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Adding a horse to a sport behooves new legal questions

For all of you Olympic Games followers, you may or may not be familiar with the equestrian sport of three-day eventing. If you do not follow Olympic sports, you probably have never heard of it until now.

Eventing not only is the only Olympic sport where men and women compete equally, but it is a high-risk display of poise, precision, fitness, athleticism, obedience, determination and bravery — and that just describes the horse's role.

Eventing, best described as an "equestrian triathlon," developed from the test of the ideal military charger and has now evolved into a sport attracting interest from all levels of sports enthusiasts, from weekend hobby riders to professional international stars.

The same horse-and-rider combination demonstrates its abilities at three phases of competition — dressage, cross country and show jumping. Each phase is scored individually and the penalties accrued are added together for the final results.

The dressage phase tests the gaits, suppleness and obedience of the horse through a series of prescribed movements.

Cross country is the highlight and most dangerous phase of the sport where horses and riders gallop over miles of challenging terrain, at speeds up to 25 mph, while negotiating remarkable solid obstacles, water hazards, banks and ditches. Riders and horses may be injured, and even killed, if a mistake is made at these jumps causing a horse and/or rider to fall into the immovable hurdle or onto the hard ground.

The third and final test, show jumping, comprises a series of colored fences usually made up of lightweight rails that are easily knocked down and which must be negotiated in order for the horse and rider to successfully complete the event.

At the end of the competition, penalties for each competitor are totaled and the lowest scoring horse-and-rider combination is the winner.

Horses and riders, like any other athlete, require everyday care, maintenance, training and conditioning to remain competitive. A dedicated team of professionals are an essential element for every aspect of a horse's success and well-being. Horses require the expert care of professional veterinarians, farriers, dentists, transporters, grooms, nutritionists and other specialists depending on the horse's needs.

In many cases, individual and corporate sponsors are necessary to assist with purchasing the horse as well as covering extensive financial obligations required to care for the horse. At the highest levels of the sport, purchasing a quality horse can cost from \$25,000 to \$1 million depending on traits such as the horse's breeding, training and competition experience.

The tack and equipment, combined with the annual fees for feed, nutritional supplements, stabling, routine farrier and veterinary care, training, transportation and other necessary expenses can cost anywhere from \$20,000 to \$50,000 a year, assuming all goes well and no major medical issues arise. Unfortunately such issues do arise regularly in the world of horses when you are caring for a 1,000- to 1,500-pound animal with a brain for mischief and unpredictable flight reactions.

Professional riders, as I suspect like many other athletes, know what it takes to be successful in their individual training and competition programs. However, they often lack the business acumen to maintain their profession as a sustainable business and to protect their personal and financial investment for the future.

They tend to forget or fail to appreciate the need for bookkeeping and accounting, employment agreements, estate planning, intellectual property safeguards, public relations management, customer communication obligations and liability protection.

They are likely to learn the importance of these aspects of their professional life only after an unfortunate experience such as a significant tax penalty, unlawful



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employee termination claim, lost income and failed business management after the client's injury or death, a copied logo by a fellow professional causing confusion in the sport, unintentionally making a defamatory remark to the press, losing a sponsor or getting sued by an injured client.

This begs the question: What can the legal industry do to reduce liability and ensure the sport has the same future as many other sports?

Get to know the sport

As an eventing competitor myself, I understand that equestrian athletes have developed a thorough knowledge of the sport and trust lawyers' legal knowledge and experience to guide them in business decisions and represent their best interests in transaction and litigation matters.

Those involved in the equestrian arts are looking for an attorney to trust and are more likely to refer fellow athletes, professional caregivers and sponsors to an attorney that is not only a good lawyer but who knows the sport.

Much like a client who is looking for an attorney who knows insurance law, intellectual property law and product-liability law, those involved with competitive horse events need someone familiar with the sport.

Whether as an active competitor, or one who just regularly follows the sport and provides financial support as well as moral support, client trust and loyalty start with demonstrating an

understanding and commitment to the sport itself.

Know the issues affecting your sport

In addition to having personal experience with and passion for the sport, client trust and loyalty comes from knowing the issues affecting the sport and knowing how and where you can be of valuable assistance.

In the dangerous and expensive sport of eventing, it is imperative to understand the inherent risks of engaging in equine activities, the time and expense involved in training and competing, the efforts required for obtaining and maintaining financial and other sponsors and the liability exposure of teaching students and boarding horses.

Know the laws specific to your sport

It is important to know the laws applicable to your clients' sport and if any of those laws are state specific. In equestrian sports, 47 states have equine activity liability laws that apply specifically to equine activities.

While most are substantially similar, some are materially different. In a number of states, the law itself and/or a properly drafted liability release can be a complete bar to an injury claim suffered by an individual engaged in an equine activity if the injury resulted from an inherent risk of equine activities as these terms are defined in the applicable state equine activity statute.

Those involved with horses must know about the available liability protections, the exceptions to these protections and how a properly drafted liability release can expand the protections provided under the law.

This is my first column for the Daily Law Bulletin. In future submissions, I plan to demonstrate challenges professional athletes face from their own perspective as well as that of the athletes' customers and sponsors.

Sporting industries benefit from good lawyers "taking the reins" and steering athletes in the direction of developing and maintaining successful businesses doing what they love.