

VALTER v. MAMMOTH MOUNTAIN SKI AREA, LLC
Case No. C096036

In early 2016, plaintiff Valter, an expert skier, collided with a snowmobile operated by a lift maintenance employee for Mammoth Mountain Ski Area, LLC (Mammoth). At the time of the collision, the employee was driving up the mountain on a ski run that Mammoth had designated as part of a preferred route for its snowmobile drivers. The employee slowed as he neared an intersection of runs and the approaching Valter, who was skiing down the same run, but Valter did not see the snowmobile, and he suffered significant injuries as a result of his collision with it.

Valter sued Mammoth for premises liability and negligence, alleging Mammoth had failed to maintain the ski area in a safe condition and had failed to provide adequate warning of the alleged unsafe condition. In particular, he asserted the snowmobile stopped in his path on the ski run without providing adequate warning.

Mammoth moved for summary judgment, asserting the claims were barred under both the doctrine of primary assumption of risk and express assumption of risk, based on the liability waiver Valter signed as a condition of holding a season pass. Valter opposed the motion, arguing collisions with snowmobiles are not a risk inherent in skiing and Mammoth had increased the inherent risks by selecting a dangerous snowmobile route and by its employee deviating dangerously from that route. He further argued Mammoth's conduct rose to the level of gross negligence, which falls outside the scope of the liability waiver. The trial court granted the motion for summary judgment, agreeing with Mammoth on both primary assumption of risk and express assumption of risk.

On appeal, Valter argues the trial court erred in granting summary judgment because:

- (1) The doctrine of primary assumption of the risk is inapplicable because the risk of colliding with a snowmobile is not a risk inherent in skiing; and even if it were, Mammoth improperly increased the risk; and
- (2) Express assumption of the risk does not resolve the dispute as a matter of law because Mammoth's conduct was grossly negligent, thereby exceeding the scope of the liability waiver he signed.