

STREET & SMITH'S Sports Business JOURNAL®

WWW.SPORTSBUSINESSJOURNAL.COM
MARCH 22-28, 2010
VOLUME 12 ISSUE 46 • \$6.95

FROM THE FIELD OF
SPORTS LAW

As Opening Day nears, ballpark liability issues to remember



JIM
JULIANO

Major League Baseball's Opening Day is just around the corner, but there's still enough time to make sure your legal bases are covered. Here's a checklist to help team and facilities

owners maximize spectator safety and minimize ballpark liability this season:

1. Inspect and, if needed, repair home plate screening and screening in other areas of the ballpark. Document all inspections, repairs and maintenance.

The baseball rule, a limited liability rule developed by the courts, requires owners to provide screening for the most dangerous seats — usually considered to be those around home plate — as well as enough screened seats to reasonably meet patrons' requests on ordinary occasions. Under the rule, owners who have taken these precautions generally prevail in negligence suits.

While it's not the law in all 50 states, the baseball rule is the law in most jurisdictions — and where it's not the law, following it makes sense and gives the fans a safer environment.

Make sure the screens are properly maintained and adequate per the industry standard.

2. Refresh and practice the procedure for game-day staff in dealing with injuries from foul balls, flying bats and other causes. The procedure should include the following:

- Respond promptly to any injuries.
- Get medical help immediately, if needed.
- Keep the injured patron comfortable and treat him or her with kindness and courtesy.

3. Include language on the backs of tickets warning about the risks of injury from balls and bats leaving the field. Install warning signs around the ballpark, and make public address announcements about risks both before and during games.

4. Work with local law enforcement



JOANNE LANTON

Making sure screens, such as those around home plate, meet industry standards and are properly maintained tops the ballpark liability checklist.

and emergency response services to establish an emergency evacuation plan. Practice it.

5. Put your policy on alcohol sales in writing. Make sure it's clear. The policy should:

- Prohibit sales to minors and require identification for those whose ages are questionable.
- Cut sales off at a certain time, such as the seventh inning.
- Require employees to report individuals who appear to be intoxicated.

Train the staff on the policy, on the signs of intoxication and on how to handle intoxicated patrons.

6. Review the standard release forms that you use for non-employee participants in stunts and other activities. The forms should release the team from liability for injuries that result from accidents, negligence or omissions by the

team or other participants. Make sure the releases cover minors; when minors are involved, the forms must be signed by parents or guardians. Train staff to make sure no patron participates in an activity unless that person has signed a release or has provided insurance coverage.

7. Revise, as needed, all nonbaseball event contracts to require insurance coverage naming the team and all related entities as additional insureds. Strictly enforce this requirement, even if it means rejecting an event or two.

8. Review your own insurance coverages and limits with your agent and legal counsel for general liability, business income, employment practices, director and officer liability, and property and casualty.

9. Assess the need for security and law enforcement personnel who are

trained in keeping the peace and dealing with physical altercations.

10. Make sure you're protected when medical services are required. Your medical services provider should defend and indemnify the team from any negligence claim involving the provider's medical services. The provider should also be required to produce a certificate of liability insurance that names the team as an additional insured.

While there are no guarantees in the world of ballpark liability, taking these precautions now will reduce both risk and worry throughout the coming season.

Jim Juliano (juliano@legallyspeakingonline.com) is a Cleveland-based lawyer whose clients include professional baseball teams. He writes about sports law on his Web site, at www.legallyspeakingonline.com.