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SPORTS & RECREATION INSURANCE

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American Football Association
Attn: Dave Burch
P.O. Box 2041
Binghamton, NY 13902

**RE: ADULT TACKLE FOOTBALL LAWSUITS
AND GENERAL LIABILITY INSURANCE PROTECTION**

Dear Dave:

I just wanted to flat out tell you to urge all adult tackle football teams and leagues to protect themselves against crippling lawsuits by buying quality General Liability insurance. I've noticed that many teams and leagues like to roll the dice and go unprotected. As an attorney, risk manager, and sports insurance specialist, this makes me cringe! If they knew what I know about sports litigation, they would be worried. The funny thing about insurance is that you don't need it until you need it real bad, and then it's too late!

Who can be sued? If a spectator or player is hurt, the attorney representing the injured party will sue the league or team, the promoter, the field owner, the officers, directors, employees, or any volunteer including coaches and managers. When an individual is sued, their personal assets including their homes, cars, and bank accounts are on the "chopping block". Even if the individuals don't own anything now, they can have a judgment lien placed against their future assets for many years to come.

Many leagues make the mistake of allowing their teams to purchase coverage on an individual basis. When things are done this way, there is no coverage for the league itself and its directors and officers. Instead, the league should purchase the coverage under its own name and should pay a premium on behalf of 100% of all teams. This is the only way for the league to be covered – and it is free to the league assuming that the league can be reimbursed by the teams.

Perhaps the most devastating type of lawsuit is when a player is hurt and he has to incur out of pocket medical expenses for treatment because he has no insurance or inadequate insurance. Many football players don't have health insurance or if they do, it is subject to a high deductible of up to \$1000 or has a 40% coinsurance provision where they have to pay 40% of the bills out of their own pockets. The bottom line is that unpaid medical bills result in lawsuits being filed against football organizers and volunteers. Somebody has to pay for the medical bills!

So, how can teams and leagues protect themselves? They should definitely incorporate themselves and should use "well drafted" waiver/release forms. The Risk Management section of my web page has a sample waiver form that was developed by a team of leading sports litigation attorneys and it addresses the 15 most common pitfalls that cause waivers to be thrown out. Incorporation and waivers are great, but they don't take the place

of buying insurance. For example, it can cost you \$20,000 in legal fees just to prove to the judge that your waiver should not be thrown out. So you can win and still lose!

We propose a low cost liability insurance plan that provides a **\$2,000,000 Each Occurrence limit** including coverage for bodily injury, property damage, and personal/advertising injury. **For 2010 we have negotiated a 15% rate decrease. As a result, the 2010 premium will be only \$350 per team.**

The policy will only cover lawsuits filed by injured spectators but will not cover lawsuits filed by injured sports participants. It is best for the league to buy a single policy on behalf of all teams in the league. Not only will this save money due to the minimum premium per policy, but also it is the only way to extend General Liability coverage to the league entity and its directors, officers, employees and volunteers.

In addition to General Liability, we recommend that the teams/leagues purchase either Workers' Compensation or a suitable Excess Accident Insurance as the first line of defense against lawsuits arising out of injured sports participants. If either WC or a suitable Excess Accident takes care of the medical bills where the player has no out of pocket expenses, then he does not have as much incentive to file a lawsuit.

The cost of Workers' Compensation for adult tackle football teams/leagues varies widely from state to state. The cost is very low (approx. \$750) in states that charge based on payroll paid to players (since there is no significant payroll, if any). On the other hand, the cost can be very expensive (\$20,000 and higher) in states that charge based on an assumed payroll per player. You must consult with you state Workers Compensation Pool or a local agent in order to get a quote. The cost of an Excess Accident policy covering all players and team staff will be in the \$15,000 range.

If a team / league can't afford either workers Compensation or Excess Accident, their best option is to purchase the General Liability coverage mentioned above and accept the fact that they only have coverage for lawsuits filed by injured spectators but have no coverage for lawsuits arising out of injuries to sports participants. This is a big risk, but it is presently what most adult tackle football teams are doing whether they realize it or not. This risk can be minimized by the use of incorporation, well-drafted waiver/release forms, and a sound safety/risk management plan.

Teams and leagues may also want to consider buying a Directors & Officers Liability policy (from a local insurance agent), which covers certain types of lawsuits that are not covered by a General Liability policy. Examples of potentially covered lawsuits include discrimination; wrongful termination or suspension of personnel or players; and failure to follow team/league rules or bylaws when making an administrative decision.

Dave, please contact me if I can be of further assistance in this area.

Very truly yours,



John M. Sadler

JMS/doe