

Ski Resort's Defeat of Snowboarder Hinged on Accident Location



JOHN FAGAN

Ray Willig, a 36-year-old snowboarder from Santa Barbara, wanted \$12 million to \$18 million after an accident at Mammoth Mountain Ski Area left him paraplegic.

Willig said a piece of metal erosion-prevention mesh sticking out of the snow caused his accident in 2000.

Duane Morris attorneys defended the Mono County ski area in a trial in June. The defense counsel argued the accident happened farther up the hill from the mesh.

Willig v. Mammoth Mountain

Ski Area, 14434 (Mono County Super. Ct. 2006).

Plaintiffs' witnesses included accident reconstructionist Olaf Jacobsen, who said damage to the top skin of the snowboard could have been caused only by sharp metal. Willig's riding partner on the day of the accident, Robert Mayer, testified the accident happened in the area of the mesh on the moderate-difficulty run, St. Anton. The plaintiffs entered into evidence photos of the alleged site, taken three weeks later.

The primary witnesses for the defense were two Mammoth ski patrollers who testified the accident happened 300 feet uphill. Patrollers Michael Martyr and Nick Bianchini responded to Willig's accident and took photos on that day.

The defense argued Willig may have hit a rock or another natural obstruction that was part of the risk inherent to snowboarding, rather than a man-made device.

The real turn in the case, according to the lead defense lawyer, John Fagan, came during cross-examination of Jacobsen, the reconstruction expert. Fagan questioned whether the damage to the top of the board could have been caused only by impact with a narrow piece of metal or if it also could have been caused by the sharp volcanic rocks native to Mammoth.

As Jacobsen measured the rocks on the stand with a protractor to determine their sharpness, "the jury could be heard to be laughing," Fagan said.

"It's unusual to feel like a trial is turning in your favor during cross-examination of the plaintiff's best witness," he said, "but I could sense that the jury felt his testimony was not based in science."

Plaintiffs' counsel Matthew Clarke, of Cappello & Noel, said he believes Mono County's proximity to Mammoth Mountain played a role in the verdict.

"The thing about trying a case in Mammoth Lakes is that 95 percent of the people make their living off the mountain," he said. "We got hometowned."

The plaintiffs filed an appeal in September.

— Noah Barron