

LEGAL ACTION

Doctor Feelbad

In an attempt to protect doctors who volunteer their time to work with local high school athletic teams from malpractice lawsuits, a number of states have passed what's called a "Volunteer Team Physician Immunity Statute." However, a recent case in Florida, *Weiss v. Pratt* [53 So. 3d 395 (Fla. App. 2011)], calls into question just how valuable immunity statutes are in protecting such volunteers.

Michael Weiss, an orthopedic surgeon who also served as the volunteer team physician for a Florida high school, failed to place Ancel Pratt on a backboard after Pratt was injured making a tackle on the football field. After the tackle, Pratt was unable to move for a few seconds before he then kicked his legs and flipped himself over. Weiss ran onto the field and spent approximately 15 minutes questioning Pratt and conducting a brief medical exam. However, the doctor did not believe Pratt had suffered a spinal cord injury and, with the assistance of the athletic trainer, removed Pratt's helmet, assisted him in sitting up and walked him off the field. After complaining of nausea, Pratt was strapped on a backboard and transported to the emergency room. It was found after a few days and an MRI that Pratt had suffered an epidural hematoma on the right side of the spinal cord at the C1-C4 levels, and a non-hemorrhagic cord contusion behind the C5 level.

In awarding Pratt \$750,000, a jury found that Weiss' failure to place Pratt on a backboard before removing him from the field fell below what a reasonably prudent doctor



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would have done under the same or similar circumstances. Interestingly, the "reasonably prudent" standard is the same standard used to determine "ordinary negligence" — the standard that Weiss would have been held to if there were no immunity. The District Court of Appeal of Florida, Fourth District, where the jury's verdict was upheld, nonetheless questioned how the immunity statute's protection differs from basic tort law, concluding that "the statute purports to provide immunity, but its protection is illusory. If the legislature intended to provide some additional layer of protection to those physicians who volunteer their services, then perhaps the statute needs another look."

Weiss could significantly impact high school athletics. If they believe that the immunity statute will not protect them from malpractice, doctors will either need to start billing teams for their services, or they will simply not volunteer. Either result would have a negative impact on high school sports in general and football in particular.

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BARRIERS TO VICTORY

The Nov. 2010 death of two-year-old Lucas Tang, who fell 30 feet after climbing over a 2-foot-tall Plexiglas® barrier in a Staples Center luxury box, has not yet led to updated building codes. And the

lawsuit filed in late May by his parents — who when their son fell were reviewing just-taken photos on their digital camera — may not be a catalyst for change, either, in spite of the tragic circumstances

surrounding the child's death.

The Tangs' wrongful death and negligence suit, filed in Los Angeles County Superior Court, names Staples Center owner Anschutz Entertainment Group

and L.A. Arena Co., the arena's operator. The suit alleges that ownership provided "no warnings of the dangerous condition, either by signs, oral statements by employees, or otherwise," and seeks both