

WWR 289 (BCSC)].

On the other hand a sign stating "Diving at your own risk - Depth, 6 feet" was sufficient, even though the depth ranged from 1 1/2 to 5 feet, on the basis that the plaintiff executed a dive which would not have been safe even if the depth had been 6 feet [D'Auteuil v. Beausejour Investment Ltd. (1961) 37 WWR 156 (Man. CA)].

#### Waiver Forms:

A waiver form is also an effective measure to avoid liability. However, a waiver form must clearly set out the purpose of the form, the fact that the party executing the form understands it and the terms of the release. Frequently, waivers are deemed to be insufficient because they fail to clearly state that the party executing the form agrees that the potential defendant is not liable even if he is negligent. Therefore, in *Delaney v. Cascade River Holidays Ltd.* (1983) 44 BCLR 24 (BCCA) a passenger on a rafting trip was given a life jacket which, to the defendant's knowledge, would not provide enough flotation. The plaintiff had signed a liability release form which was clearly worded to cover even negligence on the part of the defendant. The defendant was not liable in the circumstances.

On the other hand, children cannot waive their rights to seek compensation for an injury sustained at a recreation facility [*Crawford v. Ferris* (1953) OWR 713 (Ont. HC)]. This does not mean the waiver should not be obtained. While a minor cannot be bound by a contract, evidence arising from the execution of the waiver can be used to establish that the child voluntarily assumed the risk.

#### CONCLUSIONS

Risk management is a growing industry. As the courts consider more bizarre cases the efforts of risk managers must be incrementally increased to deal with the imaginative plaintiff's counsel. However, a good system of risk management does not have to go overboard or eliminate altogether the activities that the corporation is involved in. Moreover, a good system of checklists, waiver execution and insurance will insure that the corporation is not brought to its knees by "one false step".

[An address to the 1996 WCTA Conference, Victoria, BC. Reproduced with permission from The Turf Line News]

## GTI HILITES

In the June, 1995, issue of the Sports Turf Manager an article appeared on endophyte alkaloid production in turfgrass. Prof. Bowley of the Crop Science Dept. at the U. of G. had started a project investigating the production of alkaloids by endophytic fungi in turfgrass species, a production which may make the turfgrass resistant to damage by above ground feeding insects such as the chinch bug.

Having refined the analytical procedures required to quantify the presence of the alkaloids produced by the fungus, Prof. Bowley examined the occurrence of these alkaloids in four common varieties of ryegrass and four varieties of tall fescue (Table 1). Endophyte was detected in all tillers examined of the four perennial ryegrass varieties in 1995 at all sampling dates. On the other hand, endophyte infection of tall fescue tillers was lower than in ryegrass throughout 1995, although the infection increased from 56% of the tillers in June to 75% infection by August.

Whereas all varieties of perennial ryegrass had infected tillers at all dates the same held true for only one variety of tall fescue - Mustang II. The concentration of the fungi in the tillers was also higher in all the varieties of ryegrass than in the tall fescue.

Prof. Bowley feels it may be possible to utilize the turfgrass-endophyte association to effect insect control in perennial ryegrass but that possibility is less promising in tall fescue. The latter is interesting since the original reports of alkaloid production by endophytic fungi was reported in tall fescue which lead to a rejection of tall fescue by grazing animals.

This research has significant implications in the economics afforded by reducing insecticide use and the environmental issues associated with man-produced chemicals to control insect damage to turf. It would appear the next step in this interesting research would be to acquire data to confirm the perennial ryegrass varieties have resistance to heavy chinch bug attack under field conditions.

**Table 1:** The percent of infected tillers and the density of fungal hyphae from four varieties of ryegrass and of tall fescue at the Guelph Turfgrass Institute in 1995.

SPECIES	VARIETY	INFECTION			COUNTS / MICROSCOPE FIELD		
		June	July (%)	Aug.	June	July	Aug.
Perennial Ryegrass	APM	100	100	100	2.8	2.5	2.6
	Cutter	100	100	100	1.9	2.0	2.2
	Pinnacle	100	100	100	2.1	1.5	1.6
	Yorktown II	100	100	100	2.3	2.1	2.2
Tall Fescue	Jaguar II	25	38	50	0.3	0.1	0.1
	Mustang II	100	100	100	1.5	0.8	1.2
	Pixie	25	38	50	0.1	0.1	0.1
	Rebel 3D	75	88	100	1.0	0.2	0.5

\* microscopic field



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