Adult Hockey Leagues — Fertile Ground for Litigation

by CHARLES F. GFELLER

Adult hockey leagues have proven to be fertile ground for personal injury litigation. Most adult leagues are “no-checking” leagues, but as anyone who has ever played, or even watched, hockey at any level knows, there is no such thing as “non-contact” hockey. Unfortunately, plaintiffs’ lawyers often fail to understand the distinction between “no-checking” and “non-contact,” and when a player gets injured in an adult league game, a lawsuit results, in which the plaintiff claims that the league was supposed to be “no-checking,” and so there should have been no physical contact whatsoever. The theory continues that since there was physical contact, resulting in the injury to the plaintiff, the ice was not being properly supervised by the facility.

In most states, where assumption of the risk is a valid defense to a personal injury action, these claims are handled by playing to every self-respecting hockey player’s pride — they nearly all admit that hockey necessarily involves contact, even when actual checking is not allowed. Plaintiffs often readily admit that they understood, before playing at the defendant facility, that collisions (and even checking) occur during “no-checking” hockey games and that injuries can result.

In many cases, by taking a look at the score sheets for prior games and seasons in which the plaintiff has participated, one can find instances where the plaintiff, himself, was penalized for some sort of physical infraction — roughing, cross-checking, slashing and the like. The fact is that just because a league is designated as “no-checking” does not mean that checking, roughing or other physical penalties never occur. In fact, they do occur, which is one of the reasons why the on-ice officials are present. The on-ice officials are there to penalize behavior that is anticipated, and even part of the game, but that is not supposed to occur in a given setting.

When the facility’s attorney is armed with complete and helpful score sheets, he can effectively use them to have the plaintiff admit that he understood that penalties are part of the game, and that the rules of the game take physical infractions into account. In such instances, counsel can put the prior score sheets in front of the plaintiff and demonstrate that the plaintiff had, in fact, received penalties in other games for physical conduct that was outside the scope of that allowed in a “no-checking” league. Once this is established, the plaintiff is reduced to someone who knew the risks before playing, assumed those risks and even dished out the type of improper conduct for which he is now suing the facility and perhaps even an opposing player.

The lesson of this type of scenario is that consistent and detailed record-keeping for adult leagues is critical. Score sheets should be complete and easy to understand. They should be written neatly, even if it means that someone must re-write them immediately after the game to make them legible. Score sheets should be maintained for several years. Additionally, facilities should implement procedures by which score sheets are routinely reviewed by management to spot any trends of problematic behavior. In instances where particular players are regularly appearing on the score sheet for aggressive, physical penalties, warnings, suspensions and expulsions should be handed out. This all translates to good supervision of the programs on the part of the facilities, making cases arising from adult leagues much more defensible.

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