**CAMP “COUNSELLOR” CORNER**

I am often asked by camp and outdoor program operators if waivers or releases are useful to have. Some time ago, it was the common wisdom that waivers “aren’t worth the paper they’re written on”. NOT SO ANYMORE, says the court in a recent decision involving a ski hill.

**Facts:**

In *Morgan v Sun Peaks Resort Corporation*, 2013 BCSC 1668 (CanLii) [*Sun Peaks*], a skier fell whilepreparing to load onto a chair lift and was “run over” by the approaching chair, causing serious physical injury. The skier sued the ski resort for damages alleging negligence by the chair lift operator in failing to hit the stop button in time.

The court considered whether the skier was bound by the release that she signed at the time she purchased the lift ticket, and whether the terms of the release were broad enough that she had she had waived her claims in negligence against the ski resort. Ultimately, the court found that the release was enforceable, and the claim against the ski resort was dismissed.

**Factors that persuaded the court:**

* Use of plain language
* Font size that was easy to read
* A bold warning at the top of the page that it was a release of liability that must be read carefully at the top
* Full signatures required at the end

It did not matter to the court that the Plaintiff had been a skier at that particular resort for several years. The court also noted that the party relying on a release need not prove that the person who signed the document actually read it first. In any case, the court found that the Defendant took reasonable steps to bring the release to the attention of the Plaintiff, and moreover, the *form* of the Release was itself sufficient to bring the nature of the document and the need to read it to the attention of the person signing it.

**Lessons Learned:**

It is often (mistakenly) believed that a release will be unenforceable if the injury or loss is incurred by virtue of an owner/operator’s negligence. This case is yet another illustration of courts upholding broadly worded waivers that preclude adults who have signed such waivers from making a claim in negligence.

From the point of view of camp owners/operators, it is extremely important that waivers/releases are used, particularly for adult attendees or participants, that they are worded appropriately, that the *form* of the release is equally appropriate, and that the surrounding context at the time of signing of the waiver is adequately provided for (i.e. providing the participant with adequate time to read the release).

*If your organization needs assistance with drafting, understanding or otherwise complying with today’s standards for waivers/releases, please feel free to contact Robin Squires at rsquires@blg.com.*

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