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Personal Injury

Carefully read trampoline park rules, waivers

By Kirsten McMahon, Associate Editor



With winter break around the corner, parents should be aware of the high level of risk associated with trampoline parks, Windsor personal injury lawyer [Gino Paciocco](#) tells [AdvocateDaily.com](#).

These indoor parks offer a range of activities — such as basketball, dodgeball and climbing — involving the use of trampolines and foam landing pits. Many parks feature party rooms, making them a popular choice for birthday parties or group outings on cold or rainy days.

“The injuries that result at these parks can be severe,” says Paciocco, a founding partner of [Paciocco & Mellow](#). “Much worse than scrapes, bruises, or broken bones, our firm has come across tragic situations of park users sustaining brain injuries or requiring extensive surgeries for shattered bones or ligament tears.”

Two recent incidents in Western Canada — [one](#) involving a teen who broke his neck and the [other](#) an eight-year-old girl who fractured her spine — have sparked civil lawsuits against trampoline parks. Earlier this year, a 46-year-old father died after he performed a series of “acrobatic manoeuvres” at a trampoline park, the [CBC](#) reports.

Paciocco says when these types of injuries occur, owners will defend themselves by alleging patron violations of posted safety rules (if they exist) or pointing to the behaviour and supervision of children.

“It’s common to have computer stations at a park entrance requesting that forms be filled out by patrons,” he says. “People may think these are terms of use without realizing they’re signing a waiver of liability.”

Depending on the language of the waiver, who signs it and when, Paciocco says, generally, liability waivers are enforceable in Ontario.

By requiring visitors to sign liability waivers, he says a park can contract out of the duty owed to patrons to take reasonable care to provide a safe premise.

“These types of waivers release a service provider for any injuries that result from their negligence, which could be anything from the use of unsafe products, inadequate supervision, warnings or instruction, failure to enforce trampoline park rules, poor maintenance or improper installation of the trampoline,” he explains.

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A valid waiver will forfeit your right to sue when injured regardless of how serious it is — even in cases of death. Paciocco says waivers definitely apply to adults but the case law suggests that parents can't waive the rights of a child.

“You should read any document you are asked to sign,” he adds.

He says service providers can also ask patrons to voluntarily assume the risk of an inherently dangerous activity.

He says a recent change to the province’s *Consumer Protection Act* (CPA) applies to these waivers. Under the CPA, a service provider is not permitted to contract out of the implied warranty that all services be provided within a “reasonably acceptable quality.”

“The CPA will strike down any provisions in a waiver that presume to supersede this implied warranty but there have been no Ontario cases to establish what a reasonably acceptable quality might be for a trampoline or other recreation park,” Paciocco says. “However, this change does provide patrons who have been injured with the opportunity to sue for damages, even if they signed a waiver.

“No one yet knows what deficiencies on the part of the park will need to be proven, or what amount of damages may be recoverable,” he says.

Paciocco also notes there are two important cases that were appealed earlier this month that are currently awaiting decisions. The outcome will be crucial in shaping the law of liability waivers in the province with the application of the CPA, he says.

In the meantime, if you are visiting a trampoline park, Paciocco advises patrons to make themselves aware of the rules — and follow them.

“Children should never be left unsupervised and parents should do their homework on these locations ahead of time,” he says. “Is there adequate staff at the park? Are there spotters at every trampoline? Are staff trained in first aid? Do they know how to deal with an emergency situation?”

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