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## Legal Liability Risk Reduction for You

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

### Parents, Kids & Releases: Midwest Courts *Still* Not In Agreement

*By Alexander "Sandie" Pendleton*

Many businesses, organizations and events have parents sign waiver-of-liability forms on behalf of minors. Recent Indiana, Iowa, Minnesota and Michigan court decisions again show that Midwest courts come to conflicting conclusions on whether those forms are enforceable.

In a decision released in 2012 involving a minor who was injured while playing softball, an Indiana appellate court held that the waiver agreement the minor's parents had signed before she was injured barred her claim. Similarly, in a 2009 decision involving a boy who was injured during "horse-play" at a baseball camp, a Minnesota appellate court concluded that the registration and waiver form signed by the boy's mother barred the boy's and his parents' claims against the camp. Appellate decisions in North Dakota and in Wisconsin have come to similar conclusions in cases involving parents signing such forms for minors. (Note that the Wisconsin Supreme Court—which has tended to disfavor the enforceability of waiver agreements—has not yet ruled on this issue. Note too, that as of the date of this article—April 2013—the Minnesota legislature was considering bills that would void waivers in many circumstances.)

In contrast, courts in other Midwest states have come to an opposite conclusion, holding that as a matter of public policy or common law, courts in those states will not enforce such releases. Those states include Michigan, Illinois and Iowa. (For details about Michigan and Iowa, see our articles "*Michigan Supreme Court Holds Releases Signed by Parents Unenforceable*" and "*Iowa Supreme Court Holds that Pre-Injury Releases Signed by Parents are Unenforceable*").

Given the uncertainty in this area, caution remains important. Carefully crafted and deployed agreement terms are essential, if a business, organization or individual wants to have any hope of convincing a court to enforce the terms of a waiver of liability form.

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*(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.