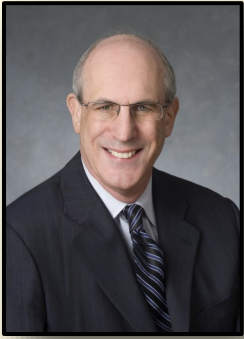


# THE ROLE OF VIDEO SURVEILLANCE IN DEFENDING AMUSEMENT FACILITIES

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Video surveillance cameras in amusement and recreation facilities often provide very useful evidence in defending and defeating liability lawsuits brought by injured patrons. In the course of my practice, I often advise amusement owners and operators to be liberal with the installation of such equipment as a proper means of risk management. Camera placement should include views of the parking lot and all areas of the interior of the building, including the front desk where patrons review and sign waivers and releases.

Video surveillance has proven particularly useful in defending and defeating roller skating rink liability cases. Ever since New Jersey adopted the New Jersey Roller Skating Rink Safety and Fair Liability Act of 1991 (N.J.S.A. 5:14-1 et. seq.), plaintiffs and their lawyers have tried to create new liability arguments to avoid the assumption of risk section of the statute (N.J.S.A. 5:14-6) which is a complete defense to a lawsuit for injuries resulting from those assumed risks. Quality video surveillance footage, that is properly used, can help disprove the three main liability arguments that rink owners face -- lack of supervision on the skating floor, defective rental skates, and defects in the premises. Based on my professional experience, here are four examples that demonstrate the utility of video surveillance in defending personal injury claims.

## **Case #1 – The "leaky roof":**

The plaintiff claimed that there was a leak in the roof of the skating rink which resulted in a puddle of water forming on the floor. The plaintiff's complaint alleged that he fell after he skated through the puddle of water.

The rink operator admitted that on the day of the plaintiff's alleged accident, there was a leak in the roof which resulted in a puddle of water on the floor. However, he recalled that the puddle of water was immediately covered up and he was not aware of anyone who claimed that they fell as a result of the water on the floor.

A review of the videotape of the roller skating session proved that no one skated through the puddle. However, about 60 feet away from the puddle, a large male roller skater wearing a Reggie White Eagles Jersey fell as he was leaving the skating floor. The skater could be observed removing his skates and immediately walking out of the rink.

After reviewing this videotape, I called the plaintiff's attorney and asked him a simple question: what was your client wearing on the day of the accident? When he called back to tell me that his client was wearing a Reggie White jersey, I told him about the videotape. A few days later, plaintiff's counsel dismissed his client's case with prejudice. The attorney explained that his client had returned to work and was "too busy" to pursue this lawsuit. I was able to close my file just five days after I opened it.

## **Case #2 – The "defective" skate:**

The plaintiff sustained a serious injury when the front wheel on his right rental skate suddenly jammed as he was skating on the rink. After the accident, his rental skates were inspected and found to be in good working order. They were tagged and bagged and retained in the rink office in accordance with risk management guidelines published by the Roller Skating International Trade Association. The accident was also filmed by two different surveillance cameras in the rink. When we reviewed the video, we can see that moments before the plaintiff lost

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his balance and fell, he turned to his right to wave to a spectator who was standing off to the side of the rink. After waving, he tried to resume skating but he lost his balance and his feet flew out from under him as if he had slipped on a banana peel. We were able to retain a defense expert to review the video and explain the real cause of the accident which was the plaintiff's loss of balance and not a defect in the skate. The jury returned a defense verdict.

### **Case #3 – The "dangerous" condition on the skating rink floor:**

A 10-year-old child wearing inline skates claimed that he injured his ankle after the wheel of his right skate became caught in an expansion joint that surrounded the skating rink floor. This expansion joint was approximately one-inch wide and was located between the outer edge of the wooden floor and wall. The plaintiff claimed that he was skating near the wall when his wheels got caught in the expansion joint, causing him to lose his balance and fall.

The session surveillance video disproved the plaintiff's claim, but it did show that the plaintiff was lacking ability to slow his speed or come to a stop wearing roller skates. Rather, the plaintiff stopped himself by crashing into the closest available wall. Just before this incident occurred, the plaintiff was skating towards a wall with his arms out in front of him when he suddenly lost his balance and fell backwards. His right skate went out in front of him and his momentum caused his skate to crash into the wall above the joint. The joint had nothing to do with this accident. I sent the video to the plaintiff's attorney who agreed to dismiss the Complaint even before we filed an Answer.



### **Case #4 – "I never read the waiver"**

In a matter involving a water park personal injury claim, the plaintiff had signed a written waiver and release but denied that he had time to read it when it was presented to him. A video camera pointed at the main desk where releases are signed proved that he received the release and read both sides of the document before signing it.

As these examples illustrate, attorneys defending such personal injury claims should always seek first to review any existing video footage – what the camera captures may well indeed hold the keys to the successful defense of the case.

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