Court Protects Lakefront Landowners From Liability in Recent Injury Case

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Michigan has the second longest coastline in the United States trailing only the state of Alaska. With the hot summer months quickly approaching, Michigan's expansive coastline (including inland shorelines) will be taken over by beachgoers. While many Michigan property owners will open up their land to public coastal recreation, there will always be those who trek on the lakefront property of another without permission. This post will explain how a landowner can protect himself/herself from liability when an individual is injured while recreating on their land with or without permission.

Case Law Background

On April 6, 2018, the Michigan Supreme Court decided the case *Otto v. Inn at Watervale, Inc.,* No. 155380. In this case, the Court clarifies what an individual who is injured while on another's property must prove in order to find the landowner liable for the injury.

In *Inn at Watervale, Inc.,* a young girl and her mother traversed onto a private Lake Michigan beachfront property owned and maintained by the Watervale Inn in Arcadia, Michigan. The pair did not have permission to be on the private beach. While the young girl skipped stones and built sandcastles, she inadvertently stepped on the hot coal remnants of a bonfire and burned her foot. The young girl and her mother filed a lawsuit against the Watervale Inn alleging that the Inn's negligence led to the young girl's injury.

The Michigan Supreme Court Decision

The critical question that the Michigan Supreme Court considered was whether the Recreational Land Use Act ("RUA") applied to the situation. The RUA provides protection to landowners when a non-paying person is injured on their property. The RUA provides in relevant part:

> Except as otherwise provided in this section, a cause of action shall not arise for injuries to a person who is on the land of another without paying to the owner, tenant, or lessee of the land a valuable consideration *for the purpose of fishing, hunting, trapping, camping, hiking, sightseeing, motorcycling, snowmobiling,* ***or any other outdoor recreational use*** *or trail use, with or without permission, against the owner, tenant, or lessee of the land unless the injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee.* [MCL 324.73301]

Specifically, the Court dealt with the question of whether the young girl's activity – skipping stones and building sandcastles – fell under the RUA's "any other outdoor recreational use" language. The Michigan Supreme Court held that even though "beach play" does not have a heightened degree of physical intensity or inherent risk like other activities listed in the statute, it still falls within the meaning of the general phrase "any other outdoor recreational use".

The Court held that (1) the RUA applied and prevented the plaintiff's negligence claim from moving forward and (2) reinstated the Benzie Circuit Court order holding that the Watervale Inn's actions did not amount to "gross negligence or willful and wanton misconduct". The Watervale Inn was not held responsible for the injuries to the child.

Conclusion

The Court's holding in *Inn at Watervale, Inc.* broadens what classifies as "any other outdoor recreational use". This is, in effect, is a good thing for lakefront property owners. The Court's holding encourages lakefront property owners to open up their land to the recreational use of others without the worry that they could be held liable for an injury that might occur on the property. If an injury does result, the lakefront property owners can only be found liable if their conduct is grossly negligent or that they acted with willful and wanton misconduct. This is a high legal standard for any plaintiff to meet.

If you are a lakefront property owner and have any questions related to potential liability if someone is injured while on your property, please contact Mike Cassar at 517.371.8110.