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## Foul Ball Lands in Court

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[ProQuest document link](#)

**Abstract:** At Boston's Fenway Park in September 1998, the impact from a foul ball fractured multiple bones in Jane Costa's face, bloodied her nose and mouth, and left her unconscious. Costa filed suit against the Red Sox, listing her total medical expenses and lost wages at just under \$500,000. The Boston Red Sox main defense was that you can't control the flight and direction of the ball once it leaves the bat. While Costa claimed ignorance to the game of baseball, and that she was not made aware of the dangers, the appellate court (who received the case after it was dismissed prior to trial in a lower court) agreed with the Red Sox defense team. Had the suit ever gone to trial and a judge ruled in Costa's favor, it could have potentially had much wider implications for the Red Sox, Major League Baseball and the game's fans.

**Links:** [Obtain full text from Shapiro Library](#)

**Full text:** After arriving late to Fenway Park on a brisk September evening in 1998, Jane Costa side-stepped her way through the stadium's narrow aisles towards her seat as she prepared to take in her first Boston Red Sox game in nearly 30 years. Minutes later, right-handed outfielder Darrin Lewis fouled off a two-strike pitch, which sent the ball down the first base line and into the stands. The ball struck Costa in the face some 20 rows behind the Red Sox dugout.

The impact fractured multiple bones in her face, bloodied her nose and mouth, and left Costa unconscious. The ensuing reconstructive surgery that she was forced to undergo left her with eight metal plates in her face, severe headaches and nerve damage for which she must take daily medication. Costa filed suit against the Red Sox, listing her total medical expenses and lost wages at just under \$500,000.

The Red Sox main defense, according to its lawyer Douglas Fox, was that "a person of average intelligence walking into a ballpark can see that one of the objects of the game is to make the ball go through the air, and you can't control the flight and direction of the ball once it leaves the bat."

While Costa claimed ignorance to the game of baseball, and that she was not made aware of the dangers, the appellate court (who received the case after it was dismissed prior to trial in a lower court) agreed with the Red Sox defense team. While it appears on signs throughout Fenway Park and on the back of each ticket stub for fans to watch for foul balls and flying bats, the judge ruled that "where a danger would be obvious to a person of ordinary perception and judgment, a landowner may reasonably assume that a visitor has knowledge of it and, therefore, any further warning would be an empty form that would not reduce the likelihood of resulting harm." Had the suit ever gone to trial and a judge ruled in Costa's favor, it could have potentially had much wider implications for the Red Sox, Major League Baseball and the game's fans. In 2002, 13-year-old hockey fan Brittanie Cecil died from an injury at an NHL game when an errant puck flew over the boards and struck her in the forehead. Cecil's parents filed suit against the NHL, the home team Columbus Blue Jackets and its home ice Nationwide Arena. The suit was eventually settled out of court for \$1.2 million and an additional \$550,000 in legal and other fees.

A safety report conducted by the NHL soon after the young girl's death-the first of its kind in the league's 86-year history-found professional hockey arenas to be safe. Nevertheless, the NHL launched a league-wide initiative to install protective netting above the glass at both goal ends of all league hockey rinks. "We're doing it because we think it's the right thing to do after what has happened," said NHL Commissioner Gary Bettman in a statement.

In response, many fans have deemed the protective netting as obstructive, and some have claimed that they

have declined to go to games because their seats were located behind it. But for fans, it is something they will just have to get used to. Safety netting has been in place throughout European and many North American college ice rinks for years. So far it has been a success in the NHL, as no high-profile spectator injuries have since occurred.

-Jared Wade

**Sidebar**

Had the suit ever gone to trial and a judge ruled in Costa's favor, it could have potentially had much wider implications for the Red Sox, Major League Baseball and the game's fans.

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