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LIABILITY WAIVERS CAN HELP – SOMETIMES

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COWAN NEWS*

A British Columbia Supreme Court Judge has recently ruled that a ski hill operator can rely on the liability exclusion printed on ski lift tickets as the defence to personal injury actions brought by injured skiers. In the most recent case, the Plaintiff was injured while skiing at a resort near Vancouver. He claimed that he fell over an unmarked precipice resulting in his injuries. At a pre-trial motion, the defence asked the court to dismiss the claim on the ground that the Plaintiff was bound by the exclusion of liability printed on the

ski pass. The Plaintiff indicated that he had not read the exclusion clause but admitted he knew it contained some form of limitation of liability. The ski resort operator not only printed the liability exclusion on the ticket but also posted very distinct signs on the various ticket wickets as well as signs throughout the ski resort. On that basis, the Judge felt that the defendant had done everything possible to bring the exclusion to the attention of skiers. While we do not feel that liability waivers will allow you to escape your liability for

negligent operations, the use of them can be very helpful. Certainly Public Entities should not be held responsible for the actions of people who bring injury to themselves on public property if the injury does not result from a negligent act of the corporation. The inclusion of such liability waivers in rental agreements, participation forms or other specific documents may serve to communicate the exclusion to participants and may in fact be helpful in the long-term mitigation of claims against the public sector. 

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