

Minnesota Supreme Court Holds Exculpatory and Indemnification Clauses in Houseboat Rental Agreement Unenforceable Pursuant to Public Policy

In Yang v. Voyagaire Houseboats, Inc., 701 N.W.2d 783 (Minn. August 4, 2005), the Minnesota Supreme Court reversed the court of appeals, holding indemnification and exculpatory clauses in a houseboat rental agreement were not enforceable. The court concluded that because houseboat rental businesses provide a “public service,” like innkeepers, their use of exculpatory and indemnification clauses violates public policy.

Appellant Lao Xiong rented a houseboat from respondent Voyagaire Houseboats, Inc., for a family vacation. When the party arrived at Voyagaire on Crane Lake, Mr. Xiong was presented with a rental agreement which had not been previously mentioned, and without which Voyagaire would not rent him the houseboat. The agreement contained an exculpatory clause releasing Voyagaire from liability for its own negligence, and an indemnification clause providing that the renter will indemnify Voyagaire for any claim a third party may bring against it “arising from or connected with [the renter’s] possession, use and return of the boat”

When presented with the contract, Mr. Xiong indicated that he did not understand it. Voyagaire owner James Janssen responded that he did not understand the contract either, but a \$25 per day insurance fee would cover “everything that could happen” to the boat. Mr. Xiong “took his word,” accepted the insurance, and signed the rental agreement. While on the houseboat, Mr. Xiong and several others of the party suffered carbon monoxide poisoning, the cause of which was not determined. Mr. Xiong sued Voyagaire for permanent injuries, including brain damage, as did nine other members of the party. The district court and court of appeals enforced the exculpatory and indemnification clauses, barring Mr. Xiong’s claims and requiring him to indemnify Voyagaire for the claims of the remaining nine plaintiffs.

The Minnesota Supreme Court reversed, finding both the exculpatory and indemnification clauses unenforceable on public policy grounds. Essential to the court’s holding was its finding:

Voyagaire is a resort that provides a public service by furnishing sleeping accommodations to the public. Consequently, it is appropriate to treat Voyagaire as an innkeeper for purposes of determining the enforceability of the indemnification clauses. As a matter of public policy, innkeepers cannot shift liability for their own negligence onto the guests they have a duty to protect. It makes no difference that the guests are sleeping on a houseboat rather than in on-land sleeping accommodations.

With specific regard to the exculpatory clause, the supreme court found it “not favored,” and unenforceable if ambiguous or in contravention of public policy. To determine whether the exculpatory clause violated public policy, the court considered (1) whether there was a disparity in bargaining power between the parties, and (2) the types of services being offered or provided, taking into consideration whether they are public or essential services. The supreme court determined that Voyagaire was not merely renting “recreational

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equipment,” but was providing a “public service” in renting houseboats advertised as “floating homes.” Therefore, Voyagaire could not “circumvent its duty to protect its guests by requiring them to sign a rental agreement containing an exculpatory clause.”

Like exculpatory clauses, indemnification clauses are not enforceable if they are contrary to public policy. For the same reasons the Voyagaire exculpatory clause was not enforceable, the indemnification clause was struck down. Voyagaire was an “innkeeper,” and violated its duty to the public through the use of indemnity clauses. The court also noted the unfairness in holding a private individual liable for the negligence of a business, and that the likely result would be a lack of compensation for injured parties. In short, the court adopted the “modern trend” of refusing to enforce indemnity agreements of this type, “where the indemnitee holds an innocent party liability for its own negligence.”

While each case must be analyzed separately, businesses whose operations even arguably include providing a “public service” can no longer rely on either exculpatory or indemnification clauses. An attempt to enforce an exculpatory clause by such a business could be interpreted as an attempt to “circumvent” a duty owed patrons, and agreements which shift liability to customers for services they actually purchase will not be enforced. Ultimately, the Yang decision underscores Minnesota’s strong public policy of compensating injured tort victims; a policy which, in this case, outweighed the freedom to contract.

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