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STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF WADENA | SEVENTH JUDICIAL DISTRICT

Macy Wynn,

Plaintiff,

v.

Moment in Time Dance Company, LLC,

Defendant.

CASE TYPE: Personal Injury
Court File No. 80-CV-26-78
The Hon. Kevin Miller

MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT

Plaintiff Macy Wynn (herein "Plaintiff") brought her Complaint against Defendant Moment in Time Dance Company, LLC, (herein "Defendant") and alleged that Plaintiff received injuries from an "unfamiliar" dance move conducted during a class instructed by Defendant. However, discovery has proven the opposite. Specifically, Plaintiff's own testimony has confirmed that she repeatedly practiced the move, thereby becoming familiar with it, and continued to participate in the move even though she understood the risks involved. Given Plaintiff's primary assumption of the risk, the Court should enter summary judgment in favor of Defendant.

Alternatively, and assuming arguendo that the Court disagrees with the applicability of primary assumption of the risk to the undisputed facts of this case, the Court should nevertheless enter partial summary judgment in favor of Defendant on Plaintiff's claims for future damages. According to Plaintiff's own testimony, she has no anticipated future medical care or (thankfully) any ongoing symptoms.

I. STATEMENT OF LEGAL ISSUES

1. Whether Plaintiff primarily assumed the risk of participating in a dance move that resulted in her injury.

2. Whether, alternatively, Plaintiff is barred from seeking future damages as a matter of law.

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II. DOCUMENTS COMPRISING THE RECORD

1. The transcript of the deposition of Plaintiff. (Decl. of Steven Pope (herein "Pope Decl."), Ex. 1).

2. The transcript of the deposition of Alicia Wynn. (Pope Decl., Ex. 2).

III. UNDISPUTED FACTS

A. General overview.

1. Defendant is a small business that owns and operates a dance studio in Wadena.[1] The opening of the studio filled a vacuum for the town in terms of providing opportunities to dance. (Ex. 1 at 71:2 – 16 and 20:6-11; and Ex. 2 at 13:9-19).

2. Plaintiff is an 18-year-old woman who, at the time of the incident, danced and worked for the studio.[2] (Pope Decl., Ex. 1 at 10:2-4; 12:13 – 13:3; and15:24 – 16:4).

3. This lawsuit arises from an incident that injured Plaintiff on December 12, 2024, while she practiced at the studio. (Comp. at 2, para. 8, Wynn v. Moment in Time Dance Company, LLC, No. 80-CV-26-78 (Wadena Cty. Dist. Ct. Jan. 28, 2026)).

4. According to Plaintiff, she received injures while attempting an "unfamiliar dance maneuver where she was thrown into the air." (Id. at 2, para. 9).

B. Plaintiff's dancing background.

5. Plaintiff, who was 17 years old at the time of the incident, has participated in dance since the age of three. (Ex. 1 at 10:2-4 and 12:10-12).

6. In high school, Plaintiff participated in jazz and kick dancing. (Id. at 14:9-18).

[1] This fact should be undisputed, but Defendant is willing to submit documentation of this fact should Plaintiff contest it.

[2] The incident occurred while Plaintiff was a student and not while she was "on the clock" for the studio. (Pope Decl., Ex. 1 at 83:18-24).

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7. In addition to dancing with Defendant, Plaintiff worked for Defendant for approximately three years. (Pope Decl., Ex. 1 at 15:24 – 16:13). During that time, Plaintiff instructed dancers ages two to twelve and did miscellaneous office work. (Id.)
8. Plaintiff is a very talented and experienced dancer. (Id. at 20:17-21; Pope Decl., Ex. 2 at 8:11-15).
9. The incident occurred during Plaintiff's senior year. (Pope Decl., Ex. 1 at 70:11-18).

C. The dance move.

10. The dance move performed at the time of Plaintiff's injury involved Plaintiff walking up the backs of other dances and then doing a trust fall. (Id. at 69:12-16).
11. Plaintiff was willing to walk up the other dancers' backs and then do a trust fall, and she informed Defendant of such willingness. (Id. at 69:24 – 70:4 and 71:17-21).
12. Other dancers and Defendant later suggested ending the dance move with a backflip, and, after practicing the flip, Plaintiff agreed to incorporate the flip into the dance move. (Id. at 72:24 – 74:2).
13. The flip did **not** involve the other dancers throwing Plaintiff into the air. (Id. at 74:3-5).
14. Plaintiff began to practice the dance move between a couple of days to two weeks before the incident.[3] (Pope Decl., Ex. 1 at 72:12-23).
15. In total, Plaintiff practiced the dance move multiple times at a slow pace and approximately five times "up to speed" before the incident. (Id. at 74:23 – 76:8).
16. Prior to the incident, Plaintiff performed the move during a rehearsal recital, which Plaintiff described as the most important practice prior to the actual recital, and the move went well. (Id. at 77:6-25 and 78:23 – 79:1).

[3] This fact is disputed by Defendant but is accepted as true for purposes of summary judgment given that, for purposes of the current motion, all inferences must be resolved in favor of Plaintiff as the non-moving party.

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17. Prior to attempting the move at full speed on the night of the incident, Plaintiff knew that the dance move involved "lifts, stunts, and flips." (Pope Decl., Ex. 1 at 95:13-24).

18. She knew that, if she did a flip, the possibility existed that the flip might not go right. (Id. at 113:11-18).

19. A risk also existed that Plaintiff might attempt the flip too fast or too slow. (Id. at 113:19-25). Attempting a flip at too fast a pace could result in the flip not going well. (Id.)

20. Prior to her injury, Plaintiff had told her mother about the move, and her mother never told Plaintiff that she should not participate in the move. (Id. at 114:12-19).

21. No one contacted Defendant to ask the studio to stop having the dancers perform the move. (Id. at 114:20-23).

D. The incident.

22. The incident occurred at a practice after the rehearsal recital and one night before the recital. (Pope Decl., Ex. 1 at 77:6-10 and 55:6-9).

23. The instructors and dancers intended to just fine-tune the dance. (Id. at 79:2-5).

24. Plaintiff understood that, on the day after the incident, she would have to perform the move without any instructors present on stage, and she would have to make any needed adjustments on the fly. (Id. at 79:10-21 and 115:6-10; and Pope Decl., Ex. 2 at 61:20 – 62:2 (Plaintiff's mother testifying that dance instructors are not allowed to be on stage or to perform adjustments to a dance during the recital)).

25. The principal of Defendant, Ms. Horn, did not attend practice on the night of the incident, but two instructors, Jamie Hahn and Michaela Nelson, attended. (Pope Decl., Ex. 1 at 79:22 – 81:10).

26. Ms. Hahn and Ms. Nelson had previously instructed Plaintiff. (Id. at 81:16-18).

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27. Both Ms. Hahn and Ms. Nelson served as the assistant coaches for the high school dance team and frequently taught Plaintiff on that team. (Pope Decl., Ex. 1 at 81:19 – 83:1).

28. The absence of one dancer left three dancers to catch Plaintiff, who described herself as the lightest dancer participating in the move. (Id. at 83:25 – 86:23 and 69:17 – 70:7).

29. The dancers performed the dance move two or three times at a slow speed, and it went "good" or "fine." (Id. at 86:20 – 87:1).

30. Plaintiff's injury occurred when she tried the move at full speed. (Id. at 87:2-4).

31. None of the dancers did anything wrong to cause Plaintiff to fall. (Id. at 96:21-24).

32. Plaintiff's mother testified that an incident like the one that injured Plaintiff "you can't prevent from happening." (Ex. 2 at 26:23 – 27:9). Plaintiff's mother further agreed that sometimes, during dancing and other sports, things go wrong, and accidents happen. (Id. at 69:10-19).

E. Plaintiff's current condition.

33. Plaintiff does not remember the last time she treated for her injuries from the incident. (Pope Decl., Ex. 1 at 49:12-14).

34. As of July 1, 2026, Plaintiff did not have any future appointments scheduled with a treating doctor or retained expert. (Id. at 49:15-21).

35. There is no future medical care that has been recommended by Plaintiff's doctors that she has not yet followed up on. (Id. at 62:5-8).

36. Plaintiff does not have any ongoing symptoms that she attributes to the accident and does not remember the last time she experienced any symptoms. (Id. at 62:22 – 63:2).

37. She knows that she has not had any symptoms in 2026. (Id. at 63:3-4).

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38. While Plaintiff feels emotional distress when thinking back about the incident and what she missed because of the incident, she does not have emotional distress about the future. (Pope Decl., Ex. 1 at 64:15 – 65:12).

39. Plaintiff has no scars from the incident and does not have any ongoing embarrassment about the incident. (Id. at 64:7-14).

40. Plaintiff still participates in all the same hobbies and activities that she did before the incident.[4] (Id. at 65:13 – 66:6).

IV. ARGUMENT

A party may move for summary judgment, identifying each claim on which summary judgment is sought. Minn. R. Civ. P. 56.01. The Court shall grant summary judgment if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law. Id. "The purpose of the rule is to afford a procedure for the just, speedy and inexpensive disposition of actions where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." Lindgren v. Sparks, 58 N.W.2d 317, 319-20 (Minn. 1953).

The Court should grant summary judgment in favor of Defendant because Plaintiff primarily assumed the risk of her injury when she acquiesced to participate in and repeatedly practiced the dance move that eventually resulted in her injury. Alternatively, the Court should grant partial summary judgment on Plaintiff's claims for future damages because, per Plaintiff's own testimony, she does not have any ongoing symptoms because of the incident.

[4] While Plaintiff no longer dances, she stopped dancing because she graduated from high school. (Pope Decl., Ex. 1 at 65:13 – 66:6). Her lack of dancing is not related to the incident. (Id.) Indeed, Plaintiff danced on multiple occasions after her injury. (Id. at 108:12 – 110:2).

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A. Plaintiff Assumed the Risk of the Dance Move.

"It is the general rule that one who participates in a sport assumes the risks which are inherent in it." Moe v. Steenberg, 147 N.W.2d 587, 589 (Minn. 1966). Primary assumption of the risk relates to a defendant's legal duty to protect a plaintiff from harm, and the existence of a legal duty is an issue for the Court to determine as a matter of law. Stevens v. Piper, No. A19-1175, 2020 Minn. App. Unpub. LEXIS 286, *5-6 (2020) (citing Jussila v. U.S. Snowmobile Assoc., 556 N.W.2d 234, 236 (Minn Ct. App. 1996)).

Minnesota courts have applied primary assumption of risk as a matter of law to both participants and spectators in noncontact sports in many contexts. See Grady v. Green Acres, Inc., 826 N.W.2d 547, 548 (Minn. 2013) (snow tubing); Grisim v. TapeMark Charity Pro-Am Golf Tournament, 415 N.W.2d 874, 876 (Minn. 1987) (watching golf); Jussila v. U.S. Snowmobile Ass'n, 556 N.W.2d 234, 237 (Minn. App. 1996) (watching snowmobile racing); Swagger v. Crystal, 379 N.W.2d 183, 184 (Minn. Ct. App. 1985) (watching softball); and Stevens, 2020 Minn. App. Unpub. LEXIS 286 at *5-6 (playing softball).[5]

Primary assumption of the risk requires that: (1) the plaintiff voluntarily enter a relationship where he or she assumes a well-known, incidental risk; (2) he or she appreciates that risk; and (3) he or she chooses to take the risk even though he or she has a chance to avoid it. Schneider v. Erickson, 654 N.W.2d 144, 149 (Minn. Ct. App. 2002).

This case satisfies the three criteria for the application of primary assumption of the risk. With respect to Plaintiff voluntarily entering a relationship where she assumed a well-known, incidental risk, Plaintiff expressed willingness to participate in a dance move that involved

[5] Plaintiff will likely rely on Soderberg v. Anderson, 922 N.W.2d 200 (Minn. 2019) to argue that summary judgment is inappropriate. Soderberg is inapposite, however, because, in that case, "the *record did not reflect* that injurious collisions between skiers were inherent in the sport…." (See id. at 201) (emphasis added). In this case, however, Plaintiff explicitly acknowledged the inherent risks of performing a flip like the one attempted during the incident.

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Plaintiff walking up the other dancers' backs and then doing a trust fall. (Pope Decl., Ex. 1 at 69:24 – 70:4 and 71:17-21). When the dance move evolved into concluding with a backflip, Plaintiff practiced the flip and then agreed to incorporate the flip into the dance move. (Id. at 72:24 – 74:2). The aforementioned facts demonstrate that Plaintiff voluntarily entered into a relationship of being the dancer who performed the flip and satisfies the first required element of primary assumption of the risk.

Plaintiff also appreciated the risk, which is the second requirement for the application of primary assumption of the risk. Prior to attempting the move at full speed on the night of the incident, Plaintiff knew that the dance move involved "lifts, stunts, and flips." (Id. at 95:13-24). She knew of the possibility that the flip might not go right. (Id. at 113:11-18). Performing the flip too fast or too slow posed a risk. (Id. at 113:19-25). Seventeen at the time, Plaintiff presumably derived this knowledge from her life experience overall and the fact that she had been dancing since the age of three. (See id. at 10:2-4 and 12:10-12). This knowledge possessed by Plaintiff confirms that Plaintiff appreciated the risk of the dance move, including the flip. Further, Plaintiff's mother testified that an incident like the one that injured Plaintiff "you can't prevent from happening." (Ex. 2 at 26:23 – 27:9). Plaintiff's mother further agreed that sometimes, during dancing and other sports, things go wrong, and accidents happen. (Id. at 69:10-19).

Finally, this case satisfies the third requirement that Plaintiff took the risk even though she had a chance to avoid it. At the outset, Plaintiff practiced the flip before agreeing that it be incorporated into the dance move. (Pope Decl., Ex. 1 at 72:24 – 74:2). In other words, Plaintiff had a chance to avoid the inclusion of the flip altogether before the flip became incorporated into the dance move, but Plaintiff rubberstamped the inclusion of the flip into the move after she had practiced it. After the incorporation of the flip into the move, Plaintiff practiced the flip multiple

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times at a slow pace and approximately five times "up to speed" before the incident. (Pope Decl., Ex. 1 at 74:23 – 76:8). One of those practices occurred at a rehearsal recital, which Plaintiff described as the most important practice prior to the actual recital, and the move went well. (Id. at 77:6-25 and 78:23 – 79:1). Even on the night of the incident, Plaintiff practiced the flip two to three times at a slower speed before attempting it at full speed. (Id. at 86:20 – 87:1). The undisputed facts demonstrate that Plaintiff had opportunities to avoid the risk posed by the flip from the inception of the completed dance move up until the night of the incident. Instead of avoiding the risk, however, Plaintiff repeatedly took the same risk. The facts of this case satisfy the third element of primary assumption of the risk.

The undisputed facts in this case satisfy the required elements of primary assumption of the risk. The Court should enter summary judgment in favor of Defendant.

B. Plaintiff Cannot Claim Future Damages as a Matter of Law.

As described in the above section, the undisputed facts of this case warrant the application of the doctrine of primary assumption of the risk. Assuming arguendo that the Court disagrees with the analysis of Defendant on that topic, the Court should nevertheless grant partial summary judgment in favor of Defendant on Plaintiff's claim for future damages.

A plaintiff has the burden of proving the damages caused by a defendant by a preponderance of the evidence. Rowe v. Munye, 702 N.W.2d 729, 735 (Minn. 2005). The nature and probable duration of the sustained injuries must be proven with reasonable certainty. Canada by & Through Landy v. McCarthy, 567 N.W.2d 496, 507 (Minn. 1997). There is no general test for determining if damages are too remote or speculative, and such matters should usually be left to the discretion of the trial court. Jackson v. Reiling, 249 N.W.2d 896, 897 (Minn. 1977).

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To establish damages for future medical care, a plaintiff must (1) demonstrate that "future damages in the form of future medical treatments will be required" and (2) establish the amount of future medical expenses. Lind v. Slowinski, 450 N.W.2d 353, 358 (Minn. Ct. App. 1990). Future medical expenses will not be allowed "without an estimate of what they might be" because future medical expenses are "a matter which the jury cannot compute blindly without expert testimony" and thus "cannot be left to their speculation." Lamont v. Indep. Sch. Dist. No. 395, 154 N.W.2d 188, 192 (Minn. 1967). The jury is not permitted to "award any amount based on a showing that expenses are likely to occur. The plaintiff must also present some evidence of what the expenses will be." Kwapien v. Starr, 400 N.W.2d 179, 184 (Minn Ct. App. 1987).

In this case, Plaintiff's testimony disqualifies any claim for future special or general damages. In terms of special damages such as medical bills, Plaintiff does not remember the last time she treated for her injuries from the incident. (Pope Decl., Ex. 1 at 49:12-14). As of July 1, 2026, Plaintiff did not have any future appointments scheduled with a treating doctor or retained expert for her injuries. (Id. at 49:15-21). There is no future medical care that has been recommended by Plaintiff's doctors that she has not yet followed up on. (Id. at 62:5-8).

There is also a dearth of evidence that would allow Plaintiff to seek damages for future bodily and mental harm. She does not have any ongoing symptoms that she attributes to the accident and does not remember the last time she experienced any symptoms. (Id. at 62:22 – 63:2). What she does know is that she has not experienced any symptoms in 2026. (Id. at 63:3-4). Plaintiff has no scars from the incident and does not have any ongoing embarrassment about the incident. (Id. at 64:7-14). Her injuries do not prevent her from participating in any hobbies or activities that she enjoyed before the incident. (Id. at 65:13 – 66:6).

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Given Plaintiff's testimony, there is no basis in the record for her to seek future special or general damages. The Court grant partial summary judgment concerning future damages if the Court denies Defendant's motion concerning primary assumption of the risk.

V. CONCLUSION

This case clearly satisfies the elements of primary assumption of the risk. Plaintiff agreed to the flip and knew the flip posed a risk, but she assumed that risk again and again. The Court should enter summary judgment in favor of Defendant.

Should the Court disagree with Defendant on the issue of primary assumption of the risk, the Court should nevertheless grant partial summary judgment on any claim for future damages. Fortunately, Plaintiff has no ongoing symptoms from the incident, and the Court should prune any future damages claim from this case given the dearth of evidentiary support.

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Dated: August 13, 2026

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