

## SAN DIEGO PEAKS CLUB

Volume 1 No.3

July-August

The club keeps growing as word gets out. We now have 26 members. I would like to welcome to the club: Ed and Terri Sutor, Jim and Carol Sugg, Pam Walker, Monica Parker, Ken Sauder, Gail Hanna, Bert Ton, Malcolm Fitzurka, and Steve Sardman. Last month I forgot to list the club's premiere woman member, Terri Astle. Thanks, Terri, for all the assistance that you've given the club.

During the summer months we will have a limited menu of hikes in San Diego, since it is so warm. The spots to hike are San Jacinto, San Geronimo, the Sierras or you can do the desert mountains above 11,000 feet. A lot of people already have their summer schedules booked up. I am planning a lot of wonderful hikes for the fall. Here is a sample (the pages refer to Schad's 'Afoot and Afield in San Diego County', not the exact trip, but in that area): Puff (pp.271-272), Moan and Windy (pp.270-271), Rosa and Pyramid (pp.211-212), Square Top and Collins (pp.171,174-175), Ode and Kay (pp.183-184), Split Mtn area (239-247), and MORE.

### Awards

Jim Sugg has now earned the mini-macho award! Congrats, Jim.

### Hiker of the Month

The winner of this month's award is Jim Sugg. On June 22, Jim completed his 10th annual 60 mile walk. The walk, a modified version of the city's scenic drive covers Presidio Park, Balboa Park, Seaport Village, Harbor Island, Shelter Island, OB pier, Sea World, Mission Bay, Kate Sessions Park, Mt Soledad, La Jolla Cove and more. Jim finished the hike averaging a 3.5mph pace, without a blister! Last year Jim completed 60 miles, went home to rest for four hours, then completed another 60 miles. Not bad for a 64 year old. Most people know of Jim as the county record holder for the most units of anti-venom received for a snake bite. This occurred as Jim was leading a group down the San Diego river, outside of Julian. Jim was in such an inaccessible area that he needed to hike for an additional four hours after the bite until he could get to a place for the rescue helicopter to land. Shortly after he got out of the hospital he rounded up the people on the original hike and completed the hike.

### HELP

We need a continuing award that the winner of the Hiker of the Month can attach to the back of her/his pack. It should be something silly (and easily attachable). The San Diego Bike Club has an award they call the 'Go Plug'. The Go Plug was on the seat of the bike that won the World Championship in 1969. Let's get an award that will make people around the world say, "What is that?".



## Bits and Pieces

Paul Freiman, Richard Carey and Fred Bright along with two LA friends (Dave and En Lee Jurasevich) will be climbing Mt Shasta this July 4th.

Terry Flood, Ralph and Beth Davis, and Terry's old roommate, John Casey will be in Hawaii on the 4th.

Beth and Ralph have spent the last month fixing up their new rental in Baja. They finally have it ready to rent. Patience, it only took them  $1\frac{1}{2}$  years to get the house built. Now the hair that has been pulled out can grow back.

Terry reports that Beth wants to take another crack at her self-described "Hike from Hell" over Veteran's Day in November. The hike is up to Telescope Peak in Death Valley from the south approach. Going with Beth will be Terry Flood and John Wullich.

John Wullich is leading a private trip to Mt Lyell, Sept 4-8. Going are Terry, Rob Langsdorf and Judy Richardson.

Mark Adrian (272-1265) is actively bagging DPS peaks. He and Bill Stevens will be out on the 4th doing climbs by Las Vegas (Potosi, Mummy and Charleston) and one in Flagstaff (Humphreys). These are high altitude so the temp won't be too hot.

Paul Freiman is maneuvering to escape to dayshift from PM shift at UCSD Medical Center. The change may take 7-8 months and will involve a huge drop in pay, but Paul considers it worthwhile. It will mean more time to enjoy friends.

Richard Carey, Gail Hanna, and Rheta Schoneman are actively pursuing the Sierra Peaks. Richard has July booked up, but will be going to the Sierras in August on weekends and some extended weekends (224-9300).

Carl Johnson took a full trip of 5 adventurous souls on a trainride to Mexico's Copper Cyn. The trip was a huge success. He also had 4 hikers on the 4 day backpack to Mission San Pedro Martir. They were rewarded with camping next to a beautiful waterfall.

Mark Adrian had an interesting adventure at White Mountain. It seems that while he was away the marmots played-- by having lunch on his hoses and radiator. \$400 worth of damage. Seems the marmots are especially active the first three weeks of June. Chicken wire is suggested to protect the car.

Ed Sutor has completed his 200th on the HPS list, no thanks to the earthquake. The quake deposited huge boulders on the road making the trailheads a lot longer than otherwise.

## HIKES

### Jim Sugg's Wednesday Wilderness 224-7895

- July 3 Monument Peak loop- Al Holden leading
- 10 Kelly Ditch (Schad, pp.107-108) Xlt hike, shady.
- 17 Descanso-Green Valley Falls area loop
- 24 Burnt Rancheria-Wooded Hills loop
- 31 Cuyamaca Peak- Evan Bacas leading
- Aug 7 NEW Palomar loop(Fry Ck)-Xlt, I've done it-Al leading
- 14 NEW Big Laguna Lk-Noble Cyn-PCT loop
- 21 West Mesa to Japacha Peak
- 28 Coldwater Spr-Azalea Glen-East side trail loop

Once again Jim has a great lineup of hikes, all fun. Monument Pk, Wooded Hill, Cuyamaca Pk and Japacha Pk are all on the SDPC list.

### Terry Flood 729-8221

Aug 3-11 Great Western Divide Peakbag-hurry, space limited  
Sept 21-22 Borrego Springs Midnight Madness moonlight bike ride, 20 miles.

### Carl Johnson 448-8542

July 9-13 Picacho del Diablo-Extremely strenuous-overnight on peak.

### Orienteering-Bill Gookin 578-9456

July 14 UCSD, 10 am, mass start for this one, Motala style (each person runs multiple courses) Directions: Genesee west from I-5 to John Hopkins Dr. Turn left and proceed 0.5 mi.

July 20-21 Mt Pinos, Santa Barbara area, Frazier Park, 12 noon. Paul will be going to this one (692-1367).

Aug 3 Balboa Park, 10am, Federal Bldg. This will be a training event focusing on beginning and intermediate skills.

### Happy Wanderers Donna Gookin 286-7958

Donna organizes runs from different locations on alternating Tuesdays and Wednesdays. Call for locations and days. Runs last about 1 hour and start at 5:45 pm.

### California Mountainering Club (CMC)

CMC was started to lead hikes the Sierra Club can no longer lead because they chose not to cover the insurance premium. All of its leaders come from the Angeles Chapter of the SC. A waiver is signed and only members are allowed to participate in their activities. During the summer they have 3-4 hikes per



month in the Sierras. During the winter they lead desert (DPS) hikes. Terry Flood, Rob Langsdorf and Paul Freiman are members (and I'm pretty sure that Richard Carey is also a member). Terry will be going on a CMC hike during the summer.

Walkabout Walks ofc 231-SHOE, tape 223-WALK

Mondays 6:30pm, the Monday night irregulars lead a brisk (4mph) walk around Pt Loma.

Off Road Cycling Assoc. (ie. mountain biking) Bob or Scott  
578-2668

This organization is the one to join if you like mountain biking. They feature excellent adventures under N.O.R.B.A. (National off road bicycle assoc) guidance. The dues are \$10 the last I checked. (One of Norba's rules of the trail is to yield to hikers.) 10507 Caminito Glenellen, SD 92126

Paragliding Marcus Salvemini 454-0598, Airtek Paragliding School

Last month I took a course in paragliding and had a blast. Foot launched paragliders do not require a tow-line. At its simplest the pilot inflates the glider in the wind and runs forward. As the wing attains flying speed (+12mph) it lifts the pilot off the ground. I have asked Marcus to give a \$25 discount to people who read about it here. Mention the SDPC and you will only pay \$50 for the introductory course. Great fun to take friends with you.

HPS Update- I have been supplied with a list of peak guide changes for the HPS. The only change of any importance is on Cross Mtn (2K) where "changed wording for route 3 to read '4500 contour' instead of '5000 foot contour', per input from Walt Studhalter". The map was changed to reflect this adjustment. Of minor importance is that they changed the driving and hiking instructions on Burnt Peak (8N) to reflect the locked gate. They also changed the name of "Mt Inspiration" back to "Inspiration Point".

#### **OOPS!**

Please correct the peak guide. The correct elevations for Garnet Peak and Garnet Mountain are 5880+ and 5680+, respectively. Thanks goes to 'Ranchita' Ted for spotting the error.

#### **LOST? Never again!**

Have you ever been unable to find your car at the end of a long hike? I have a saying, "People don't get lost on the way out, people get lost on the way back". The group is fresh when you start in the morning and territory passes quickly. Usually the first hour of hiking seems like 15 minutes. At the end of a hike you are very tired and 15 minutes seems like an hour; territory goes by ever so slowly. Several years ago I was on



a trail hike with three others. One was off the back, trailing by about 10 minutes. When I recognized that we had 10 minutes to go to the cars my two buddies said we must have taken the wrong trail (even though they knew that was the only trail). They were sure we didn't walk that far. I persuaded them that the car was ahead and we reached it when I said we would. Thirty minutes passed and Alice, the trailing hiker didn't show. Darkness was only minutes away. We ran back down the trail to find her "hugging a tree". She had come to the same conclusion my other two friends had, even though she also knew that this was the only trail.

#### What to do

The most important thing to stay found is to be alert at the beginning of the hike. You can gab with your buddies, but also be aware of changing terrain, any turnoffs, the time it takes you to reach key areas. If it is appropriate, take a compass bearing incase you come back in the dark. Everyone in the group has this responsibility, not just the leader!

Two years ago I was with a DPS group of 30. Now DPS hikers are very good quality hikers, and most all of them can lead a group very well, but on the way back we almost turned up the wrong route. Seems I was the only one out of 30 to notice that we passed that intersection in the morning. We were 5 minutes from the correct path. The leader was very skeptical of me but I was very insistant.

As you start, please put the cars in a distinctive area, note any 'catching features' (that is, if you pass the area do you hit a road, a fence, houses). If you have to come off Villager or Rosa Point in the dark it is better to 'off-angle'. That is, walk to the road so you are sure you are on one side of the car. Then you can walk straight to the car without worrying. I have a friend who tried to walk directly to his car and when he hit the road he didn't know if his car was to the right or left (he guessed right and he was wrong!). It takes practice, but soon you will remember more on a hike than you ever did before, and you will find you get more out of you hike.

#### **MEMBERSHIP**

Memberships to SDPC are \$6.00 and run from June to June. Family membership is the same price, since postage is the main cost. ('Family' is anyone and any name as long as it is one address.) Send your membership (name, address, phone #) to Paul Freiman, 4421 Maryland St, San Diego, CA 92116-3902, (619)692-1367 Make checks payable to Paul Freiman, since it is too expensive to get a fictitious name license for the club.

Newsletter- This is the start of the bimonthly newsletter. Hope it works. Keeping the newsletter to 10 pages (because of postage rates) is tough ON A BIMONTHLY BASIS.



Liability Waiver Upheld in Whitewater Rafting Death  
By Stephen Padgett

In a decision handed down December 31, 1990 in the California Court of Appeal, First Appellate District, Division Four, the court found that "...the decedent expressly assumed the risks attendant to whitewater rafting so as to relieve the rafting company of its duty of care toward him."

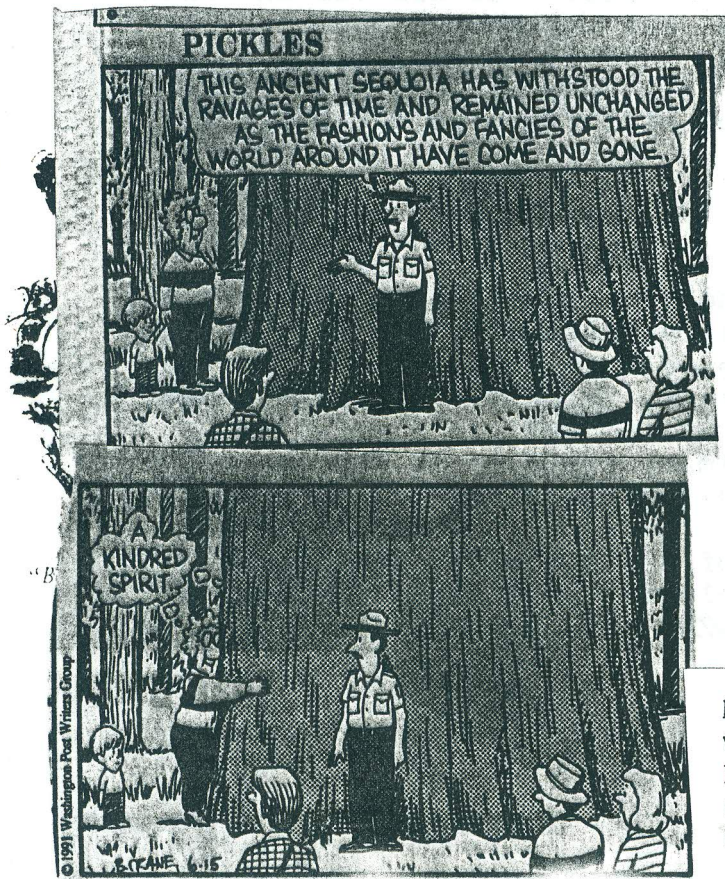
Whitewater Voyages, Inc. was sued by the decedent's minor heir after he drowned at Murderer's Bar Rapid on the Middle Fork of the American River on a commercial trip operated by the defendants in June, 1988. In a summary published in the Daily Appellate Report for Monday, January 7, 1991, it was reported that the trial court found in favor of Whitewater Voyages, Inc. and the Court of Appeal upheld this judgment.

California Mountaineering Club members should find cause for relief in this decision. "Whitewater maintains that the release which decedent signed was an express assumption of risk which served to bar this wrongful death action. We agree," says the Court of Appeal report. "Express assumption," the report continues, "occurs when the plaintiff, in advance, expressly consents ...to relieve the defendant of an obligation of conduct toward him, and to take his chances of injury from a known risk arising from what the defendant is to do or leave undone....The result is that...being under no duty, (the defendant) cannot be charged with negligence."

The "Release and Assumption of Risk Agreement" signed in this case was completed by the decedent at the "put-in site" of the river. According to Rick Beatty, secretary of the California Mountaineering Club, the language of Whitewater Voyages, Inc.'s waiver is "weaker" than that of the CMC's. What's more, says Beatty, the trend in liability cases arising from dangerous sports is judgments in favor of operators.

An "Electrostatic Detection Apparatus" was used to determine that the decedent had in fact signed the waiver. Testimony by another trip participant that the guides "never mentioned anything about potential risks of injury, death or drowning," was later, upon further questioning, changed to say that "it was incorrect that the potential risks of injury, death or drowning were not mentioned. I simply do not recall whether they were or not." This participant added that he "specifically" recalled that the guides told them "about a person who died after being pinned up against a wall at Menage a Trois Rapid."

A portion of the Release and Assumption of Risk Agreement signed in this case follows.



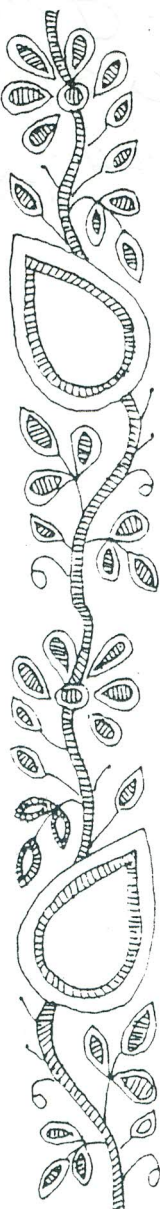
I am aware that certain risks and dangers may occur on any river trip with Whitewater....These risks include, but are not limited to, hazards of and injury to person and property while traveling in rafts on the river, accident or illness in remote places without medical facilities, the forces of nature....

I hereby assume all of the above risks and, except in the case of gross negligence, will hold Whitewater...harmless from any and all liability, actions, causes of action, debts, claims, and demands of every kind and nature whatsoever which I now have or which may arise out of or in connection with my trip or participation in any activities with Whitewater....

**NOTE:**

Mark Adrian has had his initial visit with my acupuncturist for back pain. He reports immediate success, though a couple more treatments will be necessary for complete success.





LAW

# Liability Waivers Hold Up In More Sports-Injury Suits

By PAUL M. BARRETT  
Staff Reporter of THE WALL STREET JOURNAL

During his final lesson for scuba diving certification at the Young Men's Christian Association of Metropolitan Los Angeles, Ken Sulejmanagic was left alone briefly by his instructor and drowned. When his parents sued for negligence, the YMCA demanded that the suit be thrown out because the Sulejmanagic's 19-year-old son had signed a waiver absolving it of responsibility.

Until recently, most state courts would have allowed the suit to proceed, noting that the waiver alone was not enough to clear the defendant. But in a blunt opinion that reflects a growing trend, a state appeals court in Los Angeles last August told the trial judge to terminate the Sulejmanagic suit. It based its decision solely on the existence of the signed waiver.

Waivers are wielding more clout in the nation's courtrooms. In California, Texas, Tennessee and many other states, liability suits brought against companies involved in such activities as parachuting, diving and motorcycle racing are increasingly being blocked by judges because the plaintiffs signed releases or waivers.

"The trend is unmistakable, especially in California," where the courts often set the pattern for other states, says Jeffrey K. Riffer, a Los Angeles lawyer and adjunct professor at Pepperdine University School of Law.

## 'Bound by What They Sign'

Mr. Riffer, an authority on sports-injury law, says that just a few years ago, state judges tended to look skeptically at recreational-facility waivers. They "questioned whether people really understood that they were signing away their rights (to sue) or had thought about the hazards," he says. Now judges are coming to believe that "individuals generally should be bound by what they sign."

Mr. Riffer also attributes the change to the increasing number of judges who fear that liability suits have pushed recreational-facility insurance rates beyond what many companies can afford. These judges are attempting to alleviate the problem by showing that waivers do hold up in court.

Corporate defense lawyers and industry spokesmen applaud this judicial reaction against the expansion of corporate responsibility in the last 25 years. "We are finally seeing some areas where the courts are realizing they need to pull back," says Blair G. Childs, executive director of the American Tort Reform Association, a Washing-

ton, D.C., lobbying group for businesses and municipal governments.

Plaintiffs' lawyers, however, are alarmed by the development. By dismissing suits on the basis of a waiver alone, they say, judges are taking too rigid an approach to these cases.

According to Steven C. Glickman, the Sulejmanagic's attorney, for example, California's courts "aren't being realistic" about the ability of people to understand recreational waivers. The waiver in the Sulejmanagic case had stated, in part, that the YMCA was to be exempt "from liability for personal injury, property damage or wrongful death caused by negligence."

Mr. Glickman says the waiver's "moderately technical language" would have confused many people, especially since "the instructors are saying, 'We are going to do everything right.'"

And, indeed, the trial judge in the case had decided to let a jury hear the argument. But the YMCA appealed the decision to California's appeals court, which concluded that "it would be difficult to imagine [waiver] language more clearly designed to put a lay person on notice of the significance and legal effect of subscribing to it." By ordering the trial judge to throw out the suit, the court was also making a strong statement about the validity of waivers: normally, an appeals court would have allowed the trial to proceed and taken any action after a verdict. (The state Supreme Court declined to hear an appeal by the Sulejmanagics.)

## Waivers Upheld, Arguments Denied

Courts in other states are making similar statements. In Texas, an appeals court recently ruled in favor of an automobile race track that had been sued by a spectator injured while standing near the pit area where cars pull off for servicing; the plaintiff had planned to argue that he thought the waiver was simply a pass that allowed fans closer access to the track.

And in Tennessee, the state Supreme Court rejected a claim by a motorcycle racer against a track owner; in this case, the plaintiff had planned to argue that he believed the waiver was a race registration form.

In both instances, however, the courts noted that waivers might not be binding if plaintiffs could demonstrate that acts of "gross negligence" by the defendants led to their injuries. Most other courts also allow for this exception. In addition, courts aren't likely to give much weight to releases signed by children.

