

ClubPac News

May 2005

Liability Insurance – How much is enough ?

Not too long ago, this was a question for American residents only. The American judiciary system was out of control, but “everyone” agreed that Canadian courts were much more conservative and did not hand out massive awards.

Golf clubs participating in our ClubPac program all have a minimum of \$5 million and sometimes \$10 million.

What does your club carry ? Have Canadian awards ever exceeded \$1 or \$2 million ? Unfortunately yes; and it is occurring with ever increasing frequency.

Surely that’s only in the Ontario ? And surely it doesn’t involve the sports and recreation industry ? Our customers “assume” the risks when they decide to participate in our activities. Don’t they ?

There are a couple of major lawsuits (in excess of \$10 million) pending against golf clubs, but admittedly we have not heard of a settlement in excess of \$2 million yet. However let’s look at a few recent Canadian case decisions involving sports, recreation or host liquor:

Aug 1997 – 22 year old woman in **Ontario** received an award of **\$13 million**. The car in which she was a passenger was leased; the driver’s insurance only paid \$3 million so the leasing company must pay the other \$10 million.

Feb 2005 – A couple in **Ontario** was awarded **\$2.6 million** for injuries sustained in a tiger attack at an African Lion Safari.

Nov. 2004 – A 25 year old woman injured in a car crash in **B.C.** was awarded **\$2.8 million**. With prejudgment interests and costs, this award will exceed **\$3.5 million**.

Nov. 2004 – The **Quebec Superior Court** found a small town 50% responsible for injuries suffered by a snowmobiler who struck a snowbank and awarded him **\$2.2 million**. With an additional award to the snowmobiler’s wife, interest and costs the final payment will exceed **\$3 million**.

Aug. 2004 – The **B.C. Court of Appeal** upheld a lower court award of **\$7.5 million** to a 16 year old woman who was injured in a car crash.

Aug. 2004 – The **Supreme Court of B.C.** awarded a 47 year old woman injured in a car crash **\$3.2 million**.

Aug. 2004 - A **Saskatchewan** court awarded a 14 year old boy injured in a car crash **\$2.4 million** because he was identified as a “promising” hockey player by a New York Rangers scout.

June 2004 – A **Saskatchewan Court** handed down a **\$13.2 million** award to a girl struck down by a car while walking to school for her first day of kindergarten. The court found the City of Moose Jaw 45% responsible, the Police Chief 20% and the vehicle driver 35%. Unfortunately the driver carried only the legal minimum insurance limits of \$200,000. so the City will have to pay the rest.

May 2004 – An Ontario woman was awarded **\$5.3 million plus \$750,000.** in legal fees following a car crash in Sarnia **Ontario.**

March 2004 - A **B.C. Court** awarded **\$2.9 million** against a B.C Ski Resort and a School Board as a result of snowboarding injuries suffered by a 17 year old student on a school outing.

Dec. 1993 – An **Alberta** court awarded **\$3.1 million** to a 19 year old student injured during a school outing to a “mountain climbing” facility.

Nov 1993 – A **B.C. Court** awarded **\$4.1 million** to a young hockey player checked from behind.

Oct. 1998 – An **Alberta Court** awarded **\$4 million** to an 11 year old girl injured in a gymnasium accident.

June 2004 – A **Nova Scotia Appeal Court** has upheld a **\$2.7 million** award to a 14 year boy injured when he fell 4 feet during a “rope game” at an outdoor adventure camp.

The trend is clear. Huge liability awards are being handed down in every province in Canada and everyone one even remotely involved is being apportioned some blame. Remember the concept of “Joint & Several” liability. If you are found 1% liable, you are responsible for up to 100% of the award.

Enough insurance is ...”a little more than you are ever sued for”.

CLUBPAC NEWS is provided at no charge to participants of the CLUBPAC program. It is intended to assist clubs in implementing good loss control practices and to keep them informed of trends and issues in the area of golf industry insurance. Clubs should refer to local “experts and authorities” for specific information about any “technical” or “legislative” issues mentioned.