

POSTER ABSTRACTS

The Right of the Horse in Equestrian Sport and Law

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This poster presentation traces the history of Equestrian Sport and the Law through the centuries.

Cases are related to soiling, drug abuse, insurance fraud and illegal betting.

There is a list of US and Canadian cases related to the horse and man.

Possible defenses such as:

1. Tortious interference with business relations,
2. Malicious prosecution,
3. Abuse of process, and
4. Prima facia tort are explained.

In terms of tortious interference with business relations, the plaintiff must prove:

1. Probability that the plaintiff would have entered into business relations
2. Malicious and intentional action by the defendant to abort this prospective business relationship, and
3. Actual harm to the plaintiff.

Malicious prosecution requires:

1. Institution and continuation of all civil proceedings against the plaintiff, by and at the insistence of the defendant,
2. Maliciousness in commencing the proceedings,
3. Lack of probable cause,
4. Termination of the proceedings in the plaintiff's favour, and
5. Special damages.

Abuse of Process requires that:

1. The plaintiff made an illegal, improper, perverted use of the process,
2. The defendant had an ulterior motive or purpose in exercising such illegal, perverted or improper use of the process, and
3. Damages to the plaintiff as a result of such illegal action.

Prima facia tort requires the infliction of intentional harm, resulting in damage, without excuse or justification, a case which has proceeded upon sufficient proof to that stage where it will support findings if evidence to the contrary is disregarded. Prima facia is used in two senses:

1. In sense of the plaintiff producing evidence sufficient to render reasonable a conclusion in favour of allegations asserted; this means plaintiffs evidence is sufficient to allow the case to go to trial, and
2. To mean the plaintiffs evidence would reasonable allow conclusion plaintiff seeks, but also that plaintiffs evidence compels such a conclusion: If the defendant produces no other evidence to refute it: Evidence good and sufficient on its face: Was the evidence if unexplained and uncontradicted, sufficient to sustain a judgement in favour of the issue which it supports but which may be contradicted by other evidence.

The Noerr-Pennington doctrine is discussed. This arose out of two Supreme Court cases (Eastern Railroad President's Conference v. Noerr Motor Freight Inc. and United Mine Workers of America v. Pennington). It has its roots in the First Amendment of the United States Constitution. "The Right of the People. To Petition a Government for Redress of Grievances." It questions the Immunity Doctrine. This doctrine cannot be used if a case is pursued as a "Sham", intended to injure the appellants.

Ohio Thor. Racing Ass'n v. Ohio State Racing Comm'n

1. 114 Ohio App .80, 180 N.E. 2d 276 (1961)
2. It was found unreasonable and unlawful to make the owners of race tracks the insurers of the drug-free condition of all horses racing on their track
3. The rule was too sweeping and encompassed people whose conduct was not reasonable related to its purpose.

Sandstrom v. California Horse Racing Board

1. 31 Cal. 2d 401, 189 P.2d 17,3 A.L.R.2d 90
2. The leading case in the decision as to who is an "absolute insurer" of, shall "be held responsible" or shall have "strict accountability" for the condition of an animal
3. The ruling made the trainer an "absolute insurer" and when a drug was found in the horse in question, the trainer was suspended
4. To uphold the validity of the rule, the court imposed on the trainer "strict liability" for the animals condition and therefore, needed no proof of fault
5. Problem - this creates a presumption.

Allen v. Bolinsky

1. 654 N.Y.S.2d 777 (App. Div. 1997)
2. A trainer was suspended after a positive drug test on his horse
3. The trainer appealed the decision as it was the veterinarian, not the trainer, who administered the drug
4. The appeals court upheld the suspension because the trainer regularly used the veterinarian's services and could be considered his agent or employee.

Lavin v. California Horse Racing Board

1. 66 Cal. Rptr.2d 843 (1997)
2. Horse owners challenged the racing board "zero tolerance" rule disqualifying the wins of horses after post-racing urine samples detected minute and insignificant amounts of a depressant
3. The depressant, scopolamine, had apparently been a part of contaminated bedding straw. The California Court of Appeals upheld the regulation despite its harsh application in this case.

Canada - Ontario Legislation

1. Race tracks and horse racing are governed by the Ontario Racing Commission, established by the Racing Commission Act
2. The Ontario Racing Commission has power to make rules for the conduct of horse racing, including the power to licence owners, trainers and jockeys.
3. The hearings held by the commission and its subordinate committees investigate such matters as allegations of bribery, doping, race fixing, or dangerous riding.

INSURANCE

Lindemann v. AHSA

1. 124754/94 Supreme Court of New York
2. Horse owner, leading national and international rider in jumping and dressage, and U.S. Olympic Team aspirant, George Lindemann, Jr. sued the American Horse Show Association
3. Lindemann was charged in the connection of an ongoing scheme to kill show horses for insurance money

4. Surveillance had led to the arrest of the alleged horse hit man, one Tommy Burns a.k.a. Timmy Ray, known in his circle as "The Sandman"
5. On his arrest, Burns, complaining his "clients" had failed to rally to his support, names 23 prominent riders and horse owners for whom he had performed jobs
6. Burns identified George Lindemann, Jr. as one client who paid him \$35,000 to electrocute a jumper names Charisma in order to collect the insurance proceeds
7. Charisma was insured for \$250,000.00.

Fraud in Sport & Fitness & The Alan Eagleson Incident

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This poster presentation defines fraud in Canadian and American Law. It will list the types of fraud, identify red flags to watch for, indicate who commits and who is susceptible to fraud, list three types of wrongdoers and summarize cases in the United States and Canada, particularly those related to Alan Eagleson, former NHL Players Association Executive Director.

It relates the wrongdoing while Alan Eagleson was in office, traces his indictment, imprisonment and release. Also recounted is his fall from grace, accompanied by his removal from the Canadian Sports Hall of Fame, the Canadian Hockey Hall of Fame, and the Order of Canada. It ends with his parole and attempt to return to civilian life.

Included is an interview with criminal lawyer, Pat Ducharme, of Windsor, who was the lawyer for Robert Probert when he was convicted of drug smuggling at the U.S. border. It tells how Alan Eagleson in his role as player representative initially sided with John Ziegler, NHL President in condemning Robert Probert, but subsequently contributed by letter to his defense when Robert Probert came to court. This chameleon-like performance surprised Pat Ducharme, to say nothing of John Ziegler.

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Legal Aspects of Triathlon

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This poster presentation recounts the history of triathlons and lists various legal concerns surrounding the organization of a triathlon. The three components of triathlon (swim, bike, run) are examined with respect to risk management. The race director of a triathlon is subject to legal liability under certain circumstances for injuries occurring during a competition. It is therefore important that the race director understand basic legal principles and responsibilities in order to avoid being subject to litigation.

The sport of triathlon had its' origins almost 25 years ago. The sport began as a cross-training alternative to running. In the year 2000, triathlon will make its debut at the Sydney Olympic Games. As the sport of triathlon continues to grow, there will be many different cases of litigation brought against race directors of these events.

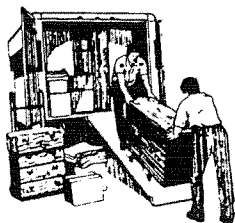
One of the main concerns that a triathlon race director would have is to be found negligent. A race director of a triathlon has the legal responsibility for reasonable care. The great majority of sport tort liability cases rest on alleged failure to safeguard a child or youth involved in sport or athletics from foreseeable harm. Steps and measures to help minimize the risk of injury are provided for the three events involved. This poster lists the duties of a race director relating to the risk management factors as well as various safety factors. Some of these duties include:

- limiting the number of participants in order to avoid crowding and collisions
- Exercising efficient and competent supervision and control
- Giving instructions and warnings about ordinary and expected dangers
- Exercising reasonable care in the selection of equipment

The sport of triathlon is a growing sport which will soon reach the world stage when elite athletes participate in the Olympic Games. When this happens, the effect on participation rates may help to increase the popularity of the sport worldwide. However, from a legal standpoint, more participants could mean a higher likelihood of litigation against race directors. This poster outlines steps that can be taken to prevent or minimize the risk of injury and possible litigation by participants in triathlon.

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