

# What You Should Know About Liability Waivers for Minors in Ohio

**By Moriah Cheatham-Williams**

As Ohio's COVID restrictions are lifting, and families and organizations get back to regular sports and recreational activities, it is important to consider the legal contours of liability waivers that parents sign for their minor children.

In Ohio, the seminal case on liability waivers binding minor children is *Zivich v. Mentor Soccer Club, Inc.*, 82 Ohio St. 3d 367, 1998 Ohio 389, 696 N.E.2d 201 (1998). In that matter, a seven-year-old boy was injured following a soccer game hosted by a non-profit organization. The boy's parents had signed a pre-injury liability waiver. In the suit against the non-profit organization, the trial court granted summary judgment in favor of the non-profit organization based on the waiver, and the appellate court affirmed for the same reason. The family appealed to the Supreme Court of Ohio.

Upon review, the Supreme Court of Ohio enforced the waiver, relying heavily on public policy reasons that favor non-profit organizations. The Court explained how the coaches, instructors, and leaders of non-profit organizations are typically volunteers who should not face the threat of lawsuits or substantial damage awards. Moreover, most non-profits organizations do not make financial gain, and do not hold insurance policies. Should a non-profit organization's liability waiver not be enforced, volunteers and non-profit organizations might decide that the risks are not worth the effort.

The *Zivich* Court also explained how, under the Due Process Clause of the United States Constitution, parents have the right to make decisions on behalf of their children. Those rights include assuming the risk of physical injury on behalf of their children. The Court pointed out how the minor's parents consented to shifting the costs of injury onto themselves rather than the non-profit organization or its volunteers. The Court discussed how parents weigh decisions on behalf of their children and have no motivation to sign waivers that are not in the best interests of their children.

The next question is whether this will extend to waivers in favor of for-profit organizations, or even to commercial activities. In most jurisdictions throughout the United States, parents do not have the authority to bind their minor children to pre-injury liability waivers in for-profit activities. For this reason, and given the public policy considerations of the *Zivich* Court specifically tailored to non-profit organizations, we do not expect a more expansive enforcement of liability waivers.

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