

Reynolds
Porter
Chamberlain LLP



Sports injury claims

Steven Aitken

7 September 2010

Eubank v Watson



Standard sequence of engagement?



Most dangerous sport?



Most dangerous sport?



Sports injuries



- Less than 200 fatalities per year
- 19m injuries per year
- £500m cost

Sports injuries



- Liability
- Quantum
- Insurance issues

Sports injuries



Categories of potential Defendants



- Competitors
- Sports clubs
- Referees
- Governing bodies
- Owners/occupiers

Categories of potential Defendants



- Event organisers
- Coaches and instructors
- Schools and local authorities
- Contractors
- Others

Competitors



Competitors



- Reckless disregard?

Not:

- Mere carelessness
- Momentary lapse of skill
- Error of judgement

Competitors



- Above the ball tackles
- Fast moving sport
- Spear tackles
- Pro v amateur?

Clubs



Clubs



- Vicarious liability
- In the course of employment
- Contract of employment

Referees



Referees



- Consistent failure to follow rules
- Not oversights or errors of judgement

Governing bodies



Governing bodies



- British Boxing Board of Control
- Motor Sports Association
- Motorcycle Circuit Racing Control Board
- Essential element of control

Occupiers and organisers



Occupiers and organisers



- Desirable activities
- Social value
- Personal responsibility
- Compensation Act 2006
- Spectators

Coaches, instructors & schools



Coaches, instructors & schools



- Age & experience
- Reasonably careful parent

Defending claims



- Thorough investigation
- Expert evidence
- Plead all possible defences
- Contributory negligence

Quantum



Quantum



- Pain & suffering
- Lost income
- Treatment costs

Quantum



Ben Collett

- Top-end Championship club
- 60% chance of premiership for 1/3 career
- 15% discount – injury & contingencies
- £4.5m award upheld on Appeal

Quantum



- Loss of congenial employment
- Malice

Insurance issues



- Range of product availability
- Exclusion clauses

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