

# Guilty Or Not Guilty?

*Know the laws pertaining to coaches in your state*

*Editor's Note:*

*This article is for educational purposes only and should in no way be considered legal advice. Always consult with an attorney regarding individual programs and any potential liability you or your programs may face.*

**M**ost injury cases in tort law are based upon negligence. To bring a claim of negligence, a plaintiff must prove four elements to be successful. Failure to show any one of these and the plaintiff is not entitled to recover from the defendant:

- ◆ **Duty.** Did the defendant (coach) have a duty to act in a certain way towards the plaintiff?
- ◆ **Breach.** Did the defendant fail to act or meet responsibilities?
- ◆ **Causation.** Did this failure to act or meet responsibilities, both a) cause an actual harm to the plaintiff, and b) is the harm of the type and degree that it is fair to hold the defendant responsible for that harm?
- ◆ **Damage.** Did the plaintiff suffer a harm that can be expressed in monetary terms?

Duty and damage are rarely the issues in most coaching cases. The established relationship between coach and player places a duty upon the coach; the incident usually involves a clear injury to the player. In the absence of specific coaching protections or statutory immunities, coaching-liability cases usually hinge upon the two remaining elements: breach or causation.

The plaintiff first attempts to establish the standard of care the coach must follow. Lawyers commonly do this by presenting a variety of evidence, such as routine coaching practices, school/league rules, sport-governing body rules, industry regulations, and state laws. Once standard of care is established, the plaintiff shows how the coach failed to meet this obligation.



## FOUR DEGREES OF PROTECTION

Since youth participation in sports is seen as an established benefit to the public, many states have added extra protections in the form of civil-liability immunity laws for volunteer coaches. These laws offer an elevated standard of care that plaintiffs must show to establish liability. However, even when such statutes grant immunity for coaches and youth-sport organizations, administrators should be aware that such protections are not absolute, and specific arguments can be made by plaintiffs to circumvent these civil-immunity protections. The purpose of this article is to increase administrators' awareness of issues that might mitigate civil-immunity protections.

These protections have four degrees:

- 1 Simple negligence**—ordinary coaching behavior established that the coach should have acted in a certain way, but did not. When states provide protection against simple negligence, plaintiffs must show more than the coach simply failed to meet ordinary coaching behavior. They must establish an egregious (gross) or reckless breach.
- 2 Gross negligence**—failure to meet this obligation is an egregious error, typically demonstrated as a failing to meet a fundamental and critical element of coaching safety. Here, the plaintiff must show that the coach was reckless and knew the behavior was dangerous, yet proceeded anyway.
- 3 Recklessness**—despite knowing the act was dangerous yet proceeding anyway, the key here is that there is no specific intent to harm anyone. The coach simply engaged in a known risk. Alternatively, when there is a specific law establishing responsibility, failure to meet a law is deemed reckless, whether or not the coach was aware of violating a law. When states provide protection threshold up to recklessness, the plaintiff must show that the coach intended harm, or that there was an utter disregard for the safety of others.
- 4 Intentional**—the coach actually wanted to cause harm. No state provides immunity for coaches who intentionally harm another person.

# Solid outdoor fun.



Permanent Ladder Toss



Available in three styles

Perfect for

- Campgrounds,
- Parks
- Playgrounds,
- Colleges,
- Schools,
- Water Parks,
- and more!

**CALL TODAY!**  
**800-233-3907**





Doty & Sons

Concrete Products, Inc.

1275 E. State Street • Sycamore, Illinois 60178

dotyconcrete.com



# LOCKERS



**Metal Lockers**



**Wood Lockers**



**Plastic Lockers**

**Call us for a free quote or catalog!**  
**1-800-562-5377**



People Committed to Quality Since 1936



## CASE STUDIES

The following are liability situations that arose even when applicable statutes granted immunity. These cases are drawn from different sources of immunity protections to show how plaintiffs may attempt to bypass various levels of civil immunity.

### STATUTORY IMMUNITY: NONE

#### BELLINGER V. BALLSTON SPA CENTRAL SCHOOL DISTRICT 57 A.D.3D 1296 (NY)

• **BACKGROUND** > Two fifth-grade girls collided while running towards the same opponent in a game of one-hand touch football during recess. One girl's head hit her teammate's mouth, knocking out three teeth and fracturing another. The girl's parents sued, alleging negligent supervision.



• **ISSUE** > In this case, there was no history of discipline issues for either girl, the game was age-appropriate, and experts testified that safety equipment was not required. The key issue was that direct supervision could not have prevented the collision. The injury was the result of a spontaneous and unintentional accident.

• **TAKEAWAY** > The takeaway in this case is that, even if the teacher had been directly supervising, the spontaneous and unintentional accident would still have occurred. The injury was not caused by negligent supervision because it would have occurred regardless.

#### KAHN V. EAST SIDE UNION HIGH SCHOOL DISTRICT 31 CAL.4TH 990. (CA)

• **BACKGROUND** > During a swim meet, a coach instructed a novice 14-year-old competitive swimmer to dive into a shallow pool against the swimmer's objections. During a practice dive without supervision of the coach, the swimmer broke her neck.

• **ISSUE** > In this case, the defense asserted that, since the swimmer acted on her own, she assumed the risk and her decision to dive into the shallow pool was an "intervening force" that caused the injury. This argument failed. The court ruled that the coach cannot raise an intervening force defense when the coach's job is to protect the athlete against such injuries.

• **TAKEAWAY** > Raising the defense that athletes act on their own free will is not a valid defense when the coach's job is to protect athletes from harm and to instruct them in proper techniques and safety precautions, despite possible objections.

#### HARRIS V. CHERRY VALLEY-SPRINGFIELD SCHOOL DISTRICT 305 A.D.2D 964 (NY)

• **BACKGROUND** > A high-school varsity baseball player used a batting cage with balls pitched at speeds of 78 mph during practice. After practice, the player asked the coach to set the machine to the maximum speed of 90 mph. The player successfully hit the first ball, but the second pitch was "wild" and hit him in the eye. He claimed that negligent supervision by the coach allowed him to engage in that activity.

• **ISSUE** > The key issue here was that the player was extremely experienced and had previously been hit by a wild pitch in a batting cage. The court stated that the player fully comprehended the risks and voluntarily engaged in the activity. In this situation, the coach's duty was to ensure the conditions were as safe as expected by the player. The player voluntarily assumed the known risk of a wild pitch.

• **TAKEAWAY** > The participant's experience level with the equipment was key in this case. The coach was protected due to the assumption of risk by an experienced baseball player. Coaches working with new or inexperienced players are unlikely to raise such a defense successfully.

### STATUTORY IMMUNITY: SIMPLE NEGLIGENCE

#### BYRNE V. FORDS-CLARA BARTON BOYS BASEBALL LEAGUE, INC. 236 N.J.SUPER. 185 (NJ)

• **BACKGROUND** > A child was struck in the eye by a ball during baseball practice. The coach raised the defense of the volunteer-coach immunity statute. However, the coach had not attended the mandatory training session required by the statute.

• **ISSUE** > Because the coach had not attended the required safety seminar, he failed to meet the statutory requirements for immunity. In the absence of the protection of the volunteer-immunity statute, the increased negligence threshold is eliminated, and the coach was held liable for committing simple negligence.

• **TAKEAWAY** > Program administrators must ensure that all statutory pre-conditions for immunity are strictly satisfied so all volunteers may benefit from the immunity statutes.



## STATUTORY IMMUNITY: GROSS NEGLIGENCE

### SCHNARRS V. GIRARD BOARD OF EDUCATION 168 OHIO APP.3D 188 (OHIO)

• **BACKGROUND** > A high-school basketball coach had recent male graduates practice with the girls' basketball team. During one such practice, a girl broke her arm.

• **ISSUE** > In this state, the immunity statute is narrowly defined. The statute only provides immunity for school equipment, supplies, materials, personnel, facilities, and other resources. Since the male graduates were not employed by the school, they were not considered personnel. Furthermore, they clearly do not qualify as equipment, supplies, facilities, or other resources under the scope of the statute. The court ruled that this activity was beyond the narrow scope of protection under the statute, and statutory immunity was not granted.

• **TAKEAWAY** > As an administrator, it is crucial to review the specific requirements of the statute and consult a local attorney before permitting coaches to engage in activities that risk falling outside the statutory protections available in your state. Ensure that all parties involved in the activities are covered under the statutes.

### WELCH V. MCCUTCHEON YOUTH BASEBALL LEAGUE, INC. 950 N.E.2D 1283 (INDIANA)

• **BACKGROUND** > A Little League player hit a parent while taking a practice swing. The parent sued, claiming that allowing children to swing a bat is a knowingly dangerous activity considered "reckless" unless specific supervision of the children is provided.

• **ISSUE** > The court stated that, while the supervision of the activity was negligent, the player's behavior was the ordinary behavior of participants. Therefore, this situation did not surpass the immunity statute for gross negligence. However, if the coach had knowingly allowed the players to misbehave with the bat, the judgment might have been different.

• **TAKEAWAY** > Administrators must ensure that coaches know the difference between ordinary and reckless behavior within their sport. Whenever possible, ordinary precautions should always be met.

## STATUTORY IMMUNITY: RECKLESSNESS

### GIAMBRONE V. DOUGLAS 874 SO.2D 1046 (ALABAMA)

• **BACKGROUND** > A 200-pound wrestling coach engaged a 130-pound freshman in a coach-versus-student "challenge match." During the match, the student sustained a spinal cord injury and is now a quadriplegic.

• **ISSUE** > The key issue of this case was whether the "challenge match" was within the coach's scope of employment. For state immunity to apply, the coach must establish that the activity was within that official scope. Only in such circumstances will the statutory immunity be granted. In this situation, the coach's challenge match was not considered within the scope of his employment, and he was held liable for the injury.

• **TAKEAWAY** > While a coach may legitimately perform an action with an athlete one-on-one, there is a difference between coaching and competing with an athlete. Clarifying the scope of employment can provide employees with clear guidelines concerning the types of activities permitted in a program.

### NALL V. FAULK 879 SO.2D 541 (ALABAMA)

• **BACKGROUND** > High-school baseball coaches were conducting drills at which an assistant coach was hitting balls at full speed. During this drill the players wore helmets. However, the players awaiting their turn by the fence were not. One of the balls hit by the coach struck a waiting player.

• **ISSUE** > The administrators had failed to provide specific guidelines for conducting team practices. Thus, the court ruled that the coaches had more discretion concerning how the drills could be conducted. This broader discretion permitted the coaches to successfully argue that the activity, while exposing the awaiting players to harm, did fall within their scope of employment and thus was protected under the state's statute.

Since this activity was considered within the scope of employment, the recklessness-immunity statute was applied. Since the coach did not intentionally harm the student waiting in line by the fence, the coach was protected by the immunity statute.

• **TAKEAWAY** > While the lack of specific administrative guidelines gave the coaches and administrators some discretion in this situation, one should be cautious because failure to apply any guidelines may also result in negligent supervision on the part of the administrators.

### THE FINAL POINT

Effective administrators of youth-sport programs should not only be familiar with the applicable civil-immunity statutes of their state, but to the extent possible, consult with local attorneys familiar with case-law decisions in their state. **PRB**

*Jason V. Henderson, Esq. is a member of the Youth Sports Research Council for the Department of Kinesiology & Health at Rutgers University. Reach him at [jasonlr@scarletmail.rutgers.edu](mailto:jasonlr@scarletmail.rutgers.edu).*

To comment on this article, visit [ParksAndRecBusiness.com](http://ParksAndRecBusiness.com)