

NEW MEXICO INJURY ATTORNEY BLOG

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Burger King Playground Injury Settlement

A settlement of \$20 million was reached in March 2009 in the a lawsuit against Burger King for the devastating brain injuries suffered by a 12 year old boy in a 2005 fall from a play structure inside a Burger King facility.

The boy was playing with his 5 year old sister on the play equipment when he fell hitting his head on the tile floor. There was no protective matting below the structure to protect against such injuries. The play structure had monkey bars and a fireman's pole clearing presenting risks of children falling from the structure.

The jury found that the restaurant should have provided some kind of protective covering on the floor rather than the hard tile on which the child fell. In addition, there were no warning signs around the equipment as present in other such facilities. Finally, there had been at least one other fall at the facility showing that the accident and injuries were foreseeable and preventable.

The 12 year old boy suffered severe traumatic brain injury. The injuries are permanent. The child will require a life-time of medical and rehabilitative services. The jury obviously took these permanent injuries and future medical expenses into account in the enormous \$20 million verdict.

It is well established under the law of premises liability and negligence that playgrounds must be made safe for children. Parents trust the safety of play equipment every day. The duty to maintain a safe play environment as well as liability and fault for any injuries suffered by the failure to keep this duty lie with the provider of the equipment. This includes restaurants, retail establishments, public playgrounds, and other facilities that offer the use of play equipment to children. In addition to liability for failure to maintain a safe environment for play equipment as was established in this case, manufacturers of play equipment are held to a very high standard of care under products liability law.

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If your child is seriously injured in a playground accident, liability for damages may be spread across a number of different parties. It is important to identify all of these the parties from the beginning to avoid possible unexpected apportionment of liability at trial after the statute of limitations has long passed. In case of apportionment of liability to other parties, full recovery for all damages may not be possible if those other parties were not named in the lawsuit.

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