

Law Reporter

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Skier hits snow groomer ascending ski slope:
Unreasonably dangerous practice: Brain damage:
Fractures: Verdict.

Grigg v. Wintergreen Partners, Inc., Va., Albemarle County Cir. Ct., No. CL03-9452, July 16, 2004.

Grigg, 17, was skiing down an intermediate slope. A snow groomer—a machine used to smooth out the snow on an adjacent tubing park—began ascending the ski slope on which Grigg was skiing. A snowmobile riding about 60 feet in front of the groomer was warning skiers of the groomer, which was moving against skier traffic. Grigg came over a crest and swerved to avoid hitting the snowmobile. She lost control, fell, and slid about 90 feet into the groomer's blade. She suffered a severe front skull fracture. She also sustained fractures to her arm, elbow, and pelvis. Grigg went into respiratory arrest at the scene and was resuscitated. She now suffers from permanent brain injury, resulting in severe personality disorders and difficulty in performing complex or simultaneous tasks.

Grigg's past medical expenses were approximately \$271,600. Her future life-care plan is estimated at approximately \$827,200. Grigg, a high school graduate, had planned to go into nursing, but her brain injury will allegedly make her less likely to obtain and keep a job. Lost future earnings were claimed but a projected amount was not specified.

Grigg's father, as her conservator, sued the ski resort and the drivers of the snowmobile and the groomer, alleging the resort's policy of bringing the groomer out onto the slope and driving it uphill against skier traffic was unreasonably dangerous. Plaintiff asserted there were simple and safe alternatives, such as temporarily closing the slope during grooming or posting signs or personnel at the top of the slope to warn skiers. Plaintiff also alleged that there was a blind area where the groomer was moving.

Defendants contended Grigg assumed the risk because groomers are on the slopes all the time and that she was negligent in that she fell and lost control, which defendants argued was the sole cause of the incident. Defendants also contended the hazard was open and obvious because the groomer and snowmobile had flashing lights.

A jury awarded \$8.3 million, finding the ski resort 100 percent at fault. The ski resort's motion to set aside the verdict was denied. The resort reportedly plans to appeal.

Plaintiff's experts included Jim Isham, ski safety, Taos, N.M.; Gregory J. O'Shanick, neuropsychiatry, Midlothian, Va.; and Peter Patrick, adolescent neuropsychology; Peter Melberg, vocational rehabilitation; and Sharon Reavis, life-care planning, all of Charlottesville, Va.

Defendants' expert witnesses in this case were Robin Smith, ski area safety, Englewood, Colo.; and Mary Elizabeth Quig, neuropsychology, Fairfax, Va.

Plaintiff's Counsel

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Court Documents by Topic and an Abstract Set on snow skiing are available in the back of this issue.