



# I've been badly injured

**You go to a snow slide and rafting centre with your children. During a run, you are badly injured. Is the sliding centre responsible?**

## THE FACTS

During school break, a woman takes her two children to a snow-sliding centre. During a run, the craft in which they are seated gets stuck. The woman gets out of the craft to try to push it. At that moment, another craft approaches at speed and collides head on with her raft. The woman is thrown several metres and has numerous injuries. She is left with a permanent partial disability. The woman claims \$227,394.45 for disability, monetary loss, pain and suffering, the loss of the enjoyment of life, future losses as well as lawyer's fees. For its part, the slide and rafting centre argues that the woman is responsible for the results of the accident because she should have remained seated in the craft. In fact, at several places in the sliding area, signs indicate that customers must remain seated in the craft at all times.

## THE ISSUE

Did the slide and rafting centre make reasonable efforts to protect its customers from probable risks? Is the centre responsible for the customer's injuries?

Did the woman act in a reasonable manner under the circumstances?

## THE DECISION

Damages and interest were awarded to the woman.

## THE GROUNDS

According to the slide and rafting centre's procedures, only one craft at a time should go down the run. The attendant at the base of the run must be sure that the run is free

before signalling the employee at the top of the run to let the next craft leave. At the time of the accident, the attendant in question at the base of the run believed that the run was empty and signalled that the next craft could leave the top of the run. In addition to checking that the run is empty, this attendant is required to take tickets and seat customers on the mechanical lift that takes them to the top. The judge noted that had there been an attendant on hand whose only job was to check that the run was empty, the risk of an accident would have been greatly diminished. As for the posters informing users that they should remain in the craft, the judge also determined that the posters were not sufficient to ensure customers' safety. Neither were customers given any instructions as to the procedures to follow in the event of a craft being stuck on the run. It is reasonable to expect that a person would, under similar circumstances, try to get the craft moving again, and in fact other customers had done so in the past. The judge concludes that the woman was not in error, but rather, that the sliding centre had not made reasonable efforts to protect its customers against probable risks. The judge awards \$122,135 in damages and interest to the mother. However, he does not grant her the reimbursement of the lawyer's fees, as there had not been a breach of law on the part of the slide and rafting centre to justify such an award.

## References

*Bertrand v. 2151-8378 Québec inc. (Pente des pays d'en haut) (S.C.) Beauharnois 760-05-003893-011, January 24, 2005, judge : Pierre Béliveau (J.E. 2005-420; www.jugements.qc.ca)*

The judgement discussed in this article was rendered based on the evidence submitted to the court.

Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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