IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KEITH THOMAS, Plaintiff	:	No. 21-00260
vs.	:	CIVIL ACTION – LAW
LITTLE LEAGUE BASEBALL, INC., Defendant	:	

OPINION AND ORDER

AND NOW, after argument held on January 18, 2022 on Defendant's Preliminary Objections to Plaintiff's Second Amended Complaint, the Court hereby issues the following OPINION and ORDER.

BACKGROUND

Plaintiff commenced this matter by filing a Complaint on March 22, 2021, followed by a First Amended Complaint filed May 17, 2021. On June 24, 2021, Defendant filed Preliminary Objections to the First Amended Complaint, raising lack of capacity to sue and a demurrer;[1] the Court sustained these Preliminary Objections by Order of September 24, 2021, which recounts the procedural history of this case in detail.

In sustaining Defendant's Preliminary Objections to the First Amended Complaint, the Court concluded that Plaintiff was not a "member" of Defendant Little League Baseball, Inc. under 15 Pa. C.S. §5791, and thus Little League's bylaws did not apply to him. Similarly, the Court agreed with Defendant that Defendant's disciplinary process "expressly addresses the disciplining of 'Directors, Officers, and Field Personnel," but did not purport to address any control over local charters'

[1] These grounds for preliminary objections are permitted by Rule of Civil Procedure 1028(a)(5) and 1028(a)(4) respectively.

disciplinary actions. Finally, the Court held that even taking each of Plaintiff's allegations as true, the Complaint did not establish that any agent or employee of Defendant – as opposed to Waverly Little League, a local charted located in Waverly, New York – was involved in banning Plaintiff from attending Waverly Little League games. The Court concluded that under Article IV, Section 5 of Defendant's bylaws, Defendant's only potential means for disciplinary action was a revocation of Waverly Little League's charter, which was a remedy Plaintiff did not seek. The Court concluded by stating "[i]f Plaintiff believes that [Waverly Little League] has acted beyond the scope of [Waverly Little League's bylaws] and its own inherent authority in effecting the ban, then Plaintiff's logical remedy would be to initiate proceedings against [Waverly Little League]."[2]

The Court granted Plaintiff twenty days to file a Second Amended Complaint.

SECOND AMENDED COMPLAINT AND PRELIMINARY OBJECTIONS

On October 12, 2021, Plaintiff filed a Second Amended Complaint. The first paragraph of the Second Amended Complaint expressly incorporated the entirety of Plaintiff's First Amended Complaint (save the prayer for relief) as well as all exhibits. The remainder of the operative portion of the Second Amended Complaint reads as follows, in its entirety:

> "**Count I**
> **AGENCY RELATIONSHIP**
>
> 31. The averments of paragraphs 1 through 30 herein are incorporated by reference.

[2] The Court notes that Plaintiff did commence an action in Tioga County, New York against many of the people named in his Complaint and others, presumably members of the Waverly Little League board of directors, but stipulated and agreed to dismiss that action with prejudice in March of 2021. Plaintiff's reasons for doing so are not apparent from the record, and neither party argues that the New York case has any effect on the proceedings here.

> 32. At all times material to the events referred to herein, Waverly Little League was acting as an agent of Defendant and was acting within the scope of its agency.
>
> 33. By law, unlawful or improper acts of the agent, Waverly Little League, are imputed to the principal, the Defendant herein.
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> 34. Waverly Little League's charter does not authorize its board of directors to exclude any person from attending, observing or participating in Waverly Little League activities.
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> 35. Waverly Little League's act of revoking Plaintiff's privilege to physical access Waverly Little League fields and facilities was ultra vires and this unlawful act is imputed to the Defendant herein by virtue of its principal agency relationship with Waverly Little League.
>
> WHEREFORE, Plaintiff prays your Honorable Court enter an Order directing the Defendant to cause the act of banning Plaintiff from attending Little League activities to be declared null and void, to immediately reinstate Plaintiff with regard to his ability to attend Little League activities, and to grant such further and additional equitable relief as may be appropriate under the circumstances."

On November 3, 2021, Defendant filed Preliminary Objections to Plaintiff's Second Amended Complaint, containing the same two preliminary objections (lack of capacity to sue and demurrer) and reiterating the arguments made previously. Regarding the added allegations of an agency relationship, Defendant contended that "[a]n agency relationship can be concluded based on four grounds, specifically that the alleged agent had (1) express authority directly granted by the principal; (2) implied authority to bind the principal; (3) apparent authority based on conduct; or (4) authority by estoppel."[3] Defendant next listed the elements of an agency relationship as "(1) manifestation by the principal that the agent shall act on the principal's behalf; (2) the agent's acceptance of the undertaking; and (3) the understanding between

[3] In support of this proposition, Defendant cites *Bolus v. United Penn Bank*, 525 A.2d 1215, 1221 (Pa. Super. 1987).

the parties that the principal is to be in control of the relationship."[4] Defendant essentially contends that, although Plaintiff baldly avers than a principal-agent relationship exists between Defendant and Waverly Little League, Plaintiff has not pled either that Defendant controls Waverly Little League or that Waverly Little League had any authority – be it "express, implied, apparent, or by estoppel" – to act on behalf of Defendant.

In response to Defendant's Preliminary Objections, Plaintiff argues that the Complaint and its exhibits allege that Waverly Little League's "existence depends exclusively upon a charter granted to it by [Defendant]" and "[a]s a condition of the grant of that charter, [Waverly Little League] agrees to comply with all of [Defendant's] regulations…." Plaintiff contends these allegations plead a *prima facie* principal/agency relationship and are thus sufficient to defeat a demurrer. Plaintiff avers that this relationship is sufficient to impute Waverly Little League's actions to Defendant, thus implicating Defendant's procedural protections applicable to disciplinary action.

ANALYSIS

The only difference between Plaintiff's First Amended Complaint and his Second Amended Complaint is that the Second Amended Complaint attempts to impute liability to Defendant through a theory of agency, baldly averring that "Waverly Little League was acting as an agent of Defendant and was acting within the scope of its agency." Defendant makes the same two preliminary objections to the Second Amended Complaint as it made to the First Amended Complaint, expanding its

[4] Defendant cites *Basile v. H&R Block, Inc.,* 761 A.2d 1115, 1120 (Pa. 2000).

argument to dispute Plaintiff's agency theory. Thus, the sole question before the Court is whether the additional information and argument pled in the Second Amended Complaint are sufficient to grant Plaintiff capacity to sue and avoid demurrer when the contents of the First Amended Complaint were not.

As the Supreme Court of Pennsylvania has stated, "[t]he law is clear in Pennsylvania that the three basic elements of agency are: 'the manifestation by the principal that the agent shall act for him, the agent's acceptance of the undertaking and the understanding of the parties that the principal is to be in control of the undertaking.'"[5] Presumably, Plaintiff has pled an agency relationship in order to establish that Defendant is vicariously liable for any wrongful actions of Waverly Little League. An agency relationship and vicarious liability, however, are not synonymous, as it is well established that "not every relationship of principal and agent creates vicarious responsibility in the principal for acts of the agent."[6]

Even a contractual relationship between two parties pursuant to which one party agrees to follow the other's rules and regulations does not necessarily create principal-agent liability. For instance, in *Myszkowski*, a hotel chain "enter[ed] into a marketing agreement" with a hotel, in which the hotel paid the chain money and agreed to "adhere[] to certain rules concerning the quality of the accommodations" in exchange for the right to use the hotel chain's name.[7] In that case,

> "it [was] clear from the record that [the local hotel] owned and operated the Inn and had full, day-to-day control, while the most significant 'control' [the hotel chain] possessed was a threat to take away the use of its trade name. As such, [the hotel chain] did not have the necessary

[5] *Id*.
[6] *Valles v. Albert Einstein Medical Center*, 758 A.3d 1238, 1244 (Pa. Super. 2000) (quoting *Myszkowski v. Penn Stroud Hotel, Inc.*, 634 A.2d 622, 625-26 (Pa. Super. 1993)).
[7] *Myszkowski*, 634 A.2d at 628.

> control over [the local hotel] to establish the existence of a master-servant relationship; consequently, [the hotel chain] cannot be held vicariously liable for the alleged negligence of [the local hotel] under an actual agency theory."[8]

Whether a principal-agent relationship exists "is ordinarily [a question] of fact for the jury to determine," but "[w]here the facts giving rise to the relationship are not in dispute… the question is one which is properly decided by the court."[9] Here, the parties agree on the circumstances concerning the relationship between Defendant and Waverly Little League as dictated by Defendant's constitution and by-laws; their disagreement is a legal one concerning the application of the law to these facts.

Plaintiff's conclusory averment that Waverly Little League was Defendant's agent at all relevant times, unsupported by any additional facts, is belied by the record. As discussed in this Court's September 24, 2021 Order, "there is no evidence that any agent or employee of [Defendant] was involved in instituting the ban against Plaintiff." Indeed, there is no allegation that any employee or officer of Defendant had any input at all, be it *ex ante* or *ex post*, concerning Waverly Little League's decision to ban Plaintiff. Exhibit F to Defendant's Preliminary Objections to Plaintiff's First Amended Complaint, Little League Baseball's 2021 Rulebook, states that "[w]ithin the framework of rules and regulations of Little League, the local league is autonomous. It establishes its own administration, elects its Board of Directors, and maintains an organization best suited to meet the needs of Little League in the community." Like the local hotel in *Myszkowski*, then, Waverly Little League had full day-to-day control over its operations, and – as was discussed in this Court's

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[8] *Id*.
[9] *Consolidated Rail Corporation v. ACE Property & Casualty Insurance Co.*, 182 A.3d 1011, 1027 (Pa. Super. 2018).

September 24, 2021 Order – the only way for Defendant to exercise control over Waverly Little League is to revoke its charter. The mere fact that Waverly Little League has agreed to comply with certain rules and regulations imposed by Defendant is insufficient to establish that Waverly Little League is acting as an agent of Defendant when it governs its own affairs regarding matters *not* addressed by Defendant's rules and regulations.

Ultimately, Plaintiff argues that "Waverly Little League's charter does not authorize its board of directors to exclude any person from attending, observing or participating in Waverly Little League activities." However, Plaintiff does not allege – nor do the pleadings suggest – that the charter denies the board of directors that ability. As this Court stated previously, "[i]f Plaintiff believes that [Waverly Little League] has acted beyond the scope of [its] By-Laws and its own inherent authority in effecting the ban, then Plaintiff's logical remedy would be to initiate proceedings against Waverly Little League." This conclusion holds true – there is simply not a sufficient connection to justify dragging Defendant, a corporation coordinating local youth baseball leagues across the country and the world, into a dispute between the autonomously-acting board members of a local little league organization (that is located not just outside of this Court's jurisdiction but outside of its state) and a community member who wishes to attend that local league's games. This is not a matter that Defendant controls but has delegated to Waverly Little League to enforce Defendant's wishes; rather, Waverly Little League's decision to ban Plaintiff was an autonomous one distinct from the marketing and coordination provided by Defendant.

CONCLUSION

Pursuant to the foregoing, and for the reasons discussed in this Order and the Court's September 24, 2021 Order, Defendant's Preliminary Objections are SUSTAINED. Because the Court concludes that Defendant is entitled to a demurrer as a matter of law, Plaintiff's Second Amended Complaint shall be dismissed with prejudice. As such, this is a final order for the purposes of Pennsylvania Rule of Appellate Procedure 341. Plaintiff may appeal as of right in accordance with the Rules of Appellate Procedure.

IT IS SO ORDERED this 11th day of May 2022.

By the Court,

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Eric R. Linhardt, Judge

ERL/jcr
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