



Warning and regulatory signs are a good way to "cover all your bases." Photos courtesy: Floyd Perry.

Avoiding Liability Lawsuits



By Floyd Perry

Avoiding liability lawsuits is probably not part of your written job description, but it's definitely part of your day-to-day duties. Whether you're the facility manager, sports turf manager, crew chief or crew member, your action — or lack of action — could put you and your facility at risk of time-consuming, costly litigation.

In liability cases, lawyers focus on the three big issues: "prudent," "reasonable" and "consistent."

More clearly defined, *prudent* means wise in handling practical matters; exercising good judgment or common sense. Would you and most

people consider your actions the practical, logical thing to do under the circumstances?

Reasonable means in accordance with sound thinking; within the bounds of common sense. Would any similarly employed person, or group of people, given the same set of circumstances, choose to act in that same manner?

Consistent means uniform, reliable, steady. Are conditions the same as usual and to be expected given the past level of maintenance and the past performance level of the facility or field during similar circumstances?

Any facility, on any budget, should be able to comply with the *intent* of

these three issues. The key is:

- applying the best techniques given the facility's budget and equipment,
- doing it regularly and on schedule,
- documenting that you are doing so.

Basic Management Guidelines

First, assess your situation. Develop a clear picture of the practical problems that face facilities such as yours. Gain an understanding of common law pertaining to your job and responsibilities and to the jobs and responsibilities of those whose work you supervise.

Concentrate on developing quality solutions to common problems, start-

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Prudence can be demonstrated at a facility by identifying the difference between two like surfaces; here, yellow paint alerts people to two levels of concrete.

Liability

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ing with the "big picture" of departmental philosophies and working through the practicalities of staffing and budgets.

Set up plans before the facilities are built, if possible.

Establish standards that are within the policies of the community, the facility and your supervisors, but be sure to "cover all your bases."

Once procedures are in place and work is under way, continue to educate your staff and yourself about new and innovative techniques.

Positive Maintenance Systems

Establish overall maintenance systems for field care that cover the basic criteria — playability, durability, safety, appearance and economy — and that address the concerns and responsibilities of common law.

Evaluate all aspects of your facility to decide where priorities should be placed and how to make field maintenance more equitable. Remember the three big issues: prudent, reasonable and consistent. If your department is in charge of a Minor League field and

multiple public use fields, is it prudent and reasonable to allocate major resources to the high-profile field used only by one team and visiting players and minimal resources to public fields used by 8,000 tax-paying people? If public fields are used daily, is it consistent to perform field preparation procedures once a week?

Documentation is a vital part of the process.

Develop maintenance checklists both to instruct and remind crew members of the steps that must be taken and to provide a record of procedures for legal review if necessary. Monitor the checklists regularly to ensure proper procedures are being performed — and documented.

Keep written or computerized records of all maintenance procedures, including such key data as aerification and irrigation sched-



Evaluate all aspects of your facility to decide where priorities should be placed. In some parks, for instance, it might be reasonable and prudent to fully enclose a "tot lot."

ules and what products were applied in what quantities to which fields on what dates. Include weather conditions in your daily reports.

Track equipment use and record equipment maintenance. Note the use of rented or borrowed equipment and any costs involved.

Establish practical field-use guidelines, based upon your conditions and resources, that allow you to protect the integrity of the field. Develop methods to control the schedule to avoid overuse or use in unacceptable conditions.

If field maintenance and use procedures consistently cause conflicts between the sports field manager and the scheduling coordinator or user groups, request a *quality control audit* by a qualified third party. If the results of this audit don't help you convince the powers-that-be to implement necessary changes, keep copies of the audit and your written requests to comply with it in your files. This should help shield you personally from liability lawsuits and

community criticism. If the conflict becomes a serious professional concern, changing jobs may not be out of the question.

Photo Documentation

Back-up your computer and written documentation with a photo record. Photos help you to evaluate management and maintenance practices and to document problems and potential problems. Photos provide a visual record of conditions, good or bad, at any given time. Photos taken at regular intervals, such as weekly or bi-monthly, help you compare current field conditions to those of previous periods.

Photos can augment your explanation to superiors about a problem and help establish the need for supplies or equipment to solve it. Pre- and post-game photos can assist you in showing field users the damage caused by play in wet conditions and why cancellations are necessary. Photos taken before and after a specific maintenance practice can both show the

Does Your Department Have?

- A safety committee to review policies, procedures and accidents?
- Weekly, bi-monthly, monthly checklist procedure?
- Annual training sessions for employees?
- Equipment maintenance repair sheets and hand equipment inventory forms?
- Employee certification in basic First Aid, CPR and Heimlich Maneuver techniques?
- Minimal First Aid kits, fire extinguishers, and a phone or a two-way radio in trucks and maintenance shops?
- A posted calendar with the notice x (number of days) without an accident as a daily reminder?
- A means of recognizing staffers who contribute quality safety suggestions?

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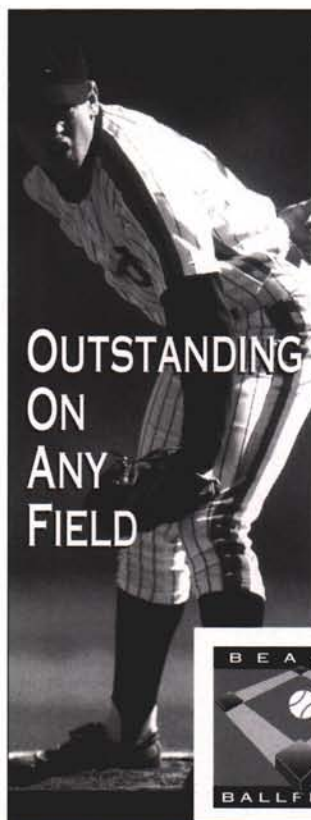
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results of the action and document that the practice took place.

Defense Mechanisms

Anyone can be sued at any time, by anyone, over anything, but winning a suit is a different scenario. Strong pro-active defense mechanisms created and diligently followed can protect you and your organization against petty and frivolous lawsuits.

Create an annual physical exam policy for staff health that screens both for health risks and for alcohol or drug-related problems. This also demonstrates that your department is professional and is interested in the well-being of its personnel.

Instruct your staff always to use good common sense. Err on the side of safety. For grounds managers and grounds personnel, this includes practical measures for their own health and safety, such as using proper protective clothing and equipment, following safety guidelines and not working on difficult tasks or tackling any heavy unloading alone.

An Accident Action Plan

Develop a step-by-step action plan to follow in case of a serious or catastrophic accident. The plan must consider the needs of participants, spectators and facility personnel.

Instruct your staff on how to implement this plan. Keep copies of the plan easily accessible in a checklist format, so it can be followed even during a crisis.

In dugouts and locker rooms, post copies of an emergency action plan that concerns players, and be sure visiting coaches are aware of them.

Provide the proper tools to implement the accident action plan and to ensure all on-site steps involving the injured person or persons follow the best medical procedures. This includes training (and hopefully certification) in First Aid and CPR, and such other lifesaving tactics as the Heimlich Maneuver. Supply a cellular phone or quick and ready access to another phone on-site, specify that the call to 911 be made immediately, and designate which person should make the call.

Designate the proper alignment of

staff members or volunteers to aid and direct a rescue vehicle immediately to the site of the injured victim. Ensure that your emergency entrance will be unlocked and void of pathway obstructions to provide clear access to the victim.

Develop a spectator witness form as part of your emergency kit. Have accident witnesses use the form on-site to report their observations so there's an unbiased record of what occurred. This key point is one of the more important defense steps that your facility has.

Also in the emergency kit, keep a Polaroid camera and a throw-away camera filled with film. Take pictures of the accident scene. Whether the photos are favorable or unfavorable, this can be prudent and valuable in proving your case.

Plan beyond on-site care. To speed emergency room access, make sure all medical and insurance forms are up-to-date and carried with the ambulance. For an underage victim, the parents or legal guardians must be contacted and instructed of the action taken for their child.

Stay involved after the accident. Make every attempt to visit and console the injured person. This is the time when a good bedside manner plays an important part in the victim and family's feelings concerning the accident and/or long-term problems.

Review your procedures after an accident. Determine what worked as planned and what was inefficient or ineffective. Correct any weaknesses.

No Guarantees

Having a First Aid certificate, a cellular phone on site, an emergency procedure in place and follow-up actions documented doesn't necessarily mean you're out of the lawsuit woods. But you can show to the court and the

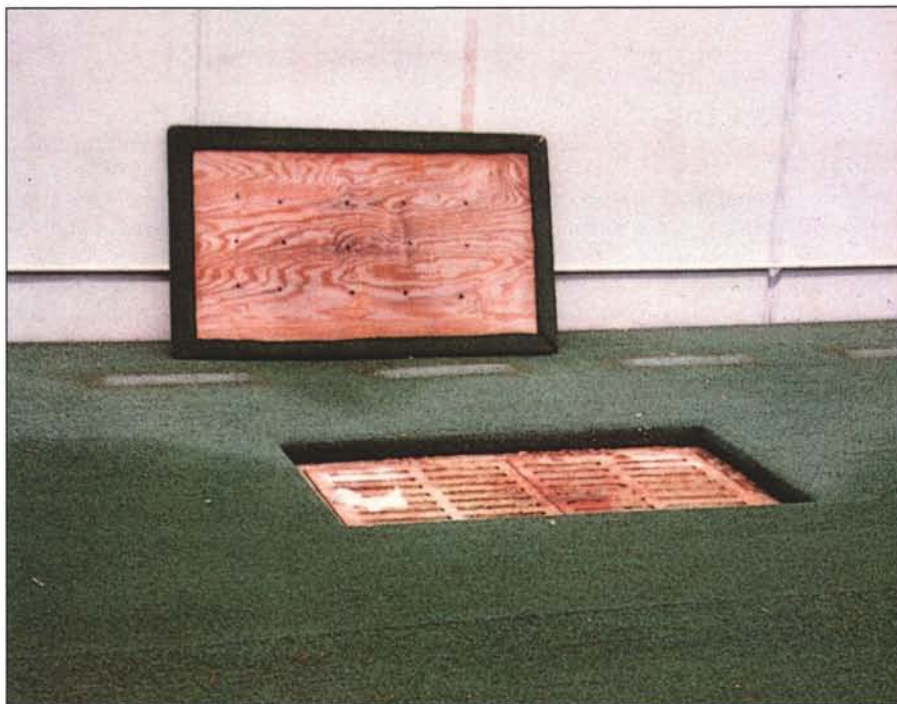


Whether good or bad, the conditions of a facility should be photographed.

injured individual that serious problems have been discussed and thought out, and that your policies and procedures were in place.

You, your department or school may still get sued and even lose when you have done everything correctly. But there is some consolation. The most important feature of your precautions is that you might have saved a life or saved a life-threatening situation because you were ahead of the liability wave. So, although you lost in court, you won on the field. □

As owner of Grounds Maintenance Services, Orlando, Fla., Floyd Perry provides consulting services and gives safety and field care seminars. He's the author of a set of books titled Pictorial Guide to Quality Groundskeeping and two videos, The ABCs of Grounds Maintenance for baseball and for softball, and is a member of the STMA Certification Committee. He was named the 1996 sportsTURF Manager of the Year for his contributions to the industry.



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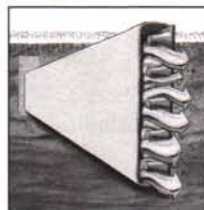
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