

From the field to the court

Unsafe field operator may be liable

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By Lawrence Savell
B&S Guest Writer

(Editor's Note: This is the second of a three-part series which will examine the liability of fellow players (last month) and other parties (this month) for such injuries. The third article will assess responsibility for injuries to spectators.)

Last month we examined the ability of an injured player to hold a fellow player liable for injuries sustained in a game or practice. This month we will review whether

the injured party can hold other parties liable for such injuries.

To some extent, concepts like breach of the duty of a non-participant liable is where the player alleges that the conditions of the field caused or contributed to the injuries.

Generally speaking, a player on a softball field owned and/or operated by another is considered an "invitee" of the owner/operator. The owner/operator is thus required to maintain the facility in a reasonably safe condition. This means that the owner/operator may be liable if he, she, or it violates the (Please see **Field to Court** pg. 19)

NOTE: Magazine's typesetter dropped several lines, creating a single paragraph where two different paragraphs existed in submitted manuscript:

To some extent, concepts like breach of the duty of care and defenses like assumption of the risk, consent, and contributory negligence apply here as well.

A common context where an injured player seeks to hold a non-participant liable is where the player alleges that the conditions of the field caused or contributed to the injuries.

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duty of reasonable care owed to the player and if that violation caused the injuries.

The owner/operator may be liable if the injured party can prove that the facility was negligently designed. This was the situation in a Pennsylvania case brought by a catcher struck by a bat. The evidence showed that home plate had been positioned too close to the backstop. This did not allow sufficient room between the batter and the backstop for the catcher to play safely.

An owner/operator may, under certain conditions, be responsible for acts of spectators that lead to the injury of a player. This

was the situation in a New York case where a player chasing a foul ball fell over some spectators who had been allowed to stray too close to the field. The court ruled that the party which maintained the field had negligently failed to control the crowd properly.

Where the field is owned and/or operated by a governmental entity, such entity may be immune from liability due to its governmental status. The entity can generally waive its immunity, however, if it decides to do so.

In situations where a player is injured as a result of such events as colliding with another player or being hit by a batted ball or

a thrown bat, the defenses discussed last month may apply to protect third parties. Thus, in a Louisiana case, the sponsor of a softball league game was not liable for injuries resulting from a collision between a first baseman and a runner. In that case, the runner did not act in an unexpected or unsportsmanlike way and the collision was foreseeable and within the risk assumed by the injured party.

Similarly, if the injury is the result of the injured player's own negligence, he or she may be barred from recovery.

The persons or entities in charge of the

team may be responsible for injuries from such conduct as failure to supervise players or requiring play on a field in hazardous condition.

If the equipment used was defective when it left the manufacturer and caused the injury, the injured player may be able to hold the manufacturer responsible.

Next month we'll examine the question of responsibility for injuries to spectators.

(Lawrence Savell is a lawyer in New York City. This column provides general information and is not intended as a substitute for consulting an attorney.)