ARE YOU AT RISK?
Changes on the Interpretation of the Colorado Equine Activities Statute

A recent appellate decision from the Colorado Court of Appeals attempts to clarify the standard for civil lawsuits initiated for damages arising from an equestrian related activity. In Clycke v. Waneka, (---P.3d---, 2007 WL 570412, Colo. 2007), a rider sued the sponsors of a horse roundup after she fell off a horse they provided. At trial, the rider argued that the ranch owners were liable for providing a horse she could not safely manage and allowing her to participate in a horseback riding activity unsuited to her ability level. The ranch owners admitted that the rider had an accident while riding a horse on their property. But, they denied they were liable and asserted that the case must be dismissed under the Colorado Equine Activities law. They argued that the rider failed to prove they failed to adequately consider her safety with regard to the horse she was riding and the equine activity in which she was participating.

The Colorado Equine Activities Statute was enacted to grant exemption from civil liability to persons involved in equine activities for injuries that result from certain inherent risks of those activities. Because the Equine Activities Statute provides exemption from civil liability to equine sponsors who engage in equine activity involving inherent risks, a rider must prove one of the exceptions to this exemption from civil liability in order to prevail in a civil lawsuit. The Clycke case clarifies under what exceptional circumstances liability may be imposed. In Clycke, defendant asserted plaintiff's injuries were a result of an inherent risk of equine activities, and the plaintiff failed to prove the defendant provided an improper activity (i.e. defendant failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity) and failed to provide a proper horse (i.e., defendant failed to determine the ability of the participant to safely manage the particular animal based on the participant's representations of his or her ability). The defendant asserted that plaintiff's case must, therefore, be dismissed under the Equine Activities Statute.

The Court ruled that since the Equine Activities Statute only grants exemption from civil liability for "inherent risks of equine activity," a sponsor must prove that the rider's injuries resulted from inherent risks of equine activity to benefit from the exemption. If the plaintiff proves the defendant liable, the defendant may assert the exemption under the Colorado Equine Activities Statute. The plaintiff may then try to prove an exception from the exemption by showing that the plaintiff can then prove that the defendant either: 1) failed to provide a proper activity; or 2) failed to provide a proper horse. Clear? Probably this summary leaves things far from clear for most laymen. The bottom line--- many attorneys believe that this case makes it easier for plaintiffs to file and maintain lawsuits against equestrian activity providers in Colorado. If you provide equestrian related activities, you should consult with your insurance agent and your attorney to determine what actions you can take to best protect you from the exposure of this type of litigation. HC

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