

# Cover All The Bases

How to avoid lawsuits from potential injuries during sporting events



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**F**or many children, one of the joys of going away to camp or attending a specialty sports camp is the opportunity to participate in games with peers. These physical activities, which are often the essence of a camp curriculum, bring with them potential liabilities for the camp owner or operator in the form of personal-injury lawsuits.

Seeking to assign blame for real or alleged injuries, participants and their families may file lawsuits claiming that the camp or organization did not properly supervise the participants in a particular activity. Supervision does play a critical role in preventing injuries and in protecting camps and athletic organizations from a potential lawsuit. However, the current trend of litigation has gone beyond the mere failure to supervise during events and now targets alleged failure to warn of the risks of the sport and to provide proper instructions.

Camp owners and operators often raise the so-called “no-duty rule” to defend against these theories of liability.

This rule provides that a defendant owes no duty of care to warn, protect, or ensure against risks that are common, frequent, expected, and inherent in an activity. A related defense is “assumption of the risk,” which is an absolute defense in some states, and is used in others to diminish the defendant’s duty where the injured child was aware of, appreciated the nature of, and voluntarily assumed all of the risks associated with the activity. To determine whether a child was aware of a particular risk, courts applying assumption of the risk assess the child’s background and skill in the athletic activity. Where the defendant created a unique condition that went over and above the usual dangers inherent in the sport, assumption of the risk will not apply, and the defendant will likely owe a duty to the injured child.

### Sliding Into Trouble

There are a number of cases that illustrate these defense approaches. As will be seen, the outcome of such

litigation generally turns on the injured child’s experience with the sport at issue, his or her knowledge of the sport’s risks, and the instructions provided by the camp organization.

One such lawsuit involved a 14-year-old who injured himself while sliding into a base during a baseball game. The defendant moved to dismiss the case on the basis that it neither breached a duty to the child nor caused his harm and that the child assumed the risk of his injury insofar as sliding is an inherent part of baseball that presents obvious risks. The court agreed with the defendant and dismissed the case because the child had played baseball for several years, understood that sliding was an integral part of the game, and voluntarily assumed the risk that he might be injured. Furthermore, the court noted, the defendant did not create a dangerous condition over and above the usual danger inherent in baseball.

In contrast, in a different case arising from a game of baseball, a

10-year-old suffered an injury after sliding into a base for the first time. The child alleged that the defendant did not warn about the risks of sliding, never taught the child to slide properly, and failed to appreciate that the child had never previously slid into a base. Due

much younger age as compared to past years. Children, especially those under the age of 10, often act impulsively, have little experience in a particular game or sport, and may not fully appreciate the potential dangers of their actions.

filed or during the litigation process. However, camp operators must keep in mind that settling in situations where appropriate-risk policies and procedures have been followed may encourage other lawsuits. In addition to exonerating a blameless camp, the



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to these factors, the court refused to dismiss the case and instead allowed a jury to decide whether the child should have appreciated the risk based upon his age and lack of experience in the sport.

Yet another lawsuit involved a 9-year-old who was injured while playing the position of catcher at camp. During the game, the child was hit in the head with a bat tossed by another player. The injured child had no prior experience playing catcher and was not provided with proper protective equipment. In addition, the child was never instructed on the risks of playing catcher. On these facts, the court denied the camp's motion to dismiss the complaint.

### Take Time Out For Safety

As these cases demonstrate, the youth and inexperience of participants present significant challenges for those who operate camps and sports camps. Currently, children are engaging in many more physical activities and at a

While any injury to a child is unfortunate, camps nonetheless can, and should, take proper steps to ensure that an incident does not result in a claim and potential liability. These steps may include, among others:

- Instituting and maintaining adequate supervision
- Explaining potential dangers
- Supplying proper instruction about the rules of safety and special techniques required of the sport
- Inspecting and using proper equipment
- Providing a safe environment and facility.

By following these steps, even camps that enroll young children can significantly reduce the potential of liability.

Camp operators should be aware that if an injury does occur and the camp is blamed, economic and business factors may warrant consideration of a settlement either before a lawsuit is

choice of litigation over settlement sends a powerful message to potential plaintiffs and their lawyers not to bring frivolous lawsuits.

Injuries are an unfortunate reality of children's play at camps and during athletics, but they do not always mean that someone is to blame. If camps offer settlements too readily, there will be more litigation and higher insurance premiums resulting in fewer camps for kids. And that would be a strike-out for everyone. **cb**

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