

Subject: [Fwd: Legal Battle in Ontario re: injured mountainbiker!]

Date: Fri, 01 Apr 2005 22:32:53 -0800

From: Brian Platts <bplatts@shaw.ca>

To: Corrie Kost <kost@triumf.ca>

Subject: Legal Battle in Ontario re: injured mountainbiker!

Date: Fri, 01 Apr 2005 15:40:01 -0800

From: M E Craver <mecraver@shaw.ca>

To: Mayor and Council - DNV <Council@dnv.org>, Senior Management Committee <managecomm@dnv.org>, James Ridge <James_Ridge@dnv.org>, "FONVCA (E-mail)" <fonvca@fonvca.org>

Dear Mayor and Council: More legal woes with mountain biking. It is only a matter of time before something happens and DNV gets sued. The more mountain bikers on District land, the more chance of something happening, especially as mountain bikers keep pushing the envelope with need for more challenging and dangerous structures. Please consider a ban on mountain biking on Fromme and let the private resorts like Whistler, Cypress, and even Grouse handle it on their property. I do not believe this is an April Fools joke. Heed Lloyd's of London Insurers advice -- do they know something many do not? Thank you.

--Monica Craver--

[NSMB Bulletin Board](http://bb.nymb.com/newforum/index.php) (<http://bb.nymb.com/newforum/index.php>)

- [The Shore](http://bb.nymb.com/newforum/forumdisplay.php?forumid=3) (<http://bb.nymb.com/newforum/forumdisplay.php?forumid=3>)

-- [kalapore uplands in legal battle](http://bb.nymb.com/newforum/showthread.php?threadid=56725) (<http://bb.nymb.com/newforum/showthread.php?threadid=56725>)

Posted by Dalifted1 on 04-01-2005 03:40 AM:

another possible trail closure due to lawsuit

The Kolapore Uplands, 5,000 hectares of the Niagara Escarpment a little south and west of the bottom end of Georgian Bay, is the largest and roughest patch of semi-wilderness left in southern Ontario. Steep and rugged, what isn't cliff face or exposed rock is hardwood forest regrown since being clear-cut a century ago.

It is a dreamscape for the craziest risk-takers, and since the 1970s, the University of Toronto Outing Club and the Kolapore Uplands Wilderness Ski Trails Committee have cut 60 kilometres of trails through it that are earnestly posted "Challenging Ski Trails â•" Not For Novice Skiers."

They are volunteer organizations; the trails are maintained by volunteers; anybody can use them for free. Costs are covered by donations, which totalled \$2,600 this year, and the sale of a trail map without which it is easy to blunder into even greater peril.

Since the volunteers' interest is solely skiing, in seasons when there is no snow the trails are left to fend for themselves. But in the 1990s the mountain bike appeared, and with it the mountain bikers who discovered in Kolapore the hellishly beautiful terrain that makes their testosterone-charged adrenalin bubble and boil. The best (that is, the worst) of the trails earn the highest mountain-biking accolade: radical.

Presumably "totally radical" would be prying open elevator doors at the CN Tower and biking down the empty shaft.

It's unlikely that the lack of maintenance for cycling is considered a drawback.

Then along came **James Leone, 31, a Torontonian** who, last Aug. 1, was on a trail that bikers grade as "easiest" when, according to documents filed in court, "suddenly and without warning his bicycle came to an abrupt stop" and he was thrown forward, "striking the ground with sudden and violent force."

Plunging into a "hole in the ground, the depth, size and location of which constituted an unusual danger" might sound like something that's all in a day's (or five minutes') adventure for a mountain biker, except for one thing: **Leone is a lawyer. As one of the country's foremost legal experts explained to me, the first thing first-year law students learn the first day of civil procedure is, when you sue, "sue everything in sight."**

Leone is suing the outing club, the ski trails committee, the regional trails network, the local municipality and the province (which owns the land where he encountered the alleged hole) â•" everything but the sky above and the Earth itself. He wants \$1,150,000 in damages for expenses and lost income as a result of a fractured vertebra he says he suffered, while his co-plaintiff â•" his wife, Ashley, who wasn't biking â•" "sustained a loss of guidance, care and companionship" she might reasonably have expected if he hadn't run into said hole.

Leone's stated position is that, whether they like it or not, the volunteer organizations and the province, by permitting the trails to exist on

its land, are responsible for creating "a situation of danger from which the plaintiff, despite all reasonable efforts and precautions was unable to extricate himself," and that they "failed to take reasonable care to protect the plaintiff from the unusual danger, of which they knew or ought to have known."

these are my home trails and this jerk is tryin to close it down
