The ins and outs of recreational immunity

By Drew Brien

Summer is almost here and that means it is time to head outdoors. With the plethora of recreational activities available to us here in the Pacific Northwest, it is important to understand what protections landowners (our members) are afforded when citizens and residents use their land.

Recreational immunity prevents liability against a landowner who opens his/her land for use without charging a fee, assuming an individual who may be injured, was not injured as the result of a known dangerous artificial and latent condition on the property. Most people think of physical activities (like softball, golf, etc.) when it comes to recreational immunity, but the statute extends and includes more than what you might think.

It is not uncommon for some of our members to own docks or piers which are free and open for the public to use. One such member has a pier that extends 275 feet out before coming to a “T” that overlooks Puget Sound. The member received a claim seeking a six-figure settlement for injuries while using said pier. The claimant was pushing a family member in a wheelchair down the pier when the wheelchair got caught in a “divot” causing the claimant and family member to fall over. The claimant’s foot got tangled in the wheelchair during the fall, which resulted in a broken ankle that required surgery with the installation of hardware.

Through the claimant’s attorney we learned the claimant and family member were on the dock to obtain better views of Puget Sound and Mt. Rainier. Referring to the recreational immunity statute RCW 4.24.210, it additionally extends to land users who are using the land for purposes of viewing or enjoying historical, archaeological, scenic or scientific sites. We explained to the claimant’s attorney that the claimant did not pay any fee to use the pier, the condition of the pier was open and obvious, and the “divot” they claimed was the cause of this loss was neither artificial nor latent.

After a few lengthy conversations with the claimant’s attorney, WCIA was informed their client would be dropping their claim against our member. Long summer days and outdoor activities bring joy to everyone, and some risk to our members. However, knowing how to protect against unnecessary claims is key. Now get outside and enjoy the sunshine!