

A Simple Catch Ride... Maybe Not

BY JESSICA CHOPER & ARMAND LEONE

As long as there are ponies there will be a need for pony catch riders. Tiny children matched with green or mischievous ponies present notable challenges, especially on a horse show day. A catch ride with a more experienced pony rider is a useful training tool and remedy in the right situation to resolve a pony's spoiled bucking, rearing, spooking, or refusing to jump. Young and often inexperienced riders can get scared when ponies act up and make things worse. Other times, trainers may just need a catch ride in the pony under saddle because a child has two ponies. Regardless of the reason for the pony catch ride, individuals involved in the decision making process should know of potential problems and liability concerns that can arise out of a "simple" pony catch ride.

Suppose a pony catch rider is selected to ride a pony because its current rider cannot get the pony to jump around the course. The pony catch rider enters the ring, the pony spins and throws the child into a jump causing serious injury. The child and her family want to sue, contending that the child should have never been put on the pony. The pony owner says falling off is part of the sport, and they knew the pony would stop. Whether or not a legal remedy exists will depend upon the Equine Liability Statute of the particular state and the unique factual circumstances of the fall.

Most states have Equine Liability Statutes that immunize participants in horse sports from civil liability to encourage riding. State equine liability statutes aim to protect equine activities because riding and showing horses is hazardous and unpredictable. By shifting the risk to participants, states can better achieve their goals. Unless limited exceptions apply, participants cannot sue for injury. Horse show entry forms also contain language mimicking part of their state's equine statute, disclaiming liability for injuries resulting from inherent risks of equine/animal activities. However if someone gets hurt, the injured person can always sue and then questions about disclosure of the pony's habits to the rider and the rider's experience to the pony owner arise. Answers to these questions are found by looking at how much the rider was informed of the pony's bad habits before getting on, how honest the rider was about prior riding experience, the

safety of the riding or show environment and assumption of risk recognition.

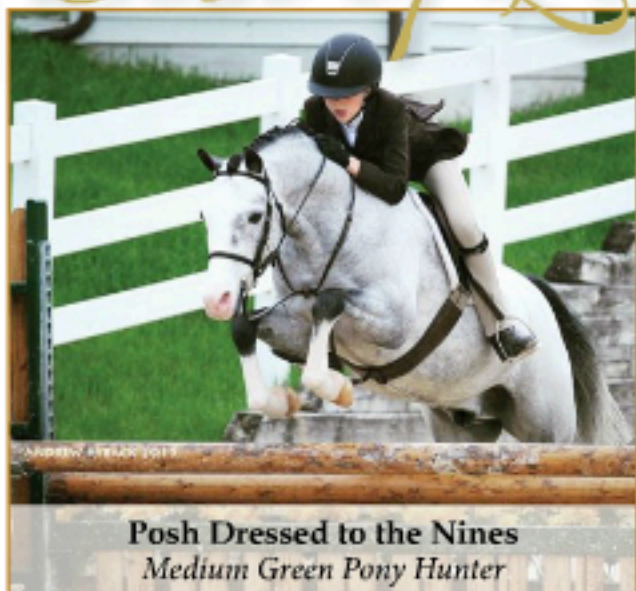
Did the trainer or owner know the pony's propensity to spin, stop, and pelt children into the jumps and tell the rider; did the pony previously injure other riders; and what medication was the pony on? These questions would immediately arise. Similarly, did the trainer/owner reasonably try to ascertain the pony catch rider's ability and experience to safely navigate the pony over a course of jumps? If a rider can prove that the trainer/owner knew the pony's propensity to exhibit the dangerous behavior, and knowingly matched it with a novice rider, an exception to the general rule of immunity may exist.

Proving a connection between the negligence and the injury is also crucial for someone to succeed on a claim for injuries. The court has found that even if the person failed to make a proper determination of a rider's ability, liability could only result if failing to do so was connected to the damage. Suppose that no one adequately assessed the pony catch rider's ability but instead of being injured because the pony stopped and spun at a jump, the pony tripped and fell going around a turn. Even if there was inadequate inquiry into the rider's abilities, a lawsuit should fail because the fall was caused by an inherent risk of riding any horse and not anything to do with jumping issues of that horse or rider.

Suppose a pony catch rider is not injured in the actual class but causes injury when the pony kicks another horse or person in the schooling area. Those other participants may be held to have assumed the risk and consented to injury causing events in the schooling ring which are reasonably foreseeable. However any rider riding in the show ring, schooling area, or even showing a pony in hand, has certain responsibilities to control the horse. The assumption of the risk analysis is multi-faceted. If the matter ends up in court, the analysis will involve the totality of the circumstances, including the liability statute, the obviousness of the risks, the participant's age, skill and experience, the safety of the riding environment, familiarity with the pony, the rider's conduct and the nature of the defendant's conduct.

In one state, a child showing her horse in hand could not stop until directly behind another horse, which kicked

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and fractured her leg. The court found that by participating in the show, the child assumed the risk of being injured by a horse. That the child had lessons on handling, showing and riding horses for 1 ½ years before the accident and was taught not to walk behind a horse were factors in the court's finding that immunity existed. In another, a horse reared and kicked a competitor while waiting at a congested ring entrance to show. The court found that the participant's injuries arose out of the inherent risk associated with equine activities, not willful and wanton misconduct.

A pony with a catch ride could collide with another in the schooling ring prior to the start of competition. The pony catch rider might claim that the collision occurred because the show failed to adequately control the schooling area and allowed too many ponies to jump at once. The show would likely assert that the rider had waived the right to sue by signing the entry form. Although entry forms indicate that the competitor agrees to assume the risk of harm, the form must be signed by an adult for a minor competitor. However in one state, a child sued a horseback riding school for injuries sustained from a fall and won, even though the parents signed a waiver. The

court held that the parental waiver was ineffective against the child. In many jurisdictions, it is a well-established rule that without statutory or judicial authorization, a parent cannot waive, compromise, or release a minor child's cause of action. Yet on the other hand, some states hold that minors as young as 14 are competent to know the risks and consent to them.

Horse show days are busy and despite the best of plans, unanticipated problems can always erupt. Protect the interests of the child catch rider and the owner by having an open and frank discussion of the pony's limitations and the rider's riding skills before making the match. Whether or not a lawsuit is filed, preventing injury to a pony catch rider is the most important issue. The best way to prevent both is to ask questions up front and disclose all information to one another before accepting an offer to catch ride a pony at a show.

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