

VENTURING MAGAZINE

Recreation Law by James H Moss J.D.

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This article about youth activity volunteers' and sponsors' liability should serve as a cautionary tale to us all. We need to be mindful of our responsibilities as Youth leaders, but we also need to be thoughtful about our liabilities. While BSA provides excellent Youth Protection Guidelines and liability coverage, the best course of action is always caution and awareness of the many safety issues associated with our adventures.

Jim Moss is an attorney specializing in Outdoor Recreational Law. He has extensive trial experience and often appears as an expert witness. He is a former District Executive with BSA and has spent a lifetime of volunteerism in Scouting. He has served as a consultant and committee member on many BSA Risk Management efforts and publishes articles about a variety of interesting Outdoor Recreation issues he has come across in his law practice. This one is particularly interesting to those of us who take teens on high adventure activities. If you think that people never sue the Boy Scouts when there is an accident, consider that this family sued their own church.



Seven years after a skiing accident on a church trip, a jury has awarded a nearly \$5 million judgment in his favor and against Idlewild Baptist Church. The church, Idlewild Baptist Church took the plaintiff skiing to North Carolina in 2003. The plaintiff had never been skiing before. While skiing, he ended up on an expert slope and was hit by another skier, allegedly going fifty-five miles an hour.

How can you achieve a speed of 55 miles per hour in North Carolina? It is almost impossible on 95% of the slopes in Colorado. Someone's expert was blowing snow to a Florida jury.

The collision left the boy with spinal damage and nerve injuries, which created a permanent limp, leg atrophy and a drop foot.

However, the church did screw up. The church told the mother, there would be one chaperone for every ten kids. The defendant church did not have enough chaperones. This allowed the plaintiff's attorney to claim: "*So his mother relied on Idlewild - of which they'd been members for 10 years - to act as a surrogate parent on the out-of-state trip...*"

Surrogate parent? Do you believe the mother intended to create a surrogate parent relationship with the church when her son went skiing or this was a great trial argument?

The lawsuit also claimed that "... *the teen did not receive ski lessons or instructions and no chaperone or ski partner stayed with him, according to the lawsuit.*"

The boy's mother was found 5% liable, which will reduce the damages paid to \$4.75 million.

The plaintiff's attorney is quoted at the end of the article as saying "*We hope this verdict will help other kids be protected in the future...*"

I suspect the only thing that will change is churches will no longer take kids skiing. It will be considered too risky. Lose track of a 14 year old kid and lose \$4.75 million.

However, there is a lesson to be learned from this.

1. Don't make promises you can't keep. If you say you are going to have X number of chaperones have at least that many chaperones.
2. If you say the youth will receive lessons, make sure he gets a ski lesson.
3. If you say the chaperones will be with the kids at all times, cancel the trip. You can't stay with kids on a ski area, unless you have a one-to-one ration of adults to kids and even then I think you will lose some.
4. Tell the parents what skiing is, tell them you are transporting the kids up and back, but you can't stay with the kids all the time. Tell the mother if she is worried she should come on the trip or not send her child. Tell the mother if she sends her child it is her responsibility to make sure the child knows and obeys the rules.