



## SPORTS, RECREATION, & RESORT LIABILITY

Liability claims in this class of business bring significantly elevated risks. Sporting and recreational accidents cause serious injuries with tragic consequences for the victims and their families. The recent escalation in damage awards and the complexity of the legal issues significantly increases the risk to all involved in the activity or sport, whether recreational, amateur, professional or commercial.

Many of the lawyers at McCague Borlack LLP are avid sports enthusiasts and engage in a variety of recreational pursuits. As an adjunct to these personal passions, they have a special interest in the legal issues associated with sports-related exposures.

### Sub-Groups

Our team of highly trained litigators offers clients a comprehensive knowledge of the laws governing the industry, personal familiarity with the leading experts, and first-hand practical experience in addressing the wide range of issues that arise in such claims. Their insights give them a significant edge when handling all types of recreational or sports-related matters. They have particular expertise within the following practice sub-groups:

#### Ski Hill and Resort Liability

As the popularity of skiing and snowboarding increase, so too does the risk of accidents with serious injuries. Our firm has considerable knowledge of the rules, regulations, and laws which govern claims arising from downhill ski and snowboarding accidents and claims against the resort operator, such as chairlift liability, contractual liability, and commercial club premises and member owned facility liability. In addition, we are experienced in drafting and analyzing waiver provisions. McCague Borlack is a member of the National Ski Areas Association, which is the association for ski area owners and operators throughout North America.

#### Equestrian and Trail Riding Liability

Lawyers in this group have defended horse riding stables for many years. Equestrian centres are brought into litigation when incidents take place involving horse riding lessons, trail rides, or competitive horse shows. Our practice group members have extensive experience defending these establishments in negligence and Occupiers Liability Act claims.

#### Sport Participant, Organization, and Spectator Liability

Our firm has a wealth of experience in bodily injury and property damage claims involving sports organizations and providers, competitors, coaches, spectators, volunteers, officers, directors, teams, and leagues involving a wide range of sports and activities including hockey, golf, baseball, volleyball, hiking, skateboarding, and swimming.

#### Resort, Facility, Special Event, and Hospitality Liability

This sub-group focuses on litigation involving individuals, teams, resorts, organizations, companies, and charities which operate facilities, resorts, and/or events. As a leading provider of litigation services to national, regional, and local amateur and professional sports associations, our firm has extensive experience in handling special events from large international meets to community-based events. We also possess experience in defending commercial club premises and member owned facilities, and claims from users of municipal, school, and other publicly owned premises, including recreation facilities.

### Chair

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### Members

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Sabrina Lucibello  
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Martin Smith  
Josh Sugar  
James Tomlinson  
Sean Valentine  
Peter Vlaar

# SPORTS, RECREATION, & RESORT LIABILITY cont'd...

## Services

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### Insurance Coverage

Complete insurance coverage advice is provided on a broad range of liability policy wordings and endorsements including comprehensive general liability policy wordings and special policy wordings intended to provide coverage for all forms of sports, recreation, and/or resort liability lines of business.

### Liability Defence

Our firm possesses extensive experience in defending all types of personal injury or property damage claims arising while playing, watching, or organizing a sporting or recreational activity or event.

### Risk Management

The most efficient method of limiting liability is through effective risk management techniques and strategies. Our group of highly

- establishment of appropriate protocols and procedures
- development of manuals and handbooks
- training of employees
- drafting of waivers and exclusion clauses
- utilization of incident reports and special contractual provisions designed to restrict liability exposure
- development of manuals and handbooks
- coordinating claims between the insurer and insureds where there is a significant deductible or self-insured retention
- advising on claims that are in excess of policy limits

## Featured Publications (For a complete list, please visit our website.)

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- **Combatting Exposure: Utilization of Waivers by Ski Hill and Resort Operators - A Defence Perspective** by James Tomlinson and David J. Olevson, First presented at one of our Sports and Recreational Seminars
- **Fans Beware: The Risks of Watching Your Favourite Athletes** by James Tomlinson and David J. Olevson, First presented at one of our Sports and Recreational Seminars
- **Inherent Risks in Hockey: Recent Developments in the Law** by James Tomlinson, First presented at one of our Sports and Recreational Seminars
- **Waivers Gain Additional "Armor" in the Defence of Personal Injury Litigation** by Garrett Harper
- **Passing the Buck: Risks Willingly Assumed and Liability Apportionment at Resorts** by David Olevson, and Bogdan Miscevic, First presented at one of our Sports and Recreational Seminars
- **Real and Substantial Connections and Beyond: Responding to Foreign Lawsuits and Challenging Jurisdiction** by James Tomlinson and David J. Olevson, First presented at one of our Sports and Recreational Seminars
- **Case Commentary: Trimmeliti v. Blue Mountain Resorts Ltd.** by Garrett Harper

## Featured Cases

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- Defence of a ski-resort in a multi-million dollar action, brought by a plaintiff who suffered severe brain damage, as a result of coming into contact with snow grooming equipment.
- Defending ski-resort and ski-resort instructor, in a multi-jurisdictional dispute, as a result of serious injuries sustained by a minor plaintiff in Quebec.
- Defence of a racetrack, in an action commenced by a minor plaintiff, who sustained head injuries, as a result of unauthorized use of the facility's racing vehicles.
- Defence of a fitness facility and the manufacturer of a fitness device, in a personal injury and product liability action, as a result of severe hip fractures sustained by the plaintiff while using the device at the facility.
- Defence of an installer/manufacturer of a recreational tumble track, in a multi-million dollar action, brought by a minor plaintiff who was rendered a quadriplegic as a result of an accident that occurred at a gymnastic facility.