

COUNSEL'S CORNER

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Releases

In *Reed v. University of North Dakota*, decided February 23, 1999, the North Dakota Supreme Court upheld the enforceability of a general release of liability and dismissed a personal injury lawsuit against UND and another defendant. In the case, a former hockey player at UND had become dehydrated during a charity road race and suffered severe injuries to his kidney and liver. The race was a charity benefit but was also part of the hockey team's conditioning program.

One of the issues in the case involved the enforceability of a release signed before the race. We use releases in many situations at NDSU. Sometimes, I am asked whether they are, in fact, enforceable.

While some releases may not be enforceable for public policy reasons, and releases for willful injuries are not enforceable by state law, releases for negligent injuries are a useful and essential tool in risk management. The North Dakota Supreme Court upheld the general release against Reed's argument that it was against public policy. Even in situations where individual releases are not administratively practical, informed consent and notice of risk may be (for example, a sign or other statement of the likely risks).

However, since UND was dismissed from the case for other reasons, the Court didn't have to specifically address Reed's argument that he had been under compulsion from UND to sign the release. There are some situations, particularly with students, where the voluntariness of a release might be questioned.

Faculty and staff should consult legal counsel in all situations where releases might be appropriate. Employees who are advisors to student organizations or officers of student organizations may also consult the General Counsel's Office if releases might help a student organization that is sponsoring an event.