

Brian's Law (Drafted by attorney Michael A. Naso)

**STRICT LIABILITY FOR OWNERS, LESSEES AND OTHERS RESPONSIBLE FOR THE USE OF INFLATABLE SLIDES, BOUNCY HOUSES AND SIMILAR STRUCTURES OVER SIX (6) FEET IN HEIGHT FOR INJURIES RESULTING FROM NOT HAVING THE STRUCTURES PROPERLY ANCHORED.**

To promote and encourage the safe operation of inflatable slides, bouncy houses and similar inflatable structures and to prevent injuries to the users of such structures, prior to use, all such structures over six (6) feet in height must be securely anchored so that the structure cannot move more than six (6) inches laterally for each ten (10) feet of height of the structure with such lateral movement never exceeding one (1) foot in any direction during the use of the structure since such structures are susceptible to wind and deflation.

Any person or entity that owns, leases, rents or borrows an inflatable slide, bouncy house or similar structure over six (6) feet in height that allows the structure to be used when it is not securely anchored as defined in the preceding paragraph, shall be strictly liable for any and all damages related to any physical injury caused by the structure moving in the wind or due to deflation.

Comments:

On June 1, 2013 Brian M. Grossman was severely injured when the bouncy slide he and his three (3) year old son Merrick were on suddenly deflated throwing both of them and another child, a 3 year old boy, off the top of the slide down onto the concrete over twenty (20) feet below.

Brian had purchased tickets the school booster club was selling in order for his three (3) year old son Merrick to go on the bouncy slide, which was an inflatable slide approximately twenty (20) feet tall or higher. Merrick went up the stairs to go down the slide. Behind Merrick was another boy approximately three (3) years old. When Merrick looked down, he became afraid because of the height of the slide. The slide operator instructed Brian to go up to the top of the slide to slide down with Merrick.

When Brian reached the top of the slide he reached out to put Merrick on his lap to slide down. At that moment, the top part of the slide they were sitting on, the "landing", went from being full of air and firm and level to deflated. The landing then collapsed. Merrick and Brian were violently thrown backwards to the back of the vertical landing, a canvas wall extending a few feet high. A split second later, the top portion of the slide folded over and threw Brian, Merrick and the other three (3) year old boy from the top landing of the slide over 20 feet down onto the concrete below. Although Brian managed to grab Merrick and pull him onto his chest and braced the other child's fall with his left arm leaving the children uninjured, Brian suffered severe, life-long and life changing injuries due to the fall causing him permanent disabilities and severe

chronic pain. These injuries would *not* have occurred had the structure been securely anchored down.

According to the Consumer Product Safety Commission, injuries related to large inflatables like bounce houses and slides are on the rise based on data from 2003 to 2013. The Consumer Product Safety Commission estimates there were more than 100,000 injuries treated in emergency rooms from 2003 to 2013 related to the use of inflatable structures. Most of these injuries were caused to children.

In Brian's case, the contract and written instructions provided by the owner of the slide to the lessee did not indicate that the slide needed to be anchored down even though the owner knew or should have known the structure needed to be anchored down to ensure the safety of its users and should have advised the lessee of this safety rule of installation and operation. In fact, the Lessors' contract provided that all liability for negligence related to the use of the inflatable slide was assumed by the lessee of the slide, including the negligence of the owner of the slide. Many, if not most of the companies that rent out inflatable bounce houses and slides, contractually place the burden of liability for injuries related to the use of their products on the lessee, even though the lessee typically has little or no experience in the set up, operation and hazards of these inflatables.

By imposing strict liability on owners, lessees and those responsible for the use of inflatable structures over six (6) feet in height for knowingly allowing anyone to use them if they are not securely anchored down, we are giving owners, lessees and those responsible for the use of these structures a powerful incentive to promote the public safety and ensure these inflatable structures are used in a safe manner. This safety measure is necessary to reduce the number of injuries caused by these types of structures and the severity of the injuries that are incurred by the users of the structures.