NETTIE SUSAN MAY NUMBER 539,517, “B”

VERSUS FIRST JUDICIAL DISTRICT COURT

NOTLEY MANAGEMENT COMPANY CADDO PARISH, LOUISIANA

LLC d/b/a A&A TENTS, et al

**REASONS FOR JUDGMENT ON**

**MOTION FOR SUMMARY JUDGMENT**

This Court has thoroughly considered the Motion for Summary Judgment, filed January 5, 2011 by Notley Management Company, LLC (“Notley”); the opposition filed March 11, 2011 by Nettie Susan May; oral arguments held on March 21, 2011[[1]](#footnote-1); a post hearing memorandum filed March 22, 2011 by Notley; a post hearing memorandum filed March 23, 2011 by Nettie Susan May; the entire record and applicable law. For reasons which follow, the Court concludes that Notley’s Motion for Summary Judgment should be granted.

In order for Plaintiff, Nettie Susan May, to succeed at trial, she must establish that all elements of a cause of action in negligence have been met. These are: “(1) proof that the defendant's substandard conduct was a cause-in-fact of the plaintiff's injury; (2) proof that the defendant's conduct failed to conform to the appropriate standard; (3) proof that the defendant had a duty to conform his conduct to a specific standard; (4) proof that the defendant's substandard conduct was a legal cause of the plaintiff's injuries; and (5) proof of actual damages.” Perkins v. Entergy Corp., 2000-1372 (La. 3/23/01), 782 So.2d 606, 611.

Louisiana courts have employed the “ease of association” test to determine whether the defendant’s conduct is the legal, or proximate, cause of the alleged injuries. To show “ease of association”, it must be determined whether the specified duty “is intended to protect this plaintiff from this type of harm arising in this manner.” Rando v. Anco Insulations, Inc., 2008 -1163 (La. 5/22/09), 16 So.3d 1065, 1088; citing Faucheaux v. Terrebonne Consol. Gov’t, 615 So.2d 289, 293 (La.1993). In short, Louisiana courts have rejected the notion that one event is the legal cause of another simply because the first event occurred prior to the second and found that a “mere temporal relationship does not establish causation.”[[2]](#footnote-2) Polk v. Blanque, 93-1740 (La. App. 4th Cir. 3/15/94), 633 So.2d 1382, 1387; Row v. Pierremont Plaza LLC, 35796 (La. App. 2nd Cir. 4/3/02), 814 So.2d 124, 129.

Based upon this summary judgment record, the Court concludes that Ms. May will be unable to show that Notley’s breach of an alleged duty was the legal cause of her injuries. Ms. May’s granddaughter fell over the tent structure left by Notley. She alleges that her injuries were sustained when she picked up her granddaughter. While it may be arguably foreseeable that a tent structure left unsupervised in a public park might cause injury to a visitor, it is less reasonable to foresee that a visitor may be injured while rendering aid to a party who was injured by that tent structure. As stated by Notley’s counsel “(the) question of law here is whether the erection of the tent encompassed the risk of harm that befell Nettie May in the manner in which the harm occurred. More simply stated, is the risk that a person will strain her back picking up a four-year-old easily associated with the method of the tent’s erection?”[[3]](#footnote-3) The Court concludes that Ms. May’s injuries are simply too attenuated from conduct of Notley. Because Ms. May will be unable to establish that Notley’s conduct is the legal cause of her injuries, she is unable to meet the required elements for a cause of action in negligence.

For reasons assigned, the Court concludes that the Motion for Summary Judgment filed by Notley Management Company, LLC should be granted.

Counsel shall submit a formal Judgment in accordance with La. Dist. Ct. R. 9.5.

Signed this 30th day of March, 2011 in Shreveport, Caddo Parish, Louisiana.

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SCOTT J. CRICHTON

DISTRICT JUDGE

DISTRIBUTION:

Jonathon Wasielewski and Tim Fields, counsel for Nettie Susan May

Ron Lattier and Curtis Joseph, counsel for the City of Shreveport

Michael Cooper, counsel for Notley Management Company and St. Paul Fire & Marine Insurance Company

Charles Tutt, counsel for State Farm Fire & Casualty Company

1. Following oral arguments on March 21, 2011, the Court granted motions for summary judgment filed by City of Shreveport and State Farm Fire and Casualty Company. [↑](#footnote-ref-1)
2. See Pardue v. AT&T Telephone, 01-0762 (La. App. 3rd Cir. 10/12/01), 799 So.2d 710 (telephone manufacturer & electric company not liable for power surge caused by squirrel in electrical transformer); Pitre v. Louisiana Tech University, 955-1466, 95-1487 (La. 5/10/96), 673 So.2d 585 (university not liable for injury to student who, while engaged in sledding on campus, struck a light pole in a parking lot). [↑](#footnote-ref-2)
3. See Notley’s memorandum, page 1. [↑](#footnote-ref-3)