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## Legal Liability Risk Reduction for You

*News and Updates for Sports, Fitness & Recreational Businesses*

### California Court Dismisses Lawsuit Against Online “Virtual Race Organizer” Strava

*By Alexander “Sandie” Pendleton*



On June 2013, a San Francisco trial court ordered a wrongful death lawsuit commenced against the Strava website operators dismissed. The court agreed with Strava that “cycling is inherently risky,” and that the deceased cyclist assumed the risk when he chose to race on a public course. Based on the ruling, the court held that the parents of the deceased cyclist could not proceed with their wrongful death claims.

Strava, Inc. launched [Strava.com](http://Strava.com) in 2009, which permits cyclists and runners to upload their times (usually via a smart phone app) for biking or running certain courses. A unique feature of the site is that anyone can create a course (called “segments” on the website), and start an online competition to see who can bike or run the segment the fastest. Due to the power of GPS and smart phones, the segment can be any distance, and anywhere (on a closed track, on a public trail, in a wilderness area, or on a busy urban street), and users can choose to race the segment at any time. The Strava user who posts the fastest time is dubbed the “KOM” or “King of the Mountain,” until another user posts a faster time. The website has become quite popular (even amongst professional riders, like Lance Armstrong), and competing in the Strava online competitions has been described by some as addictive. Strava does not define the courses, although it does now enable site users to posts warnings about particular courses, and it has always urged users to obey traffic laws and act responsibly.

In 2010, an avid user of Strava—William “Kim” Flint, a 41-year-old electrical engineer from Oakland, California—had the fastest time posted on one of the Strava segments. Another rider had deposed him as “KOM” of the segment, and on the day he lost his title he sought to regain it. In the process of such, and while traveling at least 10 miles faster than the posted speed limit on a downhill stretch, he braked hard to avoid a car, flipped over his handlebars, and was fatally injured.

In 2012, his parents commenced a wrongful death claim in San Francisco court, alleging that Strava was negligent in the way they operated their site, and in failing to provide adequate warnings. Strava counterclaimed, and sought to have the suit dismissed, based on the waiver agreement that all users of the site agree to, and based on the doctrine of assumption of the risk.

On June 3, 2013, the court granted Strava’s motion, saying, “Mr. Flint impliedly assumed the risks of bicycling.” In a statement released by Strava after the decision, Strava’s spokesperson indicated “The court recognized that Strava, as a neutral online facilitator for a community of athletes, does not control who, where, when, and under what conditions someone may choose to ride a segment (a stretch of road or trail defined by Strava users) and that it did not increase the inherent risks of cycling.”

Strava has ambitious plans for growth, with one of its founders indicating in [an interview](#) earlier this year that Strava is poised to become the “number one sports brand of the 21st century.” It has already raised over \$15MM in venture capital, and analysts have speculated that by the end of 2014 Strava could have 10 million registered users, and annual revenue in excess of \$100MM.

Any organization—large or small—that wants to grow and ensure its long term viability, needs to ensure that it is paying attention to risk management, including both operational risk management, and legal liability risk management. An important component of the latter is ensuring that an organization has

invested in, and is properly deploying, intelligently-designed waiver-of-liability agreements (and related documents). If we can help your organization in that area, don't hesitate to contact us.

Alexander "Sandie" Pendleton  
Pendleton Legal, S.C.  
250 E. Wisconsin Avenue, Suite 1800  
Milwaukee, Wisconsin 53202

p: (414) 963-1377

c: (414) 418-4469

e: [pendleton@pendletonlegal.com](mailto:pendleton@pendletonlegal.com)

firm sports website: [www.releaselaw.com](http://www.releaselaw.com)

firm general website: [www.pendletonlegal.com](http://www.pendletonlegal.com)

*(The information and views discussed in this article are for general information purposes only. An organization that has specific questions as to the effect the above development may have for it should discuss such with its attorney, or with an attorney who is familiar with this area of the law and the organization's specific operations or concerns.)*

**About Pendleton:** Alexander "Sandie" Pendleton is a shareholder with the Milwaukee law firm of Pendleton Legal, S.C. Sandie has over twenty years of experience counseling clients involved in sports and recreational activities, including power sports activities, and is a frequent speaker and writer on recreational liability issues.

**About Pendleton Legal, S.C.:** At Pendleton Legal, S.C., we continue to believe the right to the "Pursuit of Happiness" is a right worth preserving. Our S/F/R Team (Sports, Fitness & Recreation Team) guides and fights for businesses and organizations that provide recreational opportunities and products, so that our clients are not overwhelmed by liability that might otherwise threaten their continued success (or even existence). Preserving the right is often not an easy or simple task, but we know this mission is an important one to our clients, and to the future of a free society. In addition to our S/F/R services, we provide legal expertise across the numerous areas of law encountered by businesses and organizations in the normal course of their day-to-day operations and growth. If you would like to explore whether we can help your organization achieve its mission, contact us.