



Attorney Charles Gfeller Builds out His Sports Concussion Practice

It is appropriate that one of the rotating images on the home page of the Seiger Gfeller Laurie LLP is a snow skier in mid-air, risking injury.

While the firm has expertise in many practices areas, sports and recreation law is an important one, thanks to the work of one of its partners, Charles F. Gfeller, who never ventures too far from sports and recreation law and the developing niche around concussions.

Gfeller, an avid skier and former hockey player, represents several ski areas, ice arenas, National Hockey League teams and facilities, zip line operators, marine-based recreational operators, fitness centers, other recreational facilities, and manufacturers of recreational products, providing both risk management and litigation services.



Charles F. Gfeller

In recent years, Gfeller has become an expert on sports concussions, making him one of the industry's most capable defense lawyers. That expertise makes him the right subject for our regular Q&A feature.

Question: How does your firm's practice interface with concussion litigation?

Answer: My firm works with numerous recreational operators, recreational facilities, recreational insurers, and sports/recreational product manufacturers, providing both risk management and litigation services. Concussions are an obviously hot topic for these types of clients. We have worked to advise them with regard to risk management protocols that can/should be implemented in order to minimize both the risk of concussions to participants, as well as the accompanying risk of liability exposure for the operators. When called upon, we have defended litigation relating to traumatic brain injuries.

Q: Has the litigation around sports concussions peaked, or do you believe we'll see more such activity in the future? Why?

A: I do not believe that concussion litigation has come anywhere close to peaking. This topic has gained a lot of national attention over the last 12 – 18 months. In particular, the deaths of several former NFL and NHL players over the last 18 months have garnered national headlines and served to intensify the media attention on this subject. The on-going litigation

between current/former NFL players and the NFL will keep the topic in the spotlight, and depending upon the outcome, could serve to add fuel to the fire of further litigation at other levels of sports. In addition, the FTC has recently stepped up its regulatory scrutiny of claims being made by product manufacturers, such as helmet and mouth guard manufacturers, which will also continue to keep this topic hot.

Q: Is there anything unique about concussion litigation that differentiates it from other health-related liability cases?

A: In some ways, litigation is litigation. However, what differentiates concussion litigation from other health-related liability cases is that (1) it often involves young, healthy athletes who suffer debilitating and/or deadly injuries, which are often tragic in nature, and (2) it can involve long latencies, where the after-effects of concussions only come to light several years after the last exposure (as is the case in the NFL lawsuits), complicating the litigation due to the elapsed time between the exposure and the injuries. Additionally, the science on concussions is rapidly developing, which can lead to changes in legal theories as the science develops.

Q: Why are you or your firm best prepared to assist a client in overseeing a sports concussion case?

A: Personally, my practice focuses on liability in the sports and recreational industry. My firm and I are leaders in several sports and recreational areas, helping to develop new and improved risk mitigation techniques and processes and to defend significant cases when necessary. We understand that sports and recreation often comes with inherent risk and that personal responsibility and common sense play a large part in sports and recreation. We have significant experience trying sports and recreational cases in various states throughout the U.S. and understand themes and theories that are most effective with juries in these types of cases.

Concussion Litigation Reporter offers timely reporting on developments and legal strategies at the intersection of sports and concussions—articles that benefit practicing attorneys who may be pursuing a claim or defending a client. The newsletter is published monthly. To subscribe, please visit our website at <http://concussionpolicyandthelaw.com/subscribe/>

Reprinted from Sports Litigation Alert, Volume 9, Issue 15, August 24, 2012. Copyright © 2012 Hackney Publications.