



Injury on Ski Hill Results in \$255,000 Claim Settlement by CAS office

The plaintiff, a 15 year old, was injured while skiing on a school trip at an Ontario ski hill. An action was brought against the ski hill, the school board and the Children's Aid Society (CAS) office involved in caring for the plaintiff.

Facts

In January 2006, the plaintiff attended a school sponsored ski trip to an Ontario ski hill. At the time the plaintiff was living with a relative under the care of the CAS. While skiing down an intermediate level run, the plaintiff lost control on an icy patch and flew into a treed area adjacent to the ski run. The plaintiff sustained serious head and arm injuries. The plaintiff was not wearing a helmet. As a result of the accident the plaintiff continues to suffer headaches, light sensitivity, cognitive defects and neuropathic arm pain. Due to cognitive difficulties, the plaintiff has been unable to complete a high school education.

Plaintiff's Allegations of Liability

Ski Hill

The ski hill conducted skill assessments prior to granting ski run passes. The plaintiff was provided a ski pass for the beginner runs and then, upon a second assessment, was

given a ski pass to the intermediate runs. The instructor did not provide the plaintiff with instructions on how to handle ice and granted a pass to the intermediate runs before the plaintiff was ready.

The ski hill didn't have a policy in place that mandated helmets for all beginners.

Though the plaintiff's caregiver signed the ski hill's permission form, it did not release the ski hill from being held liable as it was not specific enough. Further, the plaintiff was a minor who was new to skiing and did not have the necessary knowledge to voluntarily assume the risks associated with skiing.

School Board

The teacher accompanying the class did not warn the class that the run was icy.

The principal of the school was aware that the plaintiff was under the care of the CAS. However, they didn't ask the CAS if the plaintiff had any medical limitations that would prevent them from skiing.

The School Board did not mandate that all students wear helmets while skiing.

Though a permission form was signed it did not waive the School Board's liability.

CAS

The CAS knew that the plaintiff had suffered previous concussions and did not tell the plaintiff's caregiver or the School Board. If this information had been provided, the plaintiff would not have been allowed to ski that day.

Claim Resolution

In a mediated settlement, all parties contributed to a settlement. The CAS contribution was on the basis that the caregiver would not have consented to the ski trip if the CAS had disclosed the information regarding previous concussions. Their portion of the settlement was \$255,000. Expenses to resolve the claim were an additional \$105,987.

Risk Management Considerations

1. During assessment, obtain the child's full medical history.
2. Ask the parent/legal guardian to sign a consent to release the child's medical information to the future caregivers and school.
3. Fully document your file.
4. Release the information to the new caregiver. Require that the caregiver refer to the medical history prior to authorizing permission for school trips; community sporting activities, etc.
5. Fully document your file that this information was presented to the caregiver.