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The Harpole Case, and Why It Matters To You

By Lucia Perfetti Clark

Charles Harpole is a Texas Football official who collided with a coach during a game in 2004. The basic details are that the coach was standing in the restricted area which is right against the field of play, and Harpole was running in one direction while looking in another and collided with the coach. Harpole suffered a concussion, while the coach suffered a traumatic brain injury that permanently impaired his memory and forced him to retire from teaching and coaching. In order to help offset the cost of Coach English's medical bills a lawsuit was filed by Midwest Employers Casualty Company (a workman's compensation insurance carrier) against Harpole and the officiating crew, seeking one million dollars in damages. The suit stated that the coach's injuries were a result of negligence by the officiating crew, and the Texas Association of Sport Officials. The insurance company then increased the amount to 10 million a few months later. Midwest asserted that Harpole had been negligent in not looking where he was running, and that he was at fault for not keeping coaches out of this area.

Gary Schumann is the attorney for the officials in this case, and countersued contending that there was no evidence to support this claim, and that the lawsuit was frivolous. At one point the judge overseeing the case asked the parties to consider settling out of court, but Harpole and his crew knew this could have major implication for officials everywhere. If they had settled out of court it would have set the stage for officials to be sued anytime for any injury sustained during a contest. They did not settle and they won a summary judgment (a ruling made only by a judge and not a jury) for frivolous law suit. However, the company appealed, and it was at that point that NASO (National Association for Sport Officials) got involved. None of these officials were NASO members, but it was apparent from the outset that this case would have major implications for officials everywhere so they took an interest. NASO had Alan Goldberger (a presenter at this year's Convention) file an amicus brief (a friend of the court) describing the situation and larger policy implications. The appellate court agreed with Goldberger and found that Harpole was not performing his duties as required and not at fault for the injury.

However the countersuit (which would award the officials money for having to endure a frivolous law suit) was its own separate case and took three years to go to a bench trial (just a judge). The judge found in favor of the officials stating that "Midwest Casualty filed its lawsuit without conducting a reasonable inquiry as to

whether there was any basis or likelihood of developing a basis in law or fact for asserting negligence claims against the referees. Midwest Casualty's claims of negligence against the referees was groundless and was in bad faith. Each official in the case was awarded \$50,000 in damages, in addition to the cost of their attorney's fees. Midwest has filed an appeal on technical grounds. The finding in favor of the officials is a huge win for officials everywhere; any other outcome in this case would have left all officials vulnerable to frivolous lawsuits.

One of the points of emphasis for men's officials using NFHS rules this year is Bench Area Protocol which states: – Coaches are reminded to remain in the coaches' area at all times during the game. All coaches should remain off the playing field, including during time outs. In order to achieve optimal field coverage, officials are encouraged to run the sideline during transition play. Coaches standing on or beyond the sideline create a dangerous situation for both the coach and the official. The rules call for team benches to be positioned ten yards from the sideline and substitutes to be stationed a minimum of six yards from the sideline. Game administrators are strongly encouraged to provide this six yard minimum wherever possible. Where not possible, team substitutes should be stationed as far from the sideline as conditions allow. It is the coaches' responsibility to ensure that substitutes do not stand in the coaches' area or encroach on the sidelines.

As you go into your season remember this case when examining the field during your pre-game, and discuss how your crew will handle this situation if and when it does arise.