


DAILY REPORT

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Airbnb Hosts Sued: Guest Seeks Upward of \$100K in Premises Liability Complaint

"The business amenity offered by defendants, namely, the 'tree swing' referenced here, was an unreasonably dangerous condition on the premises because the tree limb to which it was anchored was fragile, rotten, or otherwise incapable of supporting any meaningful weight load," read the plaintiff complaint.

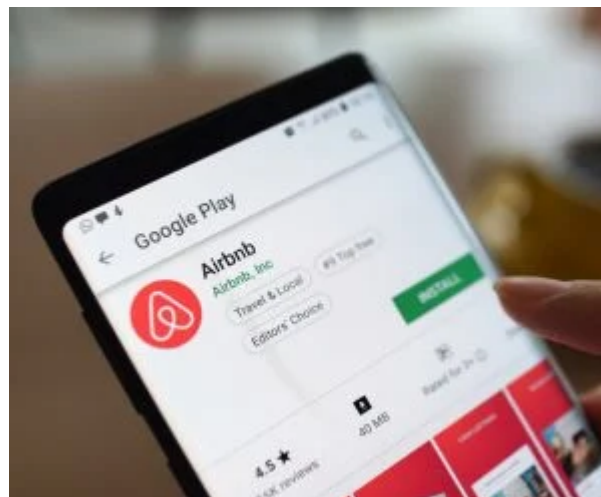
By Cedra Mayfield | July 18, 2022



Tree swing; U.S. District Court for the Northern District of Georgia case 2:22-cv-00134, Smith v. Coppage et. al (Courtesy photo)

The U.S. District Court for the Northern District of Georgia might soon decide who's to blame when a guest gets injured at an Airbnb property.

A Florida man has brought a premises liability lawsuit



(Photo: Airbnb Lim/Shutterstock.com)

(https://drive.google.com/file/d/1BdhfKXaC8n_iS1mZwFzXX9akKfwCH1jU/view?usp=sharing) against the San Francisco-based vacation rental company and a pair of its hosts, after a ride on a tree swing at a Georgia property left him injured.

"As a direct and proximate result of defendants' negligence, plaintiff has suffered permanent physical injury and disfigurement, past and future pain and suffering, the loss of business income and future business opportunities, and severe mental pain and anguish and emotional distress," the complaint read.

While the outcome of the case will come down to the facts, an unaffiliated attorney who advises on Airbnb operations said the complaint serves as a reminder for lawyers to review clients' business practices and corporate structures to ensure personal liability protections.

'Unreasonably Dangerous'

As spotted on Law.com Radar ([//pdfserver.amlaw.com/legalradar/45219373_complaint.pdf](https://pdfserver.amlaw.com/legalradar/45219373_complaint.pdf)), Florida plaintiff Barry Smith had been using a tree swing at North Carolina defendants Sandy and Phillip Coppage's property in Hiawassee, Georgia, but fell when the tree limb snapped.

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Isaiah K. Floyd of Rolfes Henry County in Sarasota, Florida. (Courtesy photo)

Represented by Isaiah K. Floyd of Rolfes Henry Co. in Sarasota, Florida, Smith is now seeking a jury trial and at least six figures in damages from the property hosts and Airbnb.

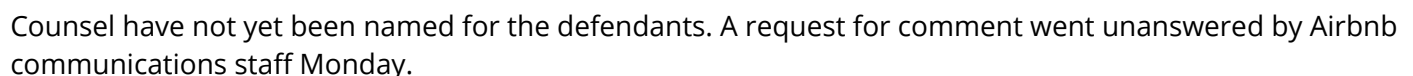
In the complaint, Smith alleged that, because the Coppages owned the property, the couple bore responsibility for its maintenance, including the swing.

"Installed and maintained by [the] defendants," Smith alleged the swing had been "placed in use for the purpose of enticing business invitees

“Defendants Sandy Coppage and Phillip Coppage had a duty to exercise ordinary and reasonable care in keeping the premises safe,” the complaint read. “The business amenity offered by defendants, namely, the ‘tree swing’ referenced here, was an unreasonably dangerous condition on the premises because the tree limb to which it was anchored was fragile, rotten, or otherwise incapable of supporting any meaningful weight load.”

“As a direct and proximate result of the negligence of defendants, plaintiff suffered a badly fractured tibia and severe knee injury, and other injuries,” the complaint read. “As a direct and proximate result of defendants’ negligence, plaintiff incurred medical and other expenses, in an amount exceeding \$100,000.”

Read The Complaint



'There's No Substitute'

With the potential profitability of operating Airbnbs attracting a growing number of Georgians, many attorneys also are paying close attention to an increase in corresponding advising and litigation opportunities.



Brian M. Douglas of Brian M. Douglas & Associates, Atlanta. (Courtesy photo)

Atlanta attorney Brian M. Douglas is not affiliated with the case, but advises (<https://www.bmdjd.com/georgia-homeowners-guide-hosting-airbnb/>) clients on operating AirBnBs and rental properties in Alabama, Florida and Georgia. After examining the plaintiff complaint, he had a few takeaways for other lawyers to consider.

As a general recommendation, he advised AirBnB or property rental operators form legal entities for their business operations to help protect themselves from personal liability.

"Here, the owners [or] hosts are named personally as defendants, which tells me that they owned this property in their individual names as opposed to owning the property in an entity like a limited liability company."

Douglas also stressed the importance of operators having and maintaining insurance.

"There is no substitute for good insurance," he said. "Not only will insurance potentially pay some or all of the claim, but the insurance carrier generally has a duty to defend its insured; meaning that the insurance company will hire and pay for attorneys to represent the owner [or] host."

'A Big Hurdle'

Should the premise liability case reach a jury trial, Douglas foresaw potential challenges for both sides. For starters, he said the plaintiff named AirBnB as a defendant, but the company is not a party to any rental agreements between hosts and their guests. Douglas also noted that AirBnB lacks any ownership or control over the properties on their website.

"Therefore, they truly should not have any liability resulting from the condition of any of the properties," Douglas said.

But he said potential plaintiff pitfalls don't stop there.

"A big hurdle the plaintiff faces is proving that the owners [or] hosts knew or should have known about this dangerous condition," Douglas said. "Another issue that the defendant will likely face is that of contributory negligence. As the case proceeds, facts will come out about how the plaintiff was using the swing and those facts could ultimately preclude him from any recovery."

Meanwhile, Douglas said the defendants may also face obstacles if held to a higher standard as business operators than typical homeowners.

"Accordingly, their challenges may come down to the facts around that swing and how it was installed and what they did or did not do to protect their guests," he said. "In my opinion, the crux of this case will be the facts and what the respective parties did or did not do."

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