

AGE DISCRIMINATION

Take care in changing methods for performance evaluations

Changing the rules of the performance evaluation game can be risky for employers. That's the message from a recently reported settlement of an age discrimination lawsuit against Goodyear Tire & Rubber Co.

In their lawsuit, veteran Goodyear engineer James Sykora and seven other coworkers alleged that the company's new performance rating system was designed to get rid of older employees, the AARP Bulletin reported. Sykora had worked for Goodyear for 32 years and was ranked a "good/effective" worker in 2000. The following year, the company implemented a rating system under which workers earned letter grades of A, B or C. Sykora received the lowest grade and was laid off in 2002.

Sykora and the others, represented by AARP attorneys, presented evidence that older workers disproportionately received the C's and they argued that the company used the rating system to move them out. Without admitting any discriminatory intent, Goodyear settled the lawsuit for \$1.2 million in early 2007; Sykora received one year's salary. The AARP reported that the company stopped using the ratings shortly before the lawsuit was filed and removed C ratings from the records of employees still with the company to maintain their promotability.

...make sure your job descriptions are accurate... and ensure that performance rating systems reflect the job descriptions...

The moral is to remember the basics. Make sure your job descriptions are accurate, educate managers to regularly communicate job expectations and ensure that performance rating systems reflect the job descriptions. Educate managers on making honest, constructive evaluations. Make sure that any new rating system is geared toward company objectives and follow up on how the new system is implemented. Watch for possible disparate effects

on employees in protected classes (for example, those over 40, women and minorities) and give low-ranked employees a meaningful opportunity to improve performance. Mastering those basics can help raise productivity and prevent lawsuits.

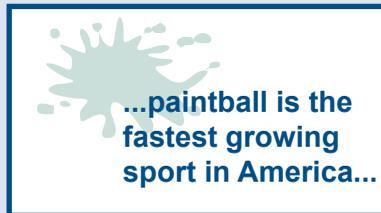
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INSIDE ...

**Financial Insight
From the CEO
Paintball Guns**

SO YOU WANT PAINTBALL! ASK YOURSELF...WHY?

The NDIRF has recently received inquiries by member park districts about providing a paintball facility. Some want to have a public facility and others want to allow a private party to hold a paintball tournament on public land. We should have guessed questions would be coming our way as sources indicate that paintball is the fastest growing sport in America.



For those not familiar with paintball, here is the short course. Paintball is a fast-paced activity where teams try to shoot their opponents using special guns (aka “markers”) that fire small gelatin-coated balls filled with water-based paint, at speeds of up to 500 feet per second. There are different variations on the game, but just think of the game you played as a kid called “Capture the Flag”. Instead of being physically tagged or touched, you are tagged by a paintball. Because paintball closely simulates actual combat, paintball is frequently used by the military and law enforcement agencies for training purposes.

The balls are usually propelled by CO₂ gas. Single shot pump guns (generally pistols) are available. Some models fire 3 – 5 balls per squeeze of the trigger when set on burst mode. NOTE: Your municipal ordinances may classify or define paintball guns as firearms or weapons and prohibit their use within city limits.

If you are contemplating paintball activities, here are important points to know and consider:

Paintball guns can seriously injure or kill if not used properly (bruises are almost guaranteed even when used properly). Use of safety gear is of paramount importance. Face wear must be worn at all times in the field of play. Goggles are not face wear! Face wear for paintball covers the ears, temples, full front of the face and down past the chin. This gear should be designed for paintball. The American Society of Testing and Materials (ASTM) has set a design safety standard for paintball face wear. Look for face wear that says it meets or exceeds ASTM F1776. Face wear must be required when entering a field of play and must not be removed until the player has completely exited the field of play. Long sleeve pants and shirts should be required.

Most guns can have the speed of the paintball adjusted. The recommended ball speed should be set between 250 and 285 feet per second (fps). The way to determine ball velocity is through the use of a chronograph. These devices can be purchased for \$100 and up. It must be used for all organized play. Don't assume gun velocity does not change during the day. It will. Check ball speed frequently throughout the day, and each time a player enters the field of play. “Beavertails” are devices that inhibit the boosting of air pressure during play and should be used.

Positive barrel blocking devices are a must. These must be on all paintball guns at all times when not on the field of play. There are two forms, a “plug” and a “sock”. Plugs are rigid devices that are inserted in the barrel. Socks are neoprene covers that are pulled over the end of the barrel. Socks are preferred as plugs can be dislodged if the gun is set to multiple-fire and the trigger is pulled.

Only paintball guns should be allowed on the field of play. Other devices that are capable of launching paintballs should be prohibited.

Paintball gun gas is refillable and large tanks may be brought on site for users to replenish their gun's supply of gas. Compressed gas cylinders must meet Department of Transportation standards for construction and transportation.

RISK SERVICES

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Only unadulterated paintballs that are from the factory should be allowed. Paintballs that are designed to simulate blood when breaking should be prohibited.

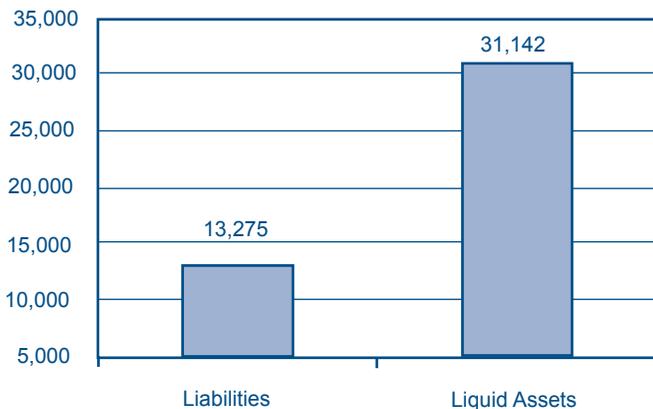
Spectators and passersby have the potential to be struck by errant balls. Therefore, proper fencing (netting) is a requirement. Just like face wear, the ASTM has set a standard for paintball netting. In fact, a full description of the components that make up a safe paintball field operation can be found in ASTM F1777-97. The height of the netting will vary from 10 to 20 feet. Netting height is dependent upon whether there are elevated surfaces within the area of play. All access points to the designated area should be of the "Z" style. There should also be a five foot buffer zone outside the fence where no spectator is allowed.

If a paintball play area is going to be supervised, strict enforcement of the rules is crucial. Waivers should be signed by all those participating. If unsupervised, signage should warn of all possible dangers and indicate that one is using the paintball play area at one's own risk. **Those under the age of 12 should be prohibited from participation.**

A well supervised paintball field should provide limited exposure to liability. An unsupervised paintball field may provide a considerable liability exposure. To keep your liability exposure and coverage cost to a minimum, our loss control department will work with you on design, regulations, and waivers. If you have questions regarding this information, please contact Doug Griffin or Ross Warner at the NDIRF office. ■

FINANCIAL INSIGHTS

Liabilities to Liquid Assets Ratio (000 omitted) As of June 30, 2007 Ratio= 43%



This ratio is a measure of a company's ability to pay its financial obligations. The ratio is calculated by dividing liabilities (primarily loss reserves) by liquid assets (cash and marketable investments). A ratio less than 105% is desirable. As this graph indicates, NDIRF, with a 43% ratio, is in a very strong position, with liquid assets more than twice as large as liabilities. ■

FROM THE CEO

2007 seems to be one of those years where a number of unexpectedly high rainfall events are producing an above-average occurrence of sewer backup claims around North Dakota. While this is an unpleasant topic, in every possible way, it is one that we have experienced before (for a complete explanation of this issue by the NDIRF's Claims Manager, please see the October 2001 Participant, available on the NDIRF's website).

The crux of the matter is that the NDIRF's liability coverage is just that – liability coverage. A sewer backup claim is payable by the NDIRF only when an NDIRF member caused the problem by its negligence or, in other words, may be liable for the damage. Therefore, in most cases, to mitigate the risk of a sewer backup loss it is up to individual homeowners to protect themselves by purchasing a sewer backup endorsement for their homeowner's insurance policy, which is generally affordable and readily available.

Most local officials are also homeowners, subject to the same risk of a sewer backup loss as anyone else. For what it's worth, I've purchased a sewer backup endorsement for many years and encourage you to investigate how this risk management tool might fit into your personal situation. ■

MANAGE WITH MANNERS

Here are a few etiquette rules that everyone knows, but occasionally needs to be reminded of. We all work in busy environments, but that's no excuse for bad manners. Some rules to consider:

- When you are having a meeting with someone, don't have him or her wait while you take a phone call. It's annoying and it conveys the message that what you are talking about with the person in front of you is not important.
- Acknowledge receipt of e-mails that contain work or important communications. It only takes a minute to hit Reply, write "Got it, thanks!" and hit Send.
- Return phone messages. Not doing so can give the person who left the message the idea that you really don't care about what he or she is calling about. And that may not be the case at all.

Being "busy" can become the rationalization for an attitude toward people that seems to be rampant in work culture today -- that of "Everything I do is important, except for the people I work with." As a manager, these seemingly innocuous behaviors can undermine your image as a leader with surprising speed and precision. It's often not the big projects you work on that build your reputation with your workers, but rather small acts of attention and caring that you attend to repeatedly on a daily basis. This kind of behavior gives your employees the security of knowing they have an attentive and caring manager. And with consistency, it's likely you will build a loyal following of workers who will go to all lengths to make you happy. ■

Mark Your CALENDAR

Sept

- 6: NDIRF Board of Directors Meeting
NDIRF offices, Bismarck
- 18-20: ND/SD Parks and Recreation Assoc
Annual Conference,
Ramkota, Aberdeen, SD
- 21-23: ND League of Cities
Annual Conference,
International Inn, Minot

Oct

- 8-10: ND Association of Counties
Annual Conference & Expo
Ramkota Inn, Bismarck
- 27-28: ND School Board Association
Annual Convention,
Ramkota Inn, Bismarck

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