

Subject: Fwd: Correction/Additions: DNV's "Elephant in the Living Room"
From: Brian Platts <bplatts@shaw.ca>
Date: 02/06/2014 3:07 PM
To: Corrie Kost <corrie@kost.ca>

No post. FONVCA review.

----- Original Message -----

Subject: Correction/Additions: DNV's "Elephant in the Living Room"
Date: Mon, 2 Jun 2014 14:13:37 -0700
From: Monica Craver <mecraver@shaw.ca>
To: <fonvca@fonvca.org>

Correction to this letter: **"not inside properly run facility -- it is not if, but when a child should become severely injured or killed inside our poorly managed, public forests and "mountain bike camps".**

(Please publish this letter, not the former one with the errors in it, plus the updated information, additions, etc. Thanks.

From: [Monica Craver](#)
Sent: Friday, May 30, 2014 3:16 PM
To: fonvca@fonvca.org
Subject: DNV's "Elephant in the Living Room"

Dear FONVCA: **This is the big "elephant in the living room" our North Shore municipalities and public land managers wish to ignore.** And they are not even operating mountain biking inside "proper facilities". If waiver forms are not worth the paper they are written on, how "bullet proof" is the BC Occupier's Liability Act? Really, now? **As more and more children and teens are taking up mountain biking, in after school and summer camps, inside and outside of our steeply sloped forests -- not inside properly run facility -- it is not if, but when a child should become severely injured or killed inside our poorly managed, public forests and "mountain bike camps".** Parents need to be aware of the great risks when they hand off their children to "unidentified" (to others on the trail) mountain bike camp "leaders". It is highly doubtful any of these mountain biking camps are regulated at all. Consumer beware. Do any of our municipalities understand the risk of liability, as the children and teens riding inside our forests, and proliferating mountain bike camps enter the fray?

<http://www.newswire.ca/en/story/1362903/media-advisory-blue-mountain-reaches-a-settlement-with-13-year-old-boy-who-was-rendered-a-quadruplegic-when-going-downhill-mountain-biking>

SOURCE McLeish Orlando LLP: Toronto Personal Injury Lawyers

<http://www.mcleishorlando.com/>

TORONTO, May 28, 2014 /CNW/ - Blue Mountain (Collingwood, Ontario) recently reached a settlement with Ian McAdam, who, at the age of 13, was rendered a quadriplegic when downhill mountain biking at its resort in 2007. After years of protracted litigation, the parties reached a settlement after a series of trial motions but before the first witness took the stand. Though Ian and his family cannot disclose or communicate any terms of the settlement, the negotiations, or the amounts settled upon, they are pleased with the result.

The lawyer for the boy, Patrick Brown stated, "We are very pleased for Ian and his family. He is a fighter and a remarkable young man. His attitude and courage throughout, has and will continue to be an inspiration to all those who were involved with his case." Ian is looking forward to moving ahead with his career in the music and video industry.

The lawsuit that was issued with the Court against Blue Mountain claimed \$21 million by Patrick Brown and co-counsel, Kate Mazzucco. In the claim it was alleged that Blue Mountain failed to have the proper safety measures in place to assess and monitor young people, like Ian, coming to the hill. Following Ian's injuries, Blue Mountain implemented new safeguards to assess the skill level of people under the age of 16, removed certain jumps, and required additional equipment to be worn by riders. A mandatory video for parents was also created.

Brown said, "It is nice to see change happening to ensure fewer young people, like Ian, are not seriously hurt while enjoying this active sport." He went on to state, "It is very important for all facilities running extreme sports to take additional precautions when it comes to children. It is simply not enough to leave it open and rely on waivers and signage. We know from the experts that kids often have an unrealistic understanding of their skill level. At times, they take risk well beyond their capabilities. They at times make bad decisions. Additional protections must be in place."

Parents should not assume that these facilities are regulated because in most cases they are not. There are virtually no standards set by the government that must be followed nor are they required to report the number of children getting injured. As Ian's father, Gary McAdam, stated, "It is very scary to think that we have a wealth of standards and regulations to protect adults in their privately run work places, but nothing when it comes to private facilities running profitable extreme sports facilities for kids."

"As summer approaches, children will be off to (*mtn.bike*) camps, playgrounds and for some, extreme sporting facilities. Before permitting your child to participate in these activities, all parents should know that these private facilities are for the most part, not regulated, not subject to government oversight, and may have very few standards or safety procedures in place."

This is worth another read:

<http://www.rbs.ca/newsroom-publications-Wild-game-of-occupiers-liability.html>

Occupiers, Cyclists, and One-Eyed Jacks

Deemed Assumption of Risk -

Assuming the North Shore Mountains fall within an immune category, unless you

can demonstrate you were intentionally harmed, a most unlikely thing in my view, you will be completely on your own, and that's fine, as long as you know that, and as long as you expect that before going in. There will be no recovery in negligence, no duty to warn of hazards. There is no general obligation based on foreseeability. If you are seriously injured there is no "system" to look after you or your family beyond the basic healthcare, GF Strong, and an extremely modest indexed CPP benefit.

This is the social choice at the heart of the (BC Occupiers Liability Act) amendments.

--Monica Craver--

Update: **President of Oregon-based mountain bike club, "Hood RATS", dies in Whistler Mountain Bike Park accident:**

www.piquenewsmagazine.com/whistler/man-dies-from-injury-in-whistler-mountain-bike-park

"The man was wearing the necessary protective gear, including a full face helmet and neck brace, and was an experienced rider..."