

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2021-026400-CA-01

SECTION: CA15

JUDGE: Jose Rodriguez

**Jane Doe**

Plaintiff(s)

vs.

**Marcel Goncalves et al**

Defendant(s)

---

**ORDER GRANTING DEFENDANTS' MOTION FOR FINAL SUMMARY JUDGMENT**

**THIS CAUSE** is before the Court on (1) Defendants, Fight Sports LLC, Fight Sports Global LLC, Fight Sports Academy LLC, Fight Sports Gear LLC, Fight Sports Media LLC, BJJ World Champion LLC, and Roberto De Abreu Filho's Motion for Final Summary Judgment ("Defendants' Motion") and (2) Plaintiff Jane Doe's Response to Defendants' Motion ("Plaintiff's Response"). This Court heard this matter on April 21, 2023, and having considered Defendants' Motion, Plaintiff's Response, and being fully advised on the premises, hereby finds as follows:

**I. Final Summary Judgment**

**(a) Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment, identifying each claim or defense--or the part of each claim or defense--on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court shall state on the record the reasons for granting or denying the motion. The summary judgment standard provided for in this rule shall be construed and applied in accordance with the federal summary judgment standard.

Fla. R. Civ. P. 1.510 (2021).

**II. Sexual Assault and Employer Liability**

The conduct of an employee is considered within the course and scope of employment when it (1) is of the kind the employee is hired to perform, (2) occurs substantially within the time and space limits authorized or required by the work to

be performed, and (3) is activated at least in part by a purpose to serve the master. *Sussman v. Fla. E. Coast Props., Inc.*, 557 So. 2d 74, 75–76 (Fla. 3d DCA 1990). Sexual assaults and batteries committed by employees are generally “held to be outside the scope of an employee's employment and, therefore, insufficient to impose vicarious liability on the employer.” *Nazareth*, 467 So. 2d at 1078. An exception exists when the employee purported to act on behalf of the employer or when the employee was aided by the agency relationship. *Id.*

*Goss v. Human Services Associates, Inc.*, 79 So. 3d 127, 132 (Fla. 5th DCA 2012).

### III. Analysis

The sexual assaults occurred in Goncalves’ personal residence, Goncalves’ car, and at the Fight Sports gym in Naples. As analyzed by the case law above, if the conduct is not in furtherance of the business objectives and if the employer did not facilitate the abuse, liability cannot be inputted on the employer. Although some of the sexual abuse did occur on Flight Sports property, this case is analogous to *Agriturf*, in which the court found that the abuse was not in furtherance of business objectives. Therefore, Defendants’ Motion for Final Summary Judgment is granted.

**WHEREFORE**, it is **ORDERED** and **ADJUDGED** that Defendants’ Motion is **GRANTED**.

**DONE** and **ORDERED** in Chambers at Miami-Dade County, Florida on this 17th day of June, 2023.

2021-026400-CA-01 06-17-2023 4:40 PM 

2021-026400-CA-01 06-17-2023 4:40 PM

Hon. Jose Rodriguez

**CIRCUIT COURT JUDGE**

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

**Electronically Served:**

Andrew Dao, ecfs@dalyblack.com

Andrew Dao, adao@dalyblack.com

David M. Tarlow, dtarlow@qpwbllaw.com

David M. Tarlow, dtarlow.pleadings@qpwbllaw.com

Mark Matthew OMara, service@omaralawgroup.com

Mark Matthew OMara, paralegal@omaralawgroup.com

Michelle Simpson Tuegel, paralegal@stfirm.com

Michelle Simpson Tuegel, michelle@stfirm.com

**Physically Served:**