

Enforce Mercy Rules

By Donald C. Collins

The failure to follow a mercy rule is probably not enough by itself to make an official liable for a player injury. However, it can be a factor that leads to an official being liable.

Officials are subject to the same principles of negligence law as anybody else. Officials are negligent, and can be liable for player injuries, if the official breaches a duty when a player gets injured and there's some reasonable connection between the breach of duty and the injury. An official's failure to apply a mercy rule is a breach of duty. However, it is not necessarily a breach of duty that has a clear connection to an injury.

It is easy to draw a direct connection between an official's failure to inspect a basketball court and a player slipping on a water spot. It is not necessarily easy to draw a direct connection between a mercy rule violation and a subsequent injury. Clearly, something other than the mercy

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rule violation contributed to the injury. When one factors in that most injuries are directly caused by a person, a sports implement or a facilities flaw, it often becomes rather difficult to link an official's failure to enforce the mercy rule to an injury. Still, that link can be drawn and officials can be held liable.

Mercy rules can be tied in to an official's duty to control the game. Officials are expected to have the training and skill to control a game, and they are supposed to apply the rules and exercise judgment that is reasonable for the level of play they're working. Officials can be liable where they can be shown to have made sufficient errors to move

out of the reasonable range of what the sports community expects for the level at which the official is working. But assessing errors isn't always enough. There are times where officiating becomes more art than science, and the notion of what is reasonable boils down to balancing the need for enforcement against the need to maintain the expected flow of the game for the level of play.

An official can be shown to have breached their duty to control the game by a single error. They can also be shown to have breached their duty to control the game through a totality of actions. This chipping away can eventually lead to the official being perceived as negligent and can make something as small as missing the clock stopping in a running-clock-mercy-rule situation lead to the official being liable for an injury.

Chipping away at officials is not a particularly good thing. To err and to breach duties is inherent in sports. Officials will occasionally err. Holding them liable for normal officiating errors may not be in the best interest of sports. Some states have recognized this by passing limited liability legislation that exempts officials from liability for injuries unless they're grossly negligent.

Officials can derive two lessons from this. First, an accrual of small errors can make officials look like they're not controlling the game. Second, consult local counsel to see if your state has a limited liability statute.

Even a small matter like an inadvertent violation of a mercy rule can create large problems under the wrong circumstances.

Donald C. Collins is executive director of the San Francisco section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This material is for informational purposes only and is not legal advice. □

Be Mindful of Drinking at Officials' Events

Some officials associations might host social events where members are served alcohol. While this can be a good way for members to socialize, it is important to do so responsibly. The best way to avoid problems at such events would be to avoid serving alcohol altogether.

However, associations could also look into liquor liability coverage if events are held in non-commercial settings. If the events are held in commercial settings, such as restaurants or bars, that operating business can be liable. When holding such events, opt for a cash bar instead of an open bar to avoid excessive drinking. Starting and ending events early can also cut down on the amount of drinking.

At the end of the day, associations should always make sure that their members behave responsibly. The officials' behavior at these events will reflect back on the association.

Sharing Space With Photographers

The sidelines of a sporting event can be hectic places, with players, coaches, officials, members of the media and other personnel occupying the space. Officials and photographers both want to be positioned as best as possible to see the plays unfold. As an official, you should be mindful of where camera crews are located not only for your sake, but for the sake of the players. A ball carrier running down the sideline in a football game could collide with a photographer and get unnecessarily injured.

It is up to the officials to keep sidelines clear of hazards — including encroaching photographers — and ensure that everyone stays safe. Otherwise, officials could be held liable and accused of negligence in a lawsuit if an injury occurs. A judge or jury could determine negligence if it is believed that the photographer was in a potentially dangerous position on the sideline and the official did not take necessary steps to prevent an injury.

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