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Federal Jury Awards Injured Snowboarder \$2.5M in Lawsuit Against Ski Area

Messa & Associates attorney Lee Rosenfeld said the evidence was very compelling, and helped convince the jury that the 24-year-old plaintiff would continue to suffer from the injuries for the rest of his life.

By Max Mitchell | June 14, 2019



Snowboarding/Credit: Dmytro Vietrov/Shutterstock.com

A federal jury has awarded \$2.5 million to a man who broke his leg snowboarding.

On Wednesday, a jury from the U.S. District Court for the Middle District of Pennsylvania found the operators of Big Boulder Ski Area negligent for failing to adequately close off a trail before putting a snow-making machine in the middle of the ski path.

Messa & Associates attorney Lee Rosenfeld said the evidence on both the liability and damages was very compelling, and helped convince the jury that 24-year-old plaintiff, James Ashmen Jr., would continue to suffer from the injuries for the rest of his life.

“I could not be happier for Mr. Ashmen. Big Boulder’s placement of a large and dangerous machine on an improperly marked closed trail goes well beyond what anyone could anticipate while snowboarding,” Rosenfeld said. “Big Boulder knew of this danger and its potential to cause catastrophic injuries, but carelessly failed to take reasonable steps to protect its patrons.”

According to his pretrial memo, Ashmen and a group of friend were snowboarding at the Carbon County ski resort on Jan. 24, 2015. After skiing that morning and relaxing during the afternoon, Ashmen and a few friends went snowboarding at about 8 p.m. The memo said Ashmen and his friends traveled to the opposite side of the mountain, and, about 400 feet down the trail, he and a friend turned onto “Snowdrift” trail. The memo said there was some evidence that a rope had been placed across the entrance, but the rope was down at the time Ashmen entered.

The memo said Ashmen was “in complete control” of his board, as he did a jump off a snow platform. While airborne, the memo said, Ashmen saw a snow machine positioned about 10 feet down the hill. Ashmen then tried to get out of the way, but instead struck his left leg, resulting in a comminuted tibial fracture.

Ashmen needed to have a rod installed in his leg, and he subsequently underwent physical therapy and pain management. In making his damages argument, Ashmen further contended the injuries meant that he could not fulfill his dream of becoming a police officer.

Ashmen’s pretrial memo noted that several ski patrol members mentioned the rope blocking off the entrance had been knocked down several times that evening, and Ashmen’s ski expert, Mark DiNola, opined that Big Boulder negligently chose an ineffective means of closing off the trail.

Big Boulder, however, contended in its pretrial memo that Ashmen's injuries were part of an inherent risk of the sport. The company contended it owed no duty to warn Ashmen about the snow machine on the trail, and noted that the friend who accompanied Ashmen down the trail said he had seen the rope and a sign indicating the trail was closed.

According to Rosenfeld, the trial lasted three days before Middle District Judge James Munley and the jury deliberated for about three hours before returning the \$2.5 million verdict for Ashmen.

Big Boulder was represented by Anthony Hinkle of Cipriani & Werner. He declined to comment.