Hunting Club Liability
Are You Covered?

By Dr. Ed Wilson

It was a perfect November morning – the air crisp and full of promise. As John and his guest Eddie arrived at the entrance of the Big Swamp Hunt Club, Eddie realized he had forgotten his new climbing deer stand. "No problem," John replied, "we've got an extra one at the clubhouse."

After a quick stop, they soon arrived at a beautiful red oak ridge alive with fresh deer sign. "Eddie, just follow this trail down the hill until you find a good tree to climb," said John. "I'll come by around 10 a.m. to get you." Eddie agreed and headed off into the darkness.

Eddie unpacked the treestand and began trying to figure out how it worked. Eddie had only used his own climbing stand on two occasions and that was during daylight. To make matters worse, Eddie realized that John had not provided him with a safety belt. Eventually, Eddie thought he had figured out how the stand worked and began his ascent.

All was going well until he encountered a limb about 15 feet up. As he maneuvered the stand around the short limb, one of the locking pins on the treestand came loose and sent Eddie crashing to the ground below breaking his back, hip, right leg and two ribs.

At 10 a.m., John arrived to find his guest unconscious and near death. Fortunately, Eddie survived. However, his injuries required numerous surgeries, resulting in over $200,000 in medical expenses.

What will happen if Eddie’s medical expenses are not covered by his own insurance? Will John or the hunt club have to pay for Eddie’s medical expenses? Will Eddie sue his friend and the hunt club for not providing instruction on the safe use of the treestand or for not providing him with a safety belt? What would have happened if Eddie had died?

Unfortunately, accidents like this and questions like these arise every year in this country. Fortunately, Big Swamp Hunt club was covered by a general liability insurance policy that would provide coverage for the club if they were found legally responsible for this accident.

While formalized hunting clubs and leases have been common throughout the southern United States for decades, this trend is slowly moving into less traditional areas such as the Midwest and Northeast. This trend, coupled with the fact that our society is becoming more litigious (say happy), means that both landowners and hunters across the nation are being forced to seriously consider their legal liability while hunting.

These concerns are valid. Both landowners and hunters assume some degree of legal risk while on a property. Common law principles provide the legal parameters regarding the rights and duties of landowners. Under common law, landowners have a duty to guests, those paying to hunt (leaseholders or clients) and, to a lesser degree, trespassers. Landowners have the duty to inspect their property, remove hidden dangers, keep the property in a reasonably safe condition, and take precautions to protect users from foreseeable danger.

Many states have recreational use statutes that attempt to limit the landowner’s liability exposure. However, most do not (1) limit landowner liability exposure for an intentional, willful, or malicious act or failure to guard against a dangerous condition, structure, or activity or (2) protect the landowner who charges a fee for recreational use of land. The
amount of an “allowable” fee varies by state.

A 1995 study by Dr. Greg Yarrow from Clemson University recommended the following ways to reduce landowner liability:

- Understand the legal responsibility to recreational users and meet those responsibilities.
- Practice risk reduction management by identifying and eliminating known hazards.
- Obtain liability insurance.

Over the past 10 years, liability insurance has become a standard lease requirement. In many cases, private and corporate landowners actually require liability insurance before the lease is finalized.

Public liability insurance that is frequently required is often misunderstood. Simplified, liability insurance is designed to provide coverage for hunting clubs and their members for acts which they could be held legally responsible. Thus, the insurance is designed to lessen the risk associated with occurrences caused by a negligent act of the hunting club (or members and guests). Elements of public liability or general liability insurance should include:

1. Member-to-member liability coverage for cross-member liability claims.
2. Guest liability coverage to provide coverage to the club for acts of their guests.
3. Landowners as additional insured to provide landowners with coverage for acts of the hunting club.
4. No exclusionary endorsements should be present for activities specific to hunting operations such as tree stands, ATVs, and firearms.

Clearly, all hunters and landowners should be aware of the risks they are taking by not having adequate liability insurance. It’s simply not worth risking all of your personal assets or your family’s security for unfortunate accidents or for the acts of members of your hunting club.

Since most members of the Quality Deer Management Association (QDMA) either own or lease land for hunting, the QDMA recognized the need for our members to be covered by appropriate liability insurance. As a result, the QDMA recently formed a partnership with the nation’s leading hunting club liability insurance provider, The Davis-Garvin Agency, Inc. The QDMA’s long-time partner, Mossy Oak, also joined this partnership to increase awareness and participation in the program. Collectively, this new partnership entitles QDMA members to the most comprehensive hunt club liability insurance policy at the most competitive price.

Ed Wilson received a B.S. and M.S. in Forestry from West Virginia University and a Ph.D. from Virginia Tech University. Ed has worked for the Davis-Garvin Agency for 12 years where he has specialized in providing comprehensive insurance coverage to hunting clubs. He is also a long-standing QDMA member and supporter of Quality Deer Management.