TRAUB LIEBERMAN

January 9, 2023

Traub Lieberman Partner Lisa Rolle Obtains Motion to Dismiss in Favor of Dave & Buster's

Related Attorneys: Lisa M. Rolle

In a case brought before New York State Supreme Court, County of Queens, Traub Lieberman Partner Lisa Rolle obtained a motion to dismiss in favor of Defendants Dave & Buster's of New York, Inc., Dave & Buster's Inc., and Dave & Buster's Management Corporation, Inc. (collectively "Defendants"). In the case, the Plaintiff alleged food poisoning from food consumed at an event on Defendants' premises on September 8, 2019. In their motion to dismiss, the Defendants presented testimony of both parties and the report of an independent medical examiner. In opposing the motion, Plaintiff showed an incident detail report to the Defendants dated September 13, 2019 and a medical report for Plaintiff's presentation to the hospital on September 16, 2019.

The Court found that the Defendants met their burden to show that there is no issue of fact regarding Plaintiff failure to show a causal connection to his illness on September 16, 2019 and the food consumed at the Defendant's premises eight days prior. The Plaintiff failed to submit further evidence refuting the report of the medical examiner, and the case was dismissed.

© Traub Lieberman Straus & Shrewsberry LLP