

Stricter Standards for Participant Waivers of Liability

Under Colorado statute, parents may release organizations from liability for risks for their children if the decision is voluntary and informed. For example, Colorado permits parents to waive liability for organizations providing recreational or educational opportunities for minors. A recent Colorado Court of Appeals case, *Wycoff v. Grace Community Church*, questions the validity of many releases used by churches and other non-profit organizations and makes the standard much more onerous.

In *Wycoff*, a seventeen year old girl attending a winter youth event suffered serious injuries when riding an inner tube pulled by an ATV on a frozen lake. Although the girl knew specifically about the tubing activity, her mother may not have and the validity of the release became one of the issues in the subsequent lawsuit.

The purported release was in a one-page “Registration and information” form. It consisted of the third sentence (emphasis not in the original) in the following paragraph: *“I give permission for my child to participate in [Grace’s] Winterama 2005 and all activities associated with it. I further give consent for any medical treatment necessary to be given to my child in case of injury or sickness. I will not hold Grace Community Church or it’s [sic] participants responsible for any liability which may result from participation. I also agree to come and pick up my child should they not obey camp rules.”*

The court concluded that because the registration form did not describe the event activities or their associated risks in detail, the release was not informed and was legally insufficient to release the organization from liability.

The dissenting members of the Court of Appeals disagreed arguing that under the statute, for the release to identify the general nature of the activities as “Winterama 2005 and all activities associated with it” was sufficient, especially as it identified the possible risks as including “injury or sickness”, and required consent to any medical treatment needed. To require more specificity, the dissenting judge argued, the logical result would be absurdly detailed disclosure requirements and liability for anything inadvertently not disclosed. According to the dissent, the majority decision violates the intent of the statute.

What This Means For Counties

Even though the opinion in *Wycoff* has a vigorous dissent and the Colorado Supreme Court has been petitioned to hear the case, counties should review their general releases to make sure they define the activities and associated risks for which a release is being signed. Since the statute does not define to what extent a release must be defined to be informed and voluntary, counties should seek legal advice from their county attorneys on the sufficiency of their present release forms.

For more information, contact CTSI at 303-861-0507.