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POST-INJURY PROCEDURE: SUMMON MEDICAL ASSISTANCE & AVOID AGGRAVATING APPARENT INJURY

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In addition to proper instruction, supervision, equipment, and matching of participants to the activity, recreation supervisors in general and sports coaches in particular owe participants a legal duty to provide reasonable post-injury treatment. In most instances, a supervisor or coach will not be required to do more than administer whatever initial aid he reasonably can and knows how to do, and take reasonable steps to place the injured person in the hands of a competent physician. Moreover, to provide aid beyond what an individual reasonably can and knows how to do would provide a basis for negligence liability. If the person who is charged with the duty to render aid is not possessed with medical training and he undertakes to render medical assistance, he may be liable if such assistance is found to be detrimental.

Similarly, as noted in the *Restatement of the Law of Torts Second* § 314, this post-injury duty may require the supervisor or coach to perform initial first aid for both minor and serious injuries and/or promptly summon competent medical attention when serious injury or potentially life threatening condition should be apparent under the circumstances:

> The defendant is not required to take any action until he knows or has reason to know that the plaintiff is endangered, or is ill or injured. He is not required to take any action beyond that which is reasonable under the circumstances. In the case of an ill or injured person, he will seldom be required to do more than give such first aid as he reasonably can, and take reasonable steps to turn the sick man over to a physician, or to those who will look after him and see that medical assistance is obtained.

The following paragraphs provide an overview of several reported court decisions which have examined the post-injury procedures of several coaches. In the *Halper* decision described below, the court found that a coach administered detrimental first aid. In *Wattenbarger*, the inattention of coaches may have aggravated an otherwise apparent injury. In contrast, the volunteer coach in *Lasseigne* was not required to provide first-aid or medical assistance because there was no indication as to the severity of plaintiff's injury. The *Kleinknecht* decision describes a situation in which reasonable steps were taken to obtain medical assistance once the severity of the situation became apparent.

BEYOND ROUTINE FIRST-AID?

In the case of *Halper v. Vayo*, 210 Ill.App.3d 81; 568 N.E.2d 914 (1991), plaintiff injured his knee during a school wrestling practice. After he injured his knee, plaintiff alleged that the coach pulled his

leg and manipulated the knee. Plaintiff alleged that the coach had made and improperly acted upon a medical judgment when he manipulated his injured knee. As described by the court, a coach's legal duty to provide post-injury treatment may include "initial first aid for both minor and serious injuries":

> Every athletic and physical education department has its supplies and equipment necessary for administering first aid. Every coach and physical education teacher is called upon to treat minor injuries and ailments... Because of the unavailability of doctors at the scene of many school athletic injuries, school coaches and trainers are expected to provide initial first aid for both minor and serious injuries. This might include wrapping a sprained ankle in an ace bandage or splinting and applying ice to a fracture. Due to the frequency of athletic injuries, providing initial treatment for such injuries is an inherent part of a school athletic or physical education program, and it is one that must often be performed by coaches.

However, under the circumstances of this case, the court found coach Vayo's actions went "well beyond the provision of routine first aid which would be within the realm of an experienced coach's expertise."

> The vulnerability of the knee to injury in athletics is well known as knee injuries are all too common in sporting events. Such injuries are often among the most serious and debilitating injuries suffered in athletics. It is readily apparent that great caution should be shown in treating such injuries.
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> Because of the substantial risks involved, we believe it can be reckless for an individual with no medical training to pull on the leg of a person with a knee injury and attempt to manipulate the knee assuming no exigency exists which necessitates such treatment.

DUTY NOT TO AGGRAVATE INJURY

In the case of *Wattenbarger v. Cincinnati Reds, Inc*., 33 Cal.Rptr.2d 732 (Cal.App. 1994), plaintiff, age 17, injured his arm in a "tryout" for defendant's professional baseball team. During a simulated game, plaintiff had pitched to several batters when he heard his arm "pop." He experienced no pain, but stepped off the mound and informed defendant's coaches that his arm had popped. Receiving no response from the coaches, plaintiff returned to the mound and threw another pitch. Plaintiff immediately experienced severe pain in his arm and quit pitching. A subsequent medical exam indicated a portion of the bone and tendons in plaintiff's arm had been pulled away due to the force of contraction of his tricep muscle during pitching.

Plaintiff alleged that defendant was negligent in allowing him to continue to pitch when the coaches knew, or should have known, that to continue would cause irreparable harm. In response, defendant claimed plaintiff's type of injury was inherent in baseball. As a result, defendant argued that it owed no

legal duty to eliminate or protect plaintiff against such risks inherent in the sport.

As described by the court, participants do indeed assume inherent risks when voluntarily participating in a sport. In this particular instance, the court found the type of arm injury suffered by plaintiff was an inherent risk in the sport of baseball. Specifically, the court found plaintiff's injury was a direct result of the natural strain caused by a pitching arm in motion.

On the other hand, the appeals court found defendant could be liable for instructing plaintiff, either expressly or impliedly by their silence, to throw another pitch after being informed by plaintiff of the "pop" in his arm. According to the appeals court, "the scope of the legal duty owed by a defendant frequently will also depend on the defendant's role in, or relationship to, the sport."

> Although defendants generally have no legal duty to eliminate (or protect a plaintiff against) risks inherent in the sport itself, it is well established that defendants generally do have a duty to use due care not to increase the risks to a participant over and above those inherent in the sport.

In this particular, the court found defendant owed a legal duty to restrict an injured player's participation to avoid further aggravation of an injury sustained during the tryout.

> It requires no depth of analysis to recognize when one injures himself, further use of the injured member will likely exacerbate the condition. This is especially pertinent where, as here, the further use is in connection with a tryout for a professional sports team. It cannot be lost on defendants that the tryouts they conduct are the only opportunity for many boys and young men to demonstrate they have the potential to play major league baseball, and perhaps to command the astronomical salaries and enjoy the universal celebrity that are identified with the sport. Under such circumstances, it is not at all unforeseeable a participant will attempt to push his body beyond its capabilities.

As a result, the appeals court concluded that "defendants owed a duty of care to protect participants from aggravating injuries during the tryout." In this particular instance, the court held this duty would include "preexisting injuries known to defendants as well as those occurring during the tryout." Moreover, the appeals court found "the evidence establishes defendants initially directed Wattenbarger to pitch and then permitted him to continue after he informed them his arm had 'popped'."

> It is reasonable to infer that when Wattenbarger, a 17-year-old, informed the Reds' personnel his arm had "popped," he was seeking guidance as to how to proceed. Hearing nothing to countermand the original instruction to pitch, and obviously anxious to please and impress the scouts, Wattenbarger threw another pitch, thereby causing further injury.
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> Liability for negligence requires that defendants' conduct be an actual and proximate

> cause of the injuries. The only claimed basis for holding defendants liable for Wattenbarger's injury is their instruction to him, either expressly or as implied by their silence, to throw another pitch.
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> Defendants' conduct could be considered an actual cause of Wattenbarger's injury only to the extent it caused him to resume pitching. If Wattenbarger did not hear defendants, any statement they may have made could not have caused him to proceed to throw a fourth pitch.

As a result, defendant would, therefore, be liable for negligence if the coaches were made aware of Wattenbarger's injury and then somehow encouraged or permitted him to throw a fourth pitch which caused or aggravated his injury.

NO SIGN OF INJURY?

In the case of *Lasseigne v. American Legion, Nicholson Post # 38*, 558 So.2d 614 (La.App. 1 Cir. 1990), plaintiff was injured during a baseball practice supervised by volunteer coaches. Since the scheduled little league game was rained out, the volunteer coach, a father of one of the team members, was conducting practice on a wet grassy playground area, rather than the unplayable regulation baseball field. During infield practice, plaintiff was struck in the head by a wet soggy baseball thrown by a another participant who had slipped on the wet ground.

The coach immediately examined plaintiff and saw no sign of injury. He noted the boy was not unconscious, but was very alert. Nevertheless, the coach ordered plaintiff to sit down and rest. Shortly thereafter, plaintiff said he felt like practicing again, so he returned to the field and pitched and played shortstop. The coach noted that plaintiff acted normally during the remainder of practice and on the way home. However, he specifically told plaintiff to inform his parents of the incident. When plaintiff picked plaintiff up from a friend's house after practice, she saw no evidence of an injury nor did she notice anything "unusual" about his behavior. While on the way home, plaintiff did, in fact, tell his mother he had been hit on the jaw by a baseball. Approximately twenty-four hours later, plaintiff underwent head surgery to relieve pressure produced by bleeding within his skull.

In their complaint, the parents alleged that the coaches did not adequately supervision the baseball practice. Moreover, the claimed that the volunteer coaches did not render reasonable aid to their son under the circumstances. Specifically, the parents alleged that the coaches were negligent in failing to notify them of the incident. In addition, the parents claimed the coaches did not provide their son with minimum safeguards or inform them of any undue risk of injury associated with his participation in baseball.

The trial court granted summary judgment to the defendant coaches, dismissing the parents' claims of negligence. In the opinion of the trial court, everything done by the coaches was reasonable under the

circumstances. The appeals court agreed. In the opinion of the appeals court, the reasonableness of the coaches' conduct was "especially clear in light of the social utility of said conduct - namely, the value of the services of volunteers in a youth sports program to the community in which they participate." The appeals court, therefore, affirmed the judgment of the trial court in favor of the defendant volunteer coaches.

UNFORESEEABLE HEART ATTACK

In the case of *Kleinknecht v. Gettysburg College*, 786 F.Supp. 449 (M.D.Pa. 1992), plaintiff, age 20, died after he suffered a heart attack during defendant's off-season lacrosse practice. After some stretching and drills, plaintiff stepped aside and collapsed. There had been no collision or contact with any other player or object.

The trainer administered CPR and an ambulance was summoned. The ambulance initiated advanced life support and transported plaintiff to the hospital. All measures to resuscitate plaintiff were unsuccessful and he died shortly after arriving at the hospital.

Plaintiff was described as healthy and active. He had no sign of heart problems or an unusual medical history. Prior to his participation, a physician for the college had examined plaintiff and had determined he was able to play lacrosse. In addition, plaintiff's family physician had also examined him and had found him to be healthy and able to participate in physical activity.

Several post-mortem examinations did not find any or heart abnormality to explain plaintiff's fatal arrhythmia. Moreover, an autopsy conducted the day after plaintiff died revealed no bruises or contusions on the body.

In his complaint, plaintiff alleged defendant was liable for its negligent failure to have measures in place at practice to provide prompt treatment in case a student suffered a heart attack. Plaintiff claimed a legal duty existed even if a student had no history of heart disease or other significant illness. In addition, plaintiff claimed defendant had breached or violated its legal duty to provide for the safety of student athletes by not having a written plan to deal with medical emergencies. In particular, plaintiff asserted that none of the coaches, trainers, or students who were present at the practice session were certified in CPR. Moreover, plaintiff maintained that there were no communication devices at the practice field (e.g., walkie talkies) which would have ensured a swifter response to a medical emergency.

In response, defendant argued that it owed no legal duty to protect a healthy young athlete from fatal arrhythmia. The question before the court was, therefore, whether defendant had a legal duty to anticipate cardiac arrest in an athlete showing no apparent illness. Specifically, the issue was whether defendant had a legal duty to guard against the possibility of an athlete having heart attack by "having CPR trained individuals at hand or having some other way of providing treatment more promptly than he received."

As noted by the court, foreseeability is the key factor in determining negligence liability. To be reasonably foreseeable, the court found the medical emergency must have "some reasonable probability of occurring, not one simply within the realm of possibility." In the opinion of the court, a legal duty should not be imposed "just because it is possible to imagine a student having a cardiac arrest." On the contrary, the court held the College "had no duty to anticipate and guard against a healthy student athletes's cardiac arrest that occurs in a manner unconnected to the risks of the game."

> [I]n the instant case, we do not believe... the possibility of a healthy, physically active, young man having a heart attack to be so probable or having such a reasonable chance of occurring that they would place a duty upon the defendant to anticipate it and guard against its consequences.

In so doing, the court found that plaintiff's fatal heart attack was not precipitated by his participation in contact sport, such as being struck by a stick or ball or having other physical contact during practice. For negligence liability, the court noted that the specific injury must fall within the probable scope of injury (i.e., a general class of events that was foreseeable). In this particular instance, the court found no evidence that the fatal heart attack was within same general type of risk that was foreseeable, e.g., sustaining a blow to the head or body during lacrosse practice. In the absence of a foreseeable risk of cardiac arrest, the court held defendant had no legal duty to provide CPR coaches and trainers at the lacrosse practice.

The court then considered whether defendant was negligent in handling the situation once its athlete was stricken during practice. As noted by the court, plaintiff questioned how quickly defendant had responded once a medical emergency occurred. In this particular instance, the court noted that the lacrosse team was practicing near stadium training room. Moreover, the court found that defendant's coaches, trainers, and students had acted reasonably under the circumstances. In the opinion of the court, defendant's actions subsequent to an athlete's collapse were reasonable, given the situation as it appeared on the field at the time plaintiff was stricken.

> Hindsight might lead one to conclude that there may have been some delay in responding to his condition but, as the situation appeared to the people on the field at the time, an immediate response would not have been important. Some of the players testified that it was normal for a player to go down and stay there after some contact but this was not taken as a sign of serious illness. The player would only be composing himself.

However, "when it became apparent that something was seriously wrong," the court found the head coach had immediately sent two players to summon medical assistance Moreover, the court found defendant had acted reasonably in not responding more aggressively to move plaintiff to administer CPR. Specifically, the court noted that, the coach and other players had suspected a spinal injury when

they observed plaintiff's head in an awkward position following his unexplained collapse. Under such circumstances, the court concluded that the defendant college had exercised reasonable care and had met whatever legal duty it owed to plaintiff. Further, the court found any delay in obtaining CPR and advanced cardiac life was not attributable to a violation of any legal duty owed by defendant to its athletes. The court, therefore, granted summary judgment in favor of defendant Gettysburg College.