# PARALYMPIAN NOT ENTITLED TO DAMAGES FOR QUADRIPLEGIC INJURIES SUSTAINED DURING CAMP DRAFTING COMPETITION

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The defendant avoided liability for quadriplegia injuries sustained by the plaintiff during a camp drafting competition by successfully arguing that the injuries were due to the materialisation of an obvious risk of a dangerous recreational activity, despite numerous falls having occurred in the hour prior to the incident and doubts regarding the safety of the grounds.

## IN ISSUE

- Whether riding a horse during a camp drafting competition could be considered a dangerous recreational activity.
- Whether injuries suffered as a result of falling from a horse during a camp drafting competition could be considered an obvious risk.

## THE BACKGROUND

The plaintiff was a young female who was rendered quadriplegic when she fell from her horse while participating in a camp draft competition, an activity where horse mounted participants muster cattle at high speed around a course with the aim of showing their control over both the horse and the cattle. A number of riders had fallen in the hour prior to the plaintiff's accident, and queries had been made about the safety of the ground, and whether the competition should continue. Prior to competing in this competition, the plaintiff was required to sign a waiver.

## THE DECISION AT TRIAL

Although the existence of a duty of care was found, the trial judge found in favour of the defendant. He considered that the camp drafting activity was a dangerous recreational activity, and that although falls at camp drafting events were rare, the potential harm could be catastrophic, as in this case. The plaintiff accepted that she knew that there was a risk of serious injury, and the waiver she had signed was to this effect.

In considering whether the risk was an obvious risk, it was not necessary to consider the circumstances of the ground on the day – rather, the risk could be classified as the risk of falling from the horse and suffering an injury while competing in a camp drafting competition,

given the risks/complexities inherent in that activity. This risk was obvious, and the plaintiff's accident was a materialisation of that obvious risk.

## IMPLICATIONS FOR YOU

The Court considered both the question of whether the recreational activity was dangerous, and whether the injury was a manifestation of an obvious risk of that activity in a broad sense, by considering the risk of horse riding as a whole, rather than the specific areas of risk which eventuated (i.e. attributable to the ground surface). This is reflective of an increasing trend in NSW, where the Courts take a broad approach when considering defences under section 5L of the *Civil Liability Act 2002* (NSW).

*Tapp v Australian Bushmen's Campdraft & Rodeo Association Ltd* [2019] NSWSC 1506

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