017, 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 29, 2017, Defendants caused spectator netting to be erected in Wrigley Field and other member fields for

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

11. But even after the spectator netting was erected, patrons like Plaintiff JOHN LOOS 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 29, 2017 incident at Wrigley Field involving Plaintiff JOHN LOOS. In fact, Defendants 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 Defendant CUBS, and prior to August 29, 2017, 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 JOHN LOOS.

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 CUBS similarly extended the netting at Wrigley Field, Plaintiff JOHN LOOS would not have been injured.

### **COUNT I**

#### **NEGLIGENCE - MLB**

16. Plaintiffs incorporate the allegations in paragraphs 1-15.

17. On and before August 29, 2017, Defendant MLB owed patrons like Plaintiff JOHN LOOS 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 29, 2017, Defendant MLB voluntarily undertook a duty to protect patrons like Plaintiff JOHN LOOS from the known risk of serious injury or death posed by baseballs being hit into the stands.

19. On August 29, 2017, Plaintiff JOHN LOOS 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 29, 2017, 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 JOHN LOOS 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 JOHN LOOS 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 JOHN LOOS of the risk of serious injury or death posed by baseballs being hit into the stands;
  - d. Failed to properly warn Plaintiff JOHN LOOS 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 JOHN LOOS 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 JOHN LOOS 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 JOHN LOOS suffered injuries of a personal, pecuniary, and permanent nature.

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

## **COUNT II**

### **WILFULL AND WANTON CONDUCT – CUBS**

22. Plaintiff incorporates allegations 1-15 above.
23. At all times pertinent hereto, Defendant CUBS owned, operated, managed, and maintained Wrigley Field.
24. Prior to August 29, 2017, Defendant CUBS installed safety nets to protect spectators like Plaintiff JOHN LOOS.
25. On and before August 29, 2017, Defendant CUBS owed a duty to use reasonable care to protect patrons like Plaintiff JOHN LOOS from injury.
26. On and before August 29, 2017, Defendant CUBS, through its employees and/or

agents, with an utter indifference for and conscious disregard of the safety of patrons like Plaintiff JOHN LOOS:

- a. Failed to install spectator netting of a height, type, and in a manner that would prevent patrons like Plaintiff JOHN LOOS from being injured;
- b. Failed to assess, or re-assess, the spectator netting to determine if it was of a height, type, and in a manner that would prevent patrons like JOHN LOOS 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 JOHN LOOS of the risk of serious injury or death posed by baseballs being hit into the stands;
- d. Failed to properly warn Plaintiff JOHN LOOS 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 JOHN LOOS 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 JOHN LOOS from the risk of serious injury or death posed by baseballs being hit into the stands.

27. As a direct and proximate result of one or more of the above-alleged acts or omissions of Defendant CUBS, Plaintiff JOHN LOOS suffered injuries of a personal, pecuniary, and permanent nature.

WHEREFORE Plaintiff JOHN LOOS demands judgment against Defendant CHICAGO CUBS BASEBALL CLUB, LLC in an amount in excess of fifty thousand dollars (\$50,000.00).

Respectfully submitted,

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