

Sheryl Wood

Subject: FW: Commissioner Ostlund Request

Some examples where persons were injured the result of voluntarily participation or placing themselves in a dangerous activity:

October 18, 2000. Benson v Yellowstone County, MetraPark

Benson won a "snot seat", front row seat to Nile Rodeo event. The seat was the result of a local bar promotion. Front row seats are very desirable for such events as spectators are as close to rodeo events as they can be.

During bucking horse event, Benson was injured when something hit her in the left eye. She suffered some permanent eye loss.

Benson claimed the horse threw a rock, (imbedded in the dirt floor at MetraPark). Benson never produced the rock, and I suspect a clump of dirt was kicked out by the horse.

Benson sued the County and Nile for over 1 Million Dollars. County attempted to get out of the case, summary judgment, however district court denied the request, said County had a duty to watch out for rocks and dirt at a rodeo.

County settled out at \$100,000.00

Summer Fair, 2003 Hamilton v MetraPark, Yellowstone Horseracing Alliance

Hamilton was a jockey who received closed head injury after a horse he was riding fell during a race at the 2003 Summer Fair.

The complaint claimed that the County breached its duty to prepare and maintain the race track. County tried to get out of the case, Court denied Summary Judgment, said it was a question of fact left for a jury to decide.

County settled, 1/4 million dollars total. Alliance was judgment proof.

NOTE: Legislature carved jockeys out of workers comp requirement!

Most tracks in Montana shut down horseracing because of the lack of adequate insurance, and the overall dangerous nature of horseracing.

Summerfair 2003 Giacomelli v Yellowstone County, Yellowstone Horse Racing Alliance

Companion case to Hamilton.

Same race season, injury the result of a jockey "riding the rail" during a race. Court determined that the County had a duty to jockey, protect the jockey from himself.

County settled at \$25,000.00

2002 MetraPark Rodeo Pinkerton v Yellowstone County, MetraPark

Pinkerton drove a stock truck for stock belonging to the Rodeo promoter for the 2002 Montana Summer Fair. Pinkerton "volunteered" to tend the main gate for the rodeo. The gate tender is the most dangerous job during rodeo, opening and closing the main gate to allow stock and riders in and out of the arena. Very fast paced activity.

Pinkerton was not paying attention during bull riding. A bull crashed the gate and the gate struck Pinkerton in the head. Closed head injury.

Pinkerton knew what he was doing, having tended gates in rodeo all his life. Pinkerton claimed latch on gate was defective, causing gate to open when bull hit it.

County had experts to refute Pinkerton claim about the gate. Pinkerton had no expert witnesses. Nevertheless, County lost as summary Judgment, court held the issue goes to a jury.

County settled for \$230,000.00.

Thank you

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