

# University not liable for injuries on basketball court in Mass.

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by Pat Healy  
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BOSTON — When a fight that starts on the basketball court leads to a fight in the Supreme Judicial Court, there is more than just a free throw at stake. In a recent ruling that fight led to further define insurance liability law.

Kenneth Kavanagh of Manhattan College's basketball team brought a suit against Boston University when one of its players, Levar Folk, punched him in the nose during a game in 1998. Last month the Massachusetts Supreme Judicial Court ruled that Folk, a scholarship player, was not an agent of the university, and without more the university was not liable for assault.

Kavanagh contested that the university was vicariously liable for any torts committed by Folk while playing for the university's basketball team, but the court disagreed.

"We reject the proposition that the doctrine of respondeat superior renders schools liable for the acts of their students, and decline to treat scholarship students any differently from paying students for these purposes," ruled Judge Peter M. Lauriat in his final judgment.

The judge said a student's status as student does not, by itself, make the student an employee or servant of the school the student attends, because the student is a "buyer of education" rather than an agent. And even though Boston University facilitated Folk's ability to attend the school with financial assistance, it does not "transform the relationship between the academic institution and the student into any form of employment relationship."

Kavanagh also claimed that the university breached a duty to protect him from the allegedly foreseeable assault and battery by Folk, but the plaintiffs could provide no history of violent behavior from Folk.

It all started when Kavanagh tried to break up an escalating scuffle between one of his teammates and a BU player, and Folk punched him and broke his nose. Folk was ejected from the game, and Kavanagh sat out briefly but returned to play in the same game.

When Wolff later asked Folk for an explanation of his behavior all he could say was that he "lost it."

The same could be said of Kavanagh and his court case. □