

Robert Angell -- A Case Study: Managing Risks and Attitudes in the Climbing Gym

XYZ Rock Gym is a recreational climbing facility located in a large city in a Midwestern state that does not regulate indoor climbing facilities. XYZ offers educational and training programs in top-rope and lead climbing and in bouldering. XYZ has a typical set of written procedures in place for the management and supervision of climbers. XYZ hosts group outings in conjunction with schools, churches, and city parks and recreation departments. All participants in these outings sign standard waiver and release forms; parents or guardians sign the releases for minors. The state supreme court has held that these releases are enforceable.

From time to time, XYZ hosts groups of climbers in conjunction with the city parks and recreation department. Under the arrangement between XYZ and the city, XYZ's staff trains the city employees, prior to each outing, in procedures for properly supervising and monitoring each activity. XYZ's staff also conducts training of the climbers and belayers prior to the beginning of the activities.

In July 2005, the parks and recreation department brought a group of 15 climbers, ranging in age from 9 to 17, to XYZ's facility. Two parks and recreation employees accompanied the group; a third was running late and did not arrive with the rest of the group. Andy, a 13-year-old boy making his first visit to a climbing facility, was a member of the group. Andy was small for his age and as a result, he was sometimes susceptible to being picked on by bigger kids. He was also prone to act as the "class clown" to gain approval. Andy's parents tend to be overprotective, and they closely monitor his activities and friends. They were hesitant to allow Andy to participate in the climbing outing because of concerns that he might be injured, but they signed the waiver and release after some pleading by Andy.

Andy chose bouldering as his activity. After he received instruction, he started climbing the bouldering wall under the supervision of a parks and recreation employee. Andy was issued a helmet, but he didn't think he needed it and didn't put it on. The employee had been instructed in how to break falls, but he didn't believe that there was a great risk of Andy falling, and he had been out late the night before and was tired. So the employee found a metal folding chair and positioned it at the base of the bouldering wall, at the edge of the crash pad. He sat there for a few minutes, then decided to take a minute to go watch other activities. The third parks and recreation employee, who had arrived late and had not been instructed in bouldering procedures, strolled over to watch Andy. No XYZ staff were observing the bouldering wall.

Andy climbed to about 8-10 feet above the floor. At that point, he spotted another climber about the same distance up one of the climbing walls. Andy shouted to the other climber, "Hey, watch this!" and took his right hand and left foot off the wall. He was not strong enough to hold himself with one hand, and he fell. The parks and recreation employee was not standing close enough to break the fall. Andy's feet landed on the crash pad, but the side of his head struck the back of the folding chair. XYZ staff responded immediately. Andy's nose was bleeding, and he complained of a headache and severe pain in his left wrist. In accordance with its written procedures, XYZ staff summoned emergency medical assistance as a precaution, and Andy was transported to the emergency room.

It was determined that Andy sustained a small subdural hematoma and skull fracture, and a severely sprained wrist. Andy's parents filed suit on his behalf for negligence against XYZ only. They claimed special damages (medical expenses) of approximately \$25,000, and general damages including pain and suffering and loss of consortium. The state follows the comparative fault doctrine.

Questions

1. What, if anything, did XYZ staff do wrong?
2. What, if anything, did the parks and recreation employees do wrong?
3. What, if anything, did Andy do wrong?
4. Should the city have been named as a defendant? Why or why not?
5. Should Andy's parents recover damages? Why or why not?
6. What should XYZ do differently in the future to protect itself against claims like this?