

INDEX

AGREEMENTS CONCERNING CONDUCT. *See also* COVENANTS TO INSURE; INDEMNITY AGREEMENTS; WAIVERS

posted notices, 151-152
reasonable notice, 150
signage, 125, 151-152
terms and conditions, 151
tickets, 149-151, 317
wrongful ejection, 150

ALCOHOL

commercial host context, 322-327
foreseeability of harm, 322-324, 326-328
provision at special events, 323-325
risks in providing, 322

AMUSEMENT PARKS

contributory negligence, 318-319. *See also* CONTRIBUTORY NEGLIGENCE
instruction, 317-318
legislative and regulatory standards, 314-315
occupiers' liability, 313-314, 318. *See also* OCCUPIERS' LIABILITY
rollercoaster
tickets, 317
warning signs, 315-317
waterslides, 27 fn 105, 81, 187, 313, 315-318, 350

APPORTIONMENT OF FAULT. *See* CONTRIBUTORY NEGLIGENCE

ARCHERY. *See* BALLISTIC SPORTS

ASSAULT

against patrons, 150-151
aggravated damages, as justification for awarding, 195
between players, 123, 276, 282-283
by spectators, 44 fn 210, 197, 281
by strangers, 218-219
consent as a necessary element of, 283-284
self-defence, 276

ASSOCIATIONS

as occupiers, 27, 219-220
benefitting from protection of waiver of liability, 116, 279
Canadian Standards Association, 47-48, 71 fn 119, 83, 308

Sports and Recreation Liability Law in Canada

ASSOCIATIONS — *continued*

vicarious liability of, 39-40

voluntary associations –

 lower standard of care, of, 33, 321

 recreational association, 25

 rules and guidelines established by, 75, 298-299

 unincorporated recreational association, 239-240

ASSUMPTION OF RISK. *See* INHERENT RISK; *VOLENTI DEFENCE*

ATHLETICS. *See* TRACK AND FIELD

ATV. *See* MOTOR SPORTS

BADMINTON. *See* RACQUET SPORTS

BALLISTIC SPORTS

archery, 20 fn 59, 101, 170, 307-308

contributory negligence, 307, 310

duty of care, 307-309

firearms, 309-311

high standard of care, 309

hunting, 309-311

paintball, 165 fn 53, 308

BASEBALL. *See also* TEAM SPORTS

condition of the field, 268-271

foul ball, 267-268

game tickets, enforcing the disclaimer on, 267

lost opportunity to pursue career in, 191

occupier's duty, 268-269

sliding, 269-270

spectator, duty owed to, 41-42, 43, 62, 69, 267, 271

spectator, duty to take reasonable care, 267-268

unforeseeable harm, 16

BIRDWATCHING, 1 fn 1

BOATING

boat rental, 335-336

collisions, 330-333

Collision Regulations, 330, 332

duty to warn, 337

inherent risks, 337-338

life-jacket, 335

limitation of liability, 332-333, 335

maritime law, 329

Index

BOATING — *continued*

proper and prudent seamanship, standard of, 330-331

BOXING. *See* CONTACT SPORTS

BUNGEE JUMPING. *See* EXTREME SPORTS

CAUSATION

“but for” test, 98-101

foreseeability, 97, 101, 105, 107, 109

“material contribution” test, 104-106

remoteness, 106-109

reverse onus test, 103-104, 106

CHEESE-ROLLING, 319 fn 33

CHILDREN. *See also* WAIVERS; TEACHERS

and snowmobiles, 295

fitness, promotion of, 2

injury to, 4 fn 12, 16, 25, 43, 59, 71, 74, 82, 92, 214, 239, 268-269, 273, 277-278, 318

standard of care expected of, 160, 209-210, 222, 266

supervision by parents, 59, 295, 318

supervision by operator, 318

supervision by teacher, 87

CLASSES, 59, 87-89, 95, 109, 169, 278-279, 355, 367, 370

CLUBS. *See* ASSOCIATIONS

COACHES AND COACHING. *See also* FORESEEABILITY

duties when coaching, generally, 17, 94, 133, 239, 275-276

duties when coaching children, 89-90, 175

occupier, as, 27

standard of care expected of –

volunteer coaches, 15, 93, 277

professional coaches, 13, 15-16, 93

COMMERCIAL LIQUOR PROVIDER. *See also* ALCOHOL;

OCCUPIERS’ LIABILITY

duty to take reasonable measures to protect guests, 324-326

increased foreseeability of risk, 322

special care, 322

COMPETITION

inherently dangerous, 256

CONCUSSION

lawsuits, 2 fn 6

CONCUSSION — *continued*

legislation, 94
post-concussion syndrome, 109
standard of care, effect on, 94
unexpected conduct, 17

CONDITION OF THE PREMISES

arenas, 16, 26, 41, 63-64, 175, 241, 280, 287, 319
cleaning, 72, 89, 98, 216-217, 233, 241, 280, 348-349
contractors, 118, 204, 269
fitness club. *See* FITNESS CLUB
inspection, 63, 86-87, 163, 175, 208, 215-217, 233, 239, 241, 268-269, 273, 320, 340, 342, 348
maintenance, 26-27, 64, 72, 85, 206, 215-216, 235, 268-269, 276, 287, 320, 347-349
netting, 23, 67-68
protective glass, 41, 67-68, 75, 288
racetracks, 40 fn 192, 42, 60-61, 65, 158, 291-292
railing, 41 fn 195, 62-63, 67, 80, 83, 211, 322-323
signage, 61, 64, 68, 79, 83 fn 188, 101, 151-152, 158, 166, 171, 206, 211-215, 217, 224, 229-230, 232, 235, 238, 246, 253-254, 263, 280, 307, 315-317, 319, 350
skating rinks, 33, 72, 75, 175, 238-242, 287
slip and fall, 62, 89, 148, 186, 214-215, 217, 232-233, 241, 246, 273, 279 fn 70, 280, 315, 323 fn 53, 348-349, 356
waterslides, 27 fn 105, 313, 315-318

CONSENT. *See also* ASSAULT; DEFENCES; INHERENT RISK; WAIVERS

bodily harm in sport, to, 12 fn 19, 20, 177, 180-181, 197, 272, 275-276, 282-284, 286, 289
defendant's negligence, to, 177-178, 180-181
implied, 282-284, 286
intentional injury, to, 275
parental, 139, 222-223

CONTACT SPORTS

Boxing, 37, 70, 289
martial arts, 139, 141, 203, 289-290, 367-368
wrestling, 87, 93, 188, 190, 289

CONTRACT

admission, 18, 149-151
covenant to insure, 112-113, 141, 145-148, 152, 352, 358
freedom of contract, 3-4, 137-138, 140, 149, 152
indemnity agreement, 112, 141-145, 343, 353-354, 358-359
infants, 139-140

Index

CONTRACT — *continued*

insurance. *See* INSURANCE

lease, 7, 26, 33, 142, 301, 352, 358

limitation of liability, 152, 332-333

membership, 116, 128 fn 79, 132, 134, 139-140, 220, 280

rental agreement, 27, 175, 335, 352, 354

release, 112-119, 121, 124-128, 131-137, 139-140, 142, 179, 220, 279, 299, 306

tickets, 7, 125-126, 149-152, 267, 317

unconscionability, 136-137, 153, 306

waiver. *See* WAIVERS

CONTRACTUAL LICENSE. *See* RISK, TRANSFER OF

CONTRIBUTORY NEGLIGENCE

apportionment legislation, 161, 167, 172-174

duty to take reasonable care, 156,

“last clear chance” doctrine, extinction of, 160-161, 180

COVENANTS TO INSURE. *See* CONTRACT; INSURANCE

CRICKET. *See* TEAM SPORTS

CRIMINAL LAW

assault. *See* ASSAULT

“criminal act” exclusion in insurance policies, 366

criminal negligence, 297-298

effect of criminal conviction on assessing civil damages, 196

ice hockey context, 281-284

marine context, 301-303

CUSTOMARY PRACTICE. *See also* STANDARD OF CARE

“common” practice as negligence, 73-74

indicator of standard of care, as, 71

“part of the sport”, 72-73

trumping written rules, 73

unwritten practices, 70, 72

CYCLING

Municipalities, 208, 230

standard of care, 207

trail and mountain biking, 207-209

youths, 209-210

DAMAGES

aggravated, 192-195

non-pecuniary, 183-188

Sports and Recreation Liability Law in Canada

DAMAGES — *continued*

pecuniary –
 cost of future care, 188, 191-192
 loss of future income, 188-191
 loss of past income, 188
penalties, internal, 95, 282
punitive, 184, 192-193

DEFENCES

consent, implied. *See* CONSENT
contractual defences. *See* CONTRACT
contributory negligence. *See* CONTRIBUTORY NEGLIGENCE
public bodies. *See* GOVERNMENT LIABILITY
self-defence, 276
volenti defence, 5, 176-180, 233, 288, 324

DIVING. *See also* OCCUPIERS' LIABILITY; SWIMMING

contributory negligence, 171, 211. *See also* CONTRIBUTORY NEGLIGENCE
obvious danger, 211, 215
provincial regulations, 82
rules, 78
SCUBA, 78, 105, 137, 304-306
warning signage, 101, 211, 213

DUTY OF CARE. *See also* FORESEEABILITY; PROXIMITY; PUBLIC POLICY

Ams test –
 reasonable foreseeability, 10, 13-18
 proximity, 10, 18-19
 policy analysis, 11, 47-49
contributory negligence. *See* CONTRIBUTORY NEGLIGENCE
government liability. *See* GOVERNMENT LIABILITY
modified by contract, 141. *See also* WAIVERS
neighbour principle, 10, 21, 24, 45
non-delegable, 36-37
players, as between, 19-23
policy reasons against, 22
providers, as owed by, 23-40
relationships of authority, 32, 168
spectators, as owed to, 40-46
spectators, as owed by, 43-44
standard of care, as distinct from, 11-12
statutory duty of care. *See* OCCUPIERS' LIABILITY
threshold issue, as, 10

Index

EMPLOYEE. *See* DUTY OF CARE; VICARIOUS LIABILITY; WAIVERS

EQUESTRIAN SPORTS. *See* GROUP SPORTS

EQUIPMENT

children, use by, 222-223
compliance with industry standards, 271, 294, 298
duty to warn, 221-222
gym equipment, 95, 216-217, 219, 340. *See also* FITNESS CLUB.
helmet, 47-48, 53, 71, 82 fn 188, 164-166, 261
life-saving equipment, 37, 306
maintenance of safety equipment, 289, 300, 308
rental equipment, 11, 220-223
sale of, 74, 83
weights, 219

EXTREME SPORTS. *See also* CONSENT; INHERENT RISK;
MOTORSPORTS; RAFTING

bungee-jumping, 147, 314 fn 3, 353
hang-gliding, 297-298, 312
high risk, 265, 272
parachuting, 100, 297-298, 321
skydiving, 32, 91, 100, 168, 297

FACILITIES. *See also* CONDITION OF PREMISES; OCCUPIERS'
LIABILITY

additional named insureds, 352-357
duty to supervise, 95, 241-242, 318, 326, 340, 349
ejection from, 149-150
inspections, to meet standard of care, 86-87, 175, 215-217, 233, 239, 241, 268-
269, 273, 320, 342, 348
instructions, duty to provide, 65, 315-317
liability insurance, 145
signage, 61, 64, 101, 158, 166, 171, 211-217, 229-230, 232, 235, 238, 246, 270,
280, 307, 315-317, 319, 350,
third parties, liable for, 318

FAULT

apportionment of, 155, 161, 166-168, 171-172, 174-177, 179
contributory. *See* CONTRIBUTORY NEGLIGENCE

FIGHTS. *See also* DUTY OF CARE; PLAYERS; SPECTATORS

fair play, what constitutes, 284, 312

FIRST AID, 81

FITNESS, PROMOTION OF. *See* PUBLIC POLICY

Sports and Recreation Liability Law in Canada

FITNESS CLUB. *See also* EQUIPMENT; PUBLIC AUTHORITIES
condition of the premises, 98, 163, 216-217
instructors, 95
theft, 218
weights, 219

FIREARMS. *See* BALLISTIC SPORTS

FOOTBALL. *See also* TEAM SPORTS; RUGBY
coaches, duty of, 275-276. *See also* COACHES AND COACHING;
FORESEEABILITY
concussion, 94 fn 247. *See also* CONCUSSION
inherent dangers of, 274
occupiers, duty of, 276
rules violation, 275

FORCE, USE OF. *See also* ASSAULT; CONSENT
intentional, 13, 73, 283, 311, 364
self-defence, 275

FORESEEABILITY. *See also* DUTY OF CARE; CAUSATION;
OCCUPIERS' LIABILITY
Amns test, 10, 13, 14
causation, in the context of, 62
contributory negligence, 159. *See also* CONTRIBUTORY NEGLIGENCE
cost of minimizing risk, balancing against, 66
latent danger, 64
nature of activity, 16
neighbour principle, 10
overt act, 14, 20, 45, 98
standard of care, in the context of, 54-64
unforeseeable harm, 15-17, 56-57, 59, 62, 159, 215, 218
unpredictable behaviour, 56, 62, 258, 260, 308

GO-CARTING. *See* MOTOR SPORTS

GOOD SAMARITAN, 81, 344

GOLF. *See* GROUP SPORTS

GOVERNMENT. *See* PUBLIC AUTHORITIES

GROUP SPORTS

fitness club. *See* FITNESS CLUB
golf, 43, 102 fn 28, 124 fn 50, 132, 143, 157, 159, 209-210, 242-247
horseback riding, 32, 43, 258-262
maintenance, 239-241, 253. *See also* Occupiers' Liability
roller skating, 72, 240-242, 320, 349

Index

GROUP SPORTS — *continued*

school setting, 57, 59, 69, 77, 89-90
skating, 11, 33, 72, 170, 175, 237-242, 349
skiing, 21, 32 fn 132, 44, 51 fn 2, 107-108, 121, 123, 125-126, 128, 152, 157,
162, 228, 247-255,
sledding/ tobogganing, 54, 157, 256-258
snowboarding, 38, 79, 162, 222, 253-254
tubing, 60, 256, 326
waivers, use of. *See* WAIVERS

GYM. *See* FITNESS CLUB

GYMNASTICS, 59, 65, 77, 87 fn 209, 157, 203

HELMET. *See* EQUIPMENT

HORSEBACK RIDING. *See* GROUP SPORTS

HOCKEY

attack by spectator, 44 fn 210, 197, 281. *See also* ASSAULT
ball hockey, 277, 279
body contact, 73, 282-283
brain injury, 47, 94
checking, 73, 278-279, 285-286, 311
equipment, 47-48, 71
field hockey, 88, 109, 279 fn 65
fighting, 14, 22, 284, 311
grass hockey, 277-278
helmets, 47, 71 fn 119, 82 fn 188
ice maintenance, 175, 238, 287
implied consent, 282, 284
injury by puck, 72, 178, 288. *See also* INHERENT RISK; OCCUPIERS'
LIABILITY
injury by stick, 67, 73, 109, 164, 197, 278-279, 282-283. *See also* ASSAULT;
FORESEEABILITY
junior hockey, 76
mascot, injury to, 197
National Hockey League, 15, 46, 93, 189, 283
no-contact hockey, 75-76, 123, 141, 195
“part of the game”, 73, 202, 288, 311. *See also* INHERENT RISK
players, duty of care owed by, 18. *See also* DUTY OF CARE
recreational hockey, 178, 288, 327
referee, injury to, 39,
rink boards, 63-64, 285
rule violation, 73, 286

Sports and Recreation Liability Law in Canada

HOCKEY — *continued*

spectators, duty of care owed to, 14, 22, 41-42, 67-68, 178, 288. *See also* DUTY OF CARE
standard of care, 266, 281, 284-285. *See also* STANDARD OF CARE
team doctor, 39, 194-195

HUNTING. *See* BALLISTIC SPORTS

INDEMNITY AGREEMENT. *See* CONTRACT

INDIVIDUAL SPORTS. *See also* FITNESS CLUB; GYMNASTICS;
RACQUET SPORTS; SKATING; SWIMMING

cycling, 64, 163, 207-210, 234
running, 89, 203-204, 234
theft, 218
unsupervised vs. supervised, 95, 203, 235
walking, 203-206

INFANTS. *See* WAIVERS

INHERENT RISK

inherently dangerous competitions, 256
standard of care, as modifying, 11, 158, 311
voluntary risk, as distinguished from, 12 fn 16, 178

INSTRUCTIONS, DUTY TO PROVIDE, 81, 87, 158, 235, 259-261, 301,
315-317, 336

INSTRUCTORS, 5, 11, 32, 40, 78, 87-88, 91, 93, 95, 105-106, 133, 137, 168,
170-171, 213, 250-251, 273, 278, 290, 297, 305-306, 312, 367

INSURANCE

beneficiaries, 114-118
brokers and insurers, roles of, 351-352
covenant to insure, 112-113, 141, 145-148, 152, 352, 358
coverage, 35, 145-146, 148, 274, 301, 345, 351-353, 355-371
exclusions, 359-371

INTOXICATION. *See also* ALCOHOL

author of own misfortune, 92, 212
increased likelihood of injury, 322-323. *See also* COMMERCIAL LIQUOR
PROVIDER; FORESEEABILITY; OCCUPIERS' LIABILITY
outside commercial host context, 327-329
unpredictable acts, 62

INVITEES. *See* OCCUPIERS' LIABILITY

JET-SKIING. *See* MARINE SPORTS

Index

JOGGING. *See* RUNNING; INDIVIDUAL SPORTS

LACROSSE, 2 fn 4, 27, 32 fn 130, 147, 195, 355

LEAGUES. *See also* CUSTOMARY PRACTICE

amateur, 15, 27, 202, 268, 271, 319, 321, 359

professional, 15-16, 202, 283

youth, 271

LEGISLATION. *See also* OCCUPIERS' LIABILITY

apportionment of liability, 172-176

breach of statute, as evidence of negligence, 80-81

health cost recovery, 173 fn 91, 198-200

"mere compliance" as insufficient, 83

regulations, 80

statutory duty of care, 26, 27 fn 101

LICENSEES. *See* OCCUPIERS' LIABILITY

common law, as defined under, 24-25

MARINE SPORTS

jet boat, 165, 334, 168

jet-skiing, 301-303

kite-surfing, 303-304

limitation of liability, 332-335

maritime law, 329-330

open-water diving. *See* DIVING

para-sailing, 303-304

passengers, 164, 337-338

rental, 335-336

sailing, 331

water-skiing, 76 fn 149, 300, 329, 335

whalewatching, 164, 337

windsurfing, 331

MARTIAL ARTS. *See* CONTACT SPORTS

MOTORSPORTS. *See also* SNOWMOBILING

ATV, or all-terrain vehicles, 116, 127, 227

dirt bikes, 160, 209, 223

drivers, duties of, 40 fn 192, 42, 44, 53, 60-61, 158, 169, 176, 247, 290-293, 296

duty to warn, 292

go-carts, 68, 134, 138, 155, 158, 293-294

motorcycles, 81, 90-91, 120, 293, 341, 370-371

race officials, 74, 115, 118, 158, 291-292, 296

racing, 23, 25, 40 fn 192, 42, 60-61, 64-65, 74, 75 fn 145, 81, 115-116, 127, 131,

149, 155, 158, 290-293, 295

Sports and Recreation Liability Law in Canada

MOTORSPORTS — *continued*

spectators, standard of care expected from, 25, 44

NATIONAL HOCKEY LEAGUE. *See* HOCKEY

NEGLIGENCE. *See* DUTY OF CARE; FORESEEABILITY; PROXIMITY;
STANDARD OF CARE; CAUSATION

OCCUPIERS' LIABILITY. *See also* PUBLIC AUTHORITIES; CONDITION
OF PREMISES

common law rules, 24-26, 313

control over premises, 26

duty of care, imposed by statute, 24

extent of duty, 27

fitness club. *See* FITNESS CLUB

invitees, 25, 313-314

“latent” dangers, 64. *See also* FORESEEABILITY

licensees, 24-25, 220, 313, 325 fn 62

municipalities, 24, 27, 80, 84-85, 101, 145, 201, 211-212, 231-234, 242, 269,
273, 303, 338, 339-343, 348

obvious dangers, no duty to warn of, 211

owners, 23

parks, 86

public body as occupier, 24

reasonable system of inspection, 268, 273

recreational trails, lower standard of care for, 204-206, 208, 223-231

reckless disregard, 163, 204, 208, 226, 228-230

schools, 27

statutory duty, contracting out of, 140. *See also* WAIVERS

supervision, 212, 215, 235, 349

trespassers, duty owed to, 24-26, 220, 225-228, 325 fn 62, 342

warning signs, 64, 68, 101, 158, 166, 211, 213, 217, 224, 230, 232, 238, 246,
253, 263, 280, 307, 315-316, 350

ORGANIZERS. *See* PROVIDERS

OWNERS. *See* OCCUPIERS' LIABILITY

PAINTBALL. *See* BALLISTIC SPORTS

PARACHUTING. *See* EXTREME SPORTS

PARA-SAILING. *See* MARINE SPORTS

PARTICIPANTS. *See* PLAYERS; PROVIDERS

PASSERBY. *See also* BASEBALL; CRICKET; SPECTATORS
spectator, in contrast to, 158

Index

PATRONS. *See* OCCUPIERS' LIABILITY; COMMERCIAL LIQUOR PROVIDER

PENALTIES. *See also* DAMAGES

in-game penalty not evidence of negligence, 73, 311

PLAYERS

duty of care, 19-23

head injury, 94

failure to act, 21, 263

professional, 39, 170, 283

relationship of sufficient proximity, 21, 34, 250

rules, compliance with, 77, 83

standard of care, 20

PLAYGROUND

near road, 56

near baseball field, 43, 62, 268

play structure, 4 fn 12

POOL. *See* SWIMMING

PROMOTERS. *See* PROVIDERS

PROVIDERS

control of premises, 24, 26-27, 29-31. *See also* OCCUPIERS' LIABILITY

control of activity, 26-27, 31

duty of care, 18, 24

equipment rental and sale. *See* EQUIPMENT

financial contributor, 34-35

officials, 19

organizational role, 36

property owners, 23-24

provider, who is a, 18, 23-24

referees, 6

sponsor, 33-37, 40, 42

vicarious liability, 34, 38-40

PROVOCATION

damages, reduction of, 282

PROXIMITY

duty of care, 10

legal proximity, 18

physical proximity, 21, 41, 327

relationship of sufficient proximity, what constitutes a, 21, 34, 250

Sports and Recreation Liability Law in Canada

PUBLIC AUTHORITIES. *See also* PUBLIC POLICY

gyms, 340
municipalities, 338-339, 342
operational vs. policy, 338, 340-342
parks, 85-87, 338, 346
playground, 4 fn 12, 43, 56, 62, 268
policy defence, 340
schools, 15, 27, 32, 48, 57, 59, 65, 69, 77, 87-91, 93, 109, 110, 146-147, 169, 251, 267-269, 273, 275-279, 289, 320 fn 44, 338-341, 346, 357
skating rinks, 63, 67, 72, 75, 175, 238, 241-242, 287-288, 349
swimming pools. *See* SWIMMING
trails, 162-163, 205-206, 208, 227-231
universities and colleges, 91-92, 94 fn 247, 274 fn 45, 275, 289

PUBLIC POLICY. *See also* DUTY OF CARE; WAIVERS

compensation, 3-4, 6, 152, 180
contract, freedom of, 3-4, 137-138, 149, 152,
deterrence, 3, 4, 22, 152, 197
duty of care, 11, 47-49
fitness, promotion of, 4 fn 12
volunteering, promotion of, 321

RACQUET SPORTS

badminton, 159, 231, 233, 348 fn 6
municipalities, 178, 231-233
racquetball, 165 fn 53, 232-233, 368
squash, 233-234
tennis, 115, 178, 187, 231-233, 270

RAFTING, 31, 99, 119. *See also* WAIVERS

REASONABLE CONDUCT. *See* CONTRIBUTORY NEGLIGENCE;
OCCUPIERS' LIABILITY; STANDARD OF CARE

REFEREES. *See* PROVIDERS; TEAM SPORTS

RELEASE. *See* RISK; WAIVERS

REMOTENESS. *See* CAUSATION; FORESEEABILITY

RISKS. *See* INHERENT RISK

RISK MANAGEMENT. *See also* INSURANCE

maintenance system, 216-217, 241, 268-269, 273, 347-350
supervision, 349

ROLLER SKATING, ROLLERBLADES. *See* SKATING

ROLLERCOASTER. *See* AMUSEMENT PARKS

Index

RUGBY, 93, 197, 274, 276-277. *See also* ASSAULT; FORCE, USE OF;
INHERENT RISKS; COACHES AND COACHING

RULES AND GUIDELINES. *See also* STANDARD OF CARE
indicator of standard of care, as, 53, 76-79

RUNNING. *See* INDIVIDUAL SPORTS

SAILING. *See* MARINE SPORTS

SCHOOLS, SCHOOL BOARDS. *See* PUBLIC AUTHORITIES;
TEACHERS

SELF-DEFENCE. *See* ASSAULT; FORCE, USE OF

SKATING

duty to supervise, 242, 349

ice skating, 241-242

in-line skating, 71, 237-238

instructors, 11, 170. *See also* COACHES AND COACHING

rink, maintenance of, 72, 287, 348. *See also* OCCUPIERS' LIABILITY

roller skating, 72, 237, 240-242, 320

SKIING. *See also* WAIVERS

Alpine Responsibility Code, 79, 249

avalanche, 32 fn 132, 53, 71, 78, 107-109, 122, 251-252

“buddy” system, 21-22, 249-250

chairlifts, 162, 170, 255

cross-country, 223, 228-229

heli-skiing, 21, 32 fn 132, 48, 51 fn 2, 53, 107, 121-122, 128, 249, 251-252

instructors, 250-251

inherent risks, 247, 250, 252-253

search and rescue, 343

ski operators, 78-79, 252-253, 257

skiers –

contributory negligence, 247-248. *See also* CONTRIBUTORY
NEGLIGENCE

duty of care owed by, 249. *See also* PROXIMITY

snowboarding, 254

SLEDDING. *See* TOBOGGANING

SLIP AND FALL. *See* CONDITION OF PREMISES

SNOWBOARDING. *See* SKIING

SNOWMOBILING

club, 29

derby, 295

Sports and Recreation Liability Law in Canada

SNOWMOBILING — *continued*

falls, 294. *See also* INHERENT RISKS
operator, duty of care owed by, 169, 176
owner, duty of care owed by, 295
passenger, 102, 165-166, 294. *See also* CONTRIBUTORY NEGLIGENCE
racing, 19 fn 55, 23, 40 fn 192, 60-61, 74, 115, 296. *See also* OCCUPIERS'
LIABILITY; WAIVERS

SOCCER

assault, 272
condition of the field, 272
collisions, 271-272
field, occupiers of, 272-273
goalposts, injury from, 273
sponsors, 273-274
sliding, 272
tackling, 274
team organizers, duty of care owed by, 274

SOFTBALL. *See* BASEBALL

SPECIAL EVENTS. *See also* ALCOHOL

liquor, provision of, 322-329. *See also* COMMERCIAL LIQUOR PROVIDER
organizers, duty of care owed by, 319-320

SPECTATORS. *See also* DUTY OF CARE; INHERENT RISKS

duty of care, off-site spectators –
television viewers, 45-46
duty of care, on-site spectators, 40-44

SPONSORS. *See* PROVIDERS

STANDARD OF CARE

customary practice, 71-75
foreseeable harm, 54-64
gravity of harm, 64-65
legislation, 79-83
“reasonable person” test, 52-53
rules of the game, 73, 75-79, 89
standards, external, 70-71

STATUTORY DUTY OF CARE. *See* LEGISLATION

STATUTORY AND REGULATORY STANDARDS. *See* STANDARD OF CARE

SWIMMING. *See also* DIVING

inherent risks of, 212

Index

SWIMMING — *continued*

lifeguards, 82, 101, 211-214, 343
occupiers, 211
pools, 62, 75 fn 146, 82, 100-101, 202, 210, 212-215, 221, 306
signage, 212, 214
slip and fall, 214-215, 348
slide into, 101, 221
supervision, 212-213
swimmers –
 duty of care owed to, 212
 contributory negligence of, 214

TEACHERS. *See also* PUBLIC AUTHORITIES

four-part negligence test, 88
“OPHEA” guidelines, 89-90
relationship of authority, 32
standard of care expected, 87. *See also* COACHES AND COACHING
supervision by, 87

TEAM SPORTS. *See also* BASEBALL; HOCKEY; SOCCER

basketball, 89, 311, 319
coordination, 265
cricket, 61-62, 69, 266 fn 2, 270
force, use of, 265, 272, 274-276, 283
referees, 202
rules, emphasis on, 265, 311

TENNIS. *See* RACQUET SPORTS

TICKETS. *See* CONTRACT

TOBOGGANING

organizers of competitions, 256
ski operators, 257
tubing, 24 fn 80, 60, 67, 256, 326

TOURNAMENTS, 115-116, 132, 143, 145-147, 319-320, 327-328, 357. *See also* INSURANCE

TRACK AND FIELD

long jump, 89-90

TRAINING, 16, 37, 64-65, 95, 107, 121, 168, 305, 312. *See also* COACHES AND COACHING; SCHOOLS

TRESPASS. *See* OCCUPIERS’ LIABILITY

TUBING. *See* TOBOGGANING

Sports and Recreation Liability Law in Canada

UNCONSCIONABILITY. *See* WAIVERS

VICARIOUS LIABILITY

association and manager, for coaches, 39-40
degree of control over risk, 40
employers, for employees, 38
hockey club, for team doctors, 39
non-traditional relationships, 39-40
owner of boat, 335
sponsor of event, 33-34
test for determining, 38

VOLUNTEERS. *See* COACHES AND COACHING; PROVIDERS;
VICARIOUS LIABILITY

WAIVERS

ad idem, 124, 137
“casual glance”, 127, 131
electronic waivers, 133-135
enforceability of, 113-114, 124, 126-127, 133, 135 fn 108, 136, 139, 144, 151,
299, 335, 343
experienced plaintiffs –
 contextual knowledge, 126-128, 130, 135
 course of dealing, 129
fraud or misrepresentation, 130
inform signing party of terms –
 “usual commercial situation”, 124, 131
intended beneficiaries of, 114-118
misinformation, 128
non est factum, 130
presentation of, 130-133
public policy, 137-141
scope of risks covered –
 negligent conduct, 120-122
team roster, 132-133
Tercon three-part test, 113-114
unconscionability, 114, 136-137, 306, 343

WATERSLIDES. *See* AMUSEMENT PARKS

WEIGHTS, WEIGHTLIFTING. *See* FITNESS CLUB

WHALEWATCHING. *See* MARINE SPORTS

WHITEWATER RAFTING. *See* RAFTING

WINDSURFING. *See* MARINE SPORTS

Index

WRESTLING. *See* CONTACT SPORTS

YOUTH SPORTS. *See* CHILDREN; WAIVERS

ZIP-LINING. *See* EXTREME SPORTS