

A Skull Full of Mush

Questioning and Answering. Questioning and Answering. Better known as the Socratic Method, it's one of the most "wonderful" and widely used methods of hazing first-year law students. Why not just give a lecture? Because that'd be way too easy! It's argued that through this method students learn to teach themselves. Answering a question only leads to another question. There is no absolute answer to any question. Thinking you've found the final answer would be a complete and utter delusion on your part.

The 1973 movie, *The Paper Chase*, is Hollywood's best representation of law school. While professors are now much kinder and gentler than the curmudgeonly Professor Kingsfield, his admonition that, "You come here with a skull full of mush and leave here thinking like a lawyer," might explain why lawyers sometimes just think.....differently..... than normal people. The art of completely analyzing a broad, complex set of facts is one of the most useful skills learned by young lawyers.

So what does any of this have to do with Festivals and Events?

Glad you asked!

Consider these facts:

A female patron is walking through a field at night during an event called a balloon glow. A balloon glow consists of approximately 40 inflated hot-air balloons tethered to the ground igniting their burners in time to music, therefore giving the balloon a "glowing" effect. While the patron was looking at a balloon, she stepped on an uneven piece of ground and broke her ankle. EMS was called and she was taken to the hospital to be treated. She subsequently filed suit against the festival, claiming negligence due to hosting an event on an unsafe venue.

On its face, these facts appear complete. However, when it came time for depositions, the patron was there for an entire day. Questioning and answering. Questioning and answering. For 8 hours.

- Q: It was noted by festival staff members that you said you were looking up when you fell, is that correct? A: Yes, I was looking up at the balloon rather than looking at the ground.
- Q: Please describe the uneven ground. A: It was a hole. I'm not sure how deep it was. (Note, they called it a hole, I called it a depression!)

As you can see, these questions and answers revealed some very important information. The Patron was looking up at night while walking in a field and was unsure about the true depth of the "hole," which was never found or identified. The discovery of these facts allowed the festival to pass some of the blame for her broken ankle back to the Patron. Notably, the Patron should have expected the ground in the field to be uneven and exercised greater care while walking around the venue. While the case was indeed settled out of court, the festival was able to negotiate a lower settlement than previously expected.

My point is this: Make sure your volunteers and staff members pay attention to facts during an incident. Make sure they remember what an injured patron says and the exact details of what they witness. Here at KDF, we provide everyone on the venue with a Safety Manual that outlines in precise detail what information is needed and should be recorded if something happens. That information has come in handy on more than one occasion.

In my next column, I'll delve deeper into the KDF Safety Manual and share another set of facts where paying attention to the details saved a lot of money and headaches.

As always, please e-mail me all of your legal questions, or questions about life in general if you wish, to jenglish@kdf.org or call 502-572-3856.

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