

CFSA INSURANCE ALERT

TO: CFSA MEMBER FAIRS
FROM: Charlie Mitchell, Risk Manager
SUBJECT: Fairground Dress Code
DATE: August 14, 2002

If you want to continue to keep your claims costs down, and you want to avoid adverse publicity for your fair, **PLEASE READ FURTHER.**

A recent Court of Appeals decision in *Gatto v. County of Sonoma*, et al. found that the defendant's dress code was unconstitutional. The involved fair was the Sonoma County Fair. The Fair's dress code stated "No apparel or accessories intended to provoke, offend or intimidate others will be tolerated, including offensive slogans, insignia or 'gang colors'." The Court held that defendant's dress code was unconstitutionally vague and overbroad in violation of the right to free speech under the Constitution. In this case, police ejected an individual from the Fair after he refused to remove a vest displaying the Hell's Angels' insignia that, according to police, violated the Fair's dress code. The Court recognized that fairs have a legitimate interest in promoting a safe, family atmosphere for their patrons and are authorized to regulate the conduct of fairgoers in furtherance of that purpose. However, such regulations must not violate the constitutional rights of patrons. Under the U.S. Constitution, individuals have the right to control their dress and appearance, in addition to other protected rights such as freedom of speech and religion that may be exercised through one's choice of clothing.

The above decision concerns CFSA since many of our member fairs have dress codes that may be unenforceable under this decision and could result in a Civil Rights lawsuit being filed against a fair.

As CFSA's liability program provides protection against claims for violations of civil rights, we ask that you contact your appropriate legal counsel to review your existing dress code policy in light of this recent court decision.

cc Jerry Blair
Liz Houser

NOTE: Please file this ALERT under General Liability Section 3, General Liability Memorandum, in your Claims & Loss Reporting Guide - 3rd Edition (The CFSA "Red Book").