

Look Out for Bat, Man!

By Reg P. Wydeven
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This summer marks our 24th year of playing softball together. We won our first championship in 1995. And our last.

While we played in 8 or 9 championship games, we only have the one win. There are only three guys on the team under 40, so we are the crafty veterans of the league. In other words, we're old. My glove is older than some of the kids we play against.

During some of our particularly bitter losses this season, instead of admitting that we're far past our softball prime, we insist that our opponents must be using illegal bats. The Amateur Softball Association has a list of bats that are banned from competition. Most of these bats are aluminum, and either composite or double-barreled. Because they have two walls, double-barreled bats have more spring when they hit a ball. Composite bats are made out of a mixture of carbon fiber, graphite, fiberglass, and sometimes Kevlar. These bats are stiffer and lighter than regular bats.

These bats are outlawed because they are designed to hit the ball further and faster, which endangers the infielders, especially the pitcher.

That's why Dillon Yeaman and his parents sued Hillerich & Bradsby, the Kentucky company that manufactures Louisville Slugger bats. During a 2006 baseball game, Dillon, then a 15-year-old pitcher for his Norman, Oklahoma, high school team, was struck in the face by a line drive.

The comebacker broke his nose and fractured the orbital walls of both eyes. According to the suit, Yeaman lost his sense of smell, had a mesh plate inserted in his forehead and had his nose rebuilt with titanium.

The batter was using a Louisville Slugger Exogrid bat, an aluminum, composite bat. Yeaman sued the world-renowned bat company under a products liability theory. The pitcher alleged the bat was defective because it propelled the ball too fast and Louisville Slugger failed to warn consumers of the dangers of its bat. Yeaman also claimed that he did not assume the risk of such a severe injury just by playing baseball. The jury agreed, awarding him \$951,000.

Louisville Slugger appealed, however, and the judge set aside the verdict. The judge held that Yeaman failed to provide evidence that the bat contained a defect that made it unreasonably dangerous or that it had a dangerous characteristic that imposed a duty on the part of Louisville Slugger to warn the public.

Last week, a three-judge panel from the 10th U.S. Circuit of Appeals in Denver upheld the ruling. The appellate court's ruling explained that, "because the Yeamans failed to present any objective evidence showing the bat to be dangerous beyond that reasonably contemplated by the ordinary consumer, we affirm."

The wording of the appellate court's holding leaves the door open for a future player struck by a line drive to sue a bat manufacturer. If the player could show evidence that the perpetrating bat hits the ball considerably faster than the average bat, the player could theoretically prevail in such a lawsuit.

Like the appellate court, our softball team eventually concludes that our opponents' bats are not illegal. So that leaves only one explanation for our lackluster record this year: the other teams must be using PEDs.

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