

PRE-EDUCATION AWESOMENESS



LIABILITY AND YOUR FACILITY



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Disclaimer



The Real Disclaimer: This presentation contains information about employment law matters for informational purposes only. It is NOT legal advice. Contact a qualified attorney for specific advice on any legal matter.

Road Map

- What is Liability
- How to Assess a Facility
- Creating a Plan to Address Safety and Liability
- Insurance!

Liability

- ▣ “The state of being responsible for something, especially by law.”
- ▣ Synonyms: Accountability, Responsibility, Legal Responsibility, Answerability, Blame, Guilt, Culpability, Fault

The Requirements

- Duty
- Breach of Duty
- Causation
- Harm

Duty

- The responsibility to provide a certain standard of care to an individual
- Applies to both participants and attendees

Breach of Duty

- An act or failure to act which caused an unsafe condition.
- Not meeting expectations

Causation

- The Breach of Duty is what caused the injury
- Often relates to foreseeability
- Your action or negligent inaction is the direct cause of an injury.

Harm/Damage/Injury

- There must be some harm or injury in order to proceed with a claim.
- Bodily Injury
- Damage to Property

Facility Assessment

- Create a Plan/Process
- Initial Assessments
- Ongoing Assessments
- Safety Checklists

Two Major Concerns

- Athlete/Team
Concerns
- Spectator Concerns

Athlete Concerns

- Certain Risks 'assumed'
- Many are not.
- What conditions are reasonably expected?
- Risks usually associated with the sport are usually assumed.

Other User Issues

- Risks to non participating team members
- Coaches
- Facility Staff

Camp/Clinics, Etc.

- A Unique type of athlete and facility user.
- Insurance will want waivers.
- Get waivers from all participants and parents if they are minors

Consider All Facilities

- Consider more than just the main stadium
- Practice areas can be an even bigger concern
- Concerns between facilities?

Attendee Concerns

- Greater liability to ticket purchasers.
- Because a transactions is taking place, there is increased expectation.
- Terms/Conditions on Tickets can limit only to a degree.

Attendee vs. Facility

- Liability can be created by problems with the Attendees interaction with the facility.
- Slip & Fall
- Broken/Unrepaired facilities

Attendee vs. Attendee

- Fights among opposing fans
- Often Alcohol induced
- Duty to prevent and/or provide some sort of security
- Text reporting
- What is foreseeable?

Attendee vs. Themselves

- May be alcohol induced
- May be excitement induced
- Common sense is not common!

It's All About Expectations

- What do fans expect:
- Seats that work
- Food that is (mostly) edible
- General safety protections
- Special knowledge creates a duty

Create Standards

- Have a list of criteria which must be in place for facility use to take place.
- Use sport specific standards if possible.

Train Employees on the Standards

- Train employees to use checklists
- Be clear about what steps should take place to repair problems
- If repair isn't possible, what steps should take place?

Repairing Problems

- Moving forward despite detected problems is asking for trouble.
- Incentivize Problem Spotting and Reporting

Communication

- Effective Communication of Hazards is Important
- Safety messages should be conveyed in a reasonable and effective manner.
- Keep the message recipient in mind.
- Empower Employees to address safety issues they witness.

Accidents Happen

- No 100% prevention is possible.
- Work toward fewer incidents.
- Keep safety a priority.
- The possibility of litigation should be at the back of your minds always.

Insurance

- Lots of kinds and types.
- Know your coverage.
- Review it on a regular basis

Other People's Insurance

- Other groups that use the facility should have insurance too.
- Anyone who leases the facility
- Leagues (get waivers too)
- Organizers of Camps/Clinics
- Unaffiliated Vendors

Your Insurance

- Start with a General Liability Policy and customize by adding additional coverages
- Policy limits depend on the specifics of the facility
- Occurrence based policy is better than claims made policy

Basic Policy Inclusions

- Each Occurrence:
- General Aggregate
- Products/Completed Operations Aggregate
- Personal/Advertising Injury
- Damage To Premises Of Others
- Premises Medical Expense Payments

Exclusions

- Exclusions are events specifically excluded from coverage by a policy.
- Frequently Exclusions can lower rates because they expose the insurance co. to less liability.

Exclusions to be Aware of

- Athletic Participant
Exclusion
- Player v. Player
Exclusion
- Abuse & Molestation
Exclusion
- Punitive Damages
Exclusion

Policy Add Ons

- Liquor Liability!
- Non-Owned-Hired
Auto Liability
- Buy Back Programs
- Employee Benefits
Liability

More Policy Add Ons

- After offer has been accepted
- Make sure there is a sign off page
- Reinforce the 'at will' status of the employee
- Great way to answer questions at the start

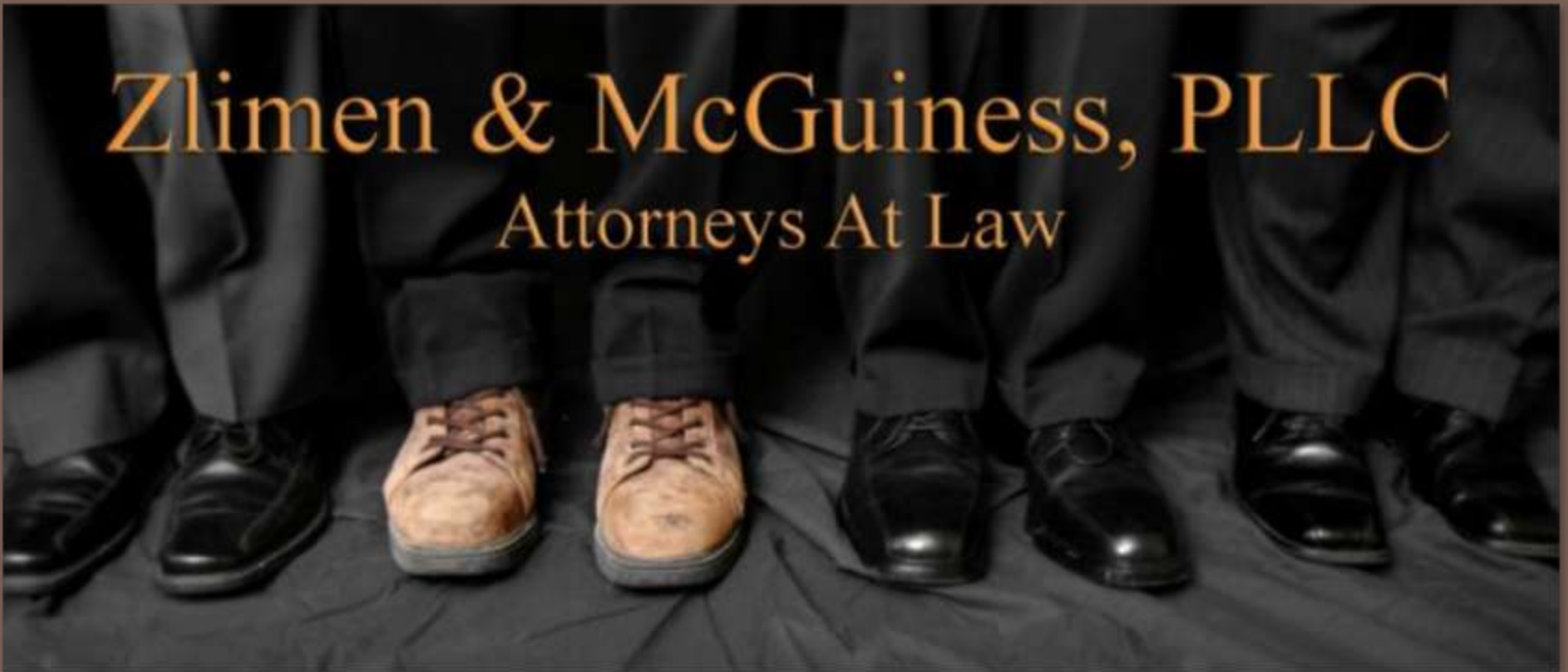
Don't Assume

- Read and Understand your policy.
- Talk to an Attorney or underwriter
- Never take the salesman's word for it.

Lessons Learned?

- Know your duty
- Correct problems
- Write it all down
- Know your
insurance coverage

QUESTIONS?



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