

Watch What You're Waiving

What's A Waiver?

To "waive" something is to intentionally give up some right or interest. Given that fact, it makes perfect sense that, "waive" rhymes with "wave". Whether you're waiving or waving, you're saying goodbye. In the case of a waiver, you may be "saying" farewell to a right to hold another party accountable for their acts.

Waivers are being used more often and they benefit the person or organization that asks you to sign one. A popular reason for using a waiver is to avoid the legal consequences of sponsoring an activity or event such as the following:

playing school or community league sports, church related sports groups, intramural sports, sports clinics, field days, bicycle races, sky-diving classes, motorcycle training, horse riding school, church or other association field trips, joining an aerobics class.

What Happened to Permission Slips?

The use of permission slips has decreased along with the willingness to assume responsibility for a given activity. Permission slips are ineffective when faced with a chance of being sued. Therefore, parties sponsoring events experienced a type of evolution in the forms they used to protect themselves:

1. Permission slips allowing participation in an activity or event
2. Permission slips including authority to act in emergencies (but the party may still be accountable for their action)
3. Permission slips waiving any right to sue for actions occurring during an emergency
4. Waivers for suing over any accident arising from both routine and emergency aspects of an activity
6. Waivers for suing over any accident arising from both the routine and emergency aspects of an activity AND agreeing to assume the sponsor's legal responsibility for the event.

Better Waived Than Sorry?

Sometimes, waivers are like advertising... they're only effective when you believe in them. For instance, the person signing the waiver may add a comment that he or she has only signed the waiver as a formality, or under duress or protest. Often there are flaws connected with the waiver, such as incorrect or even illegal wording. For instance, a parent is required to sign a waiver for possible injuries to a child when some law doesn't permit a parent to waive a minor's rights. Another example is when state law may hold someone liable for certain acts, regardless of any waiver or agreement.

Other things affect the enforceability of waivers such as:

...who is sponsoring the activity (profit or non-profit organization) the age of the persons being required to waive their rights (minors, adults, seniors) the nature of the activity (short trip to museum or horseback riding) the ability of the person waiving their rights to understand their actions the details surrounding any injury whether the parties affected by the waiver benefit equally from its use (for instance, a dangerous team-building exercise where an employee is required to participate or face termination) the qualifications of the staff holding the event Read Before Waiving.

Waivers are sometimes unavoidable, unless you choose to skip the event or activity. Other times, waivers are used when they are unnecessary. The problem is in that wide, fuzzy, middle-ground. It's in such instances that you should take the time to read and understand a waiver before signing. It may even make sense to get competent, professional legal advice. Perhaps you can't avoid assuming some risk or giving up your rights, but at the minimum, read before you sign so that you understand what could happen.