

- 1 Control Test
Determines Legal Duty
& Negligence Liability

- 2 What role does it play in determining legal duty? liability?

- 3 What is the CONTROL TEST?

- 4 What is Master Servant Rule?

Vicarious Liability?

Scope of Authority?

Agent? Independent Contractor?

- 5 Legal Duty
No Control - No Liability
Control Test Determines

- 6 Mere Sponsorship generally insufficient
to establish requisite control
to impose legal duty

- 7 Vogel
v.
West Mountain Corp.
New York Appellate Div. 1983

Mere Corporate Sponsorship

- 8 inexperienced skier injured during slalom race

advertised as "Miller Ski Club Slalom"
- 9 Issue: whether sponsor of athletic event,
absent control,
may be held liable for injury to participant
- 10 Control criterion:
sufficient control over event
to be in position to prevent negligence
- 11 Miller never held out to be in control,
only advertised as "sponsor"
- 12 Miller had not actually designed, supervised, or controlled event
race organizers no direct communication with Miller
- 13 Control over slope design and race supervision
handled exclusively by employees of ski slope
- 14 Gehling
v.
St. George's University School of Medicine, Ltd
U.S. D.C. E.D. N.Y. 1989

Race Sponsor Responsible for Event?

15 Son died in road race sponsored by defendant university

university not responsible for conduct of race

16 SGU did not control, monitor, or supervise any aspect of road race

17 not sufficient control over event
ergo, not in position to prevent negligence

18 SGU, as owner & occupier of land on which race conducted
had legal duty of reasonable care to prevent injury
property in reasonably safe condition

19 SGA funded purchase of T shirts & trophies

some SGU employees participated in race

20 duty limited to land,
not supervision of race

21 Russell
v. Bissell Associates, INC.
La.App. 1990

Landowner Liability for Picnic Sponsor?

22 injury at employer sponsored picnic

whether sufficient control of premises to incur liability

dive from platform into manmade lake

- 23 Employer (Exxon) installed softball bases
ropes for boat races,
net for volleyball
door prizes & clown for picnic

- 24 Occupier of premises for athletic event
must maintain premises in reasonably safe condition

- 25 furnish equipment & services necessary
to prevent injury from probable, foreseeable conditions

- 26 Here, Exxon nothing more than patron of lake facility
no responsibility for premises

- 27 Exxon had not assumed custody or control
no lease, no profit venture

- 28 Bissell agreed to provide regular staff
for food booths, lifeguards, & other activities

- 29 No requisite control to make Exxon occupier of premises

sponsor of company picnic did not assume control of premises

- 30 Lasseigne
v.

American Legion, Nicholson Post # 38

La.App. 1989

Right to Control Coaches' Performance

- 31 son struck in head by ball in practice, legion baseball program
league sponsored & encouraged practices
- 32 Issue: whether organizer of team sports owed no duty to child participants
to safeguard coaches had minimal qualifications to conduct sport
- 33 League no legal duty, no involvement in team practices
absolutely nothing to do with selection of coaches
or conduct of team practices
- 34 Coaches solely responsible for all aspects of practices
including frequency, location & length of each session
- 35 Individual coaches are volunteers chosen by private sponsors
- 36 Post no control over physical details of coaches
or manner practices conducted
- 37 Thornkill
v.
Deka-Di Riding Stables

Ind.App. 1994

"Package Deal" –
Measure of Control over Activity?

38 horseback riding injury during YMCA Women's Wellness Weekend

39 relationship to stables gave Y measure of control over trail rides

40 Y staff members actively supervised rides

fees for rides paid directly to Y as part of registration

41 Y supervisors actively participated in trail ride

even though not part of duties

42 Thornhill relied on Y supervisors
to keep ride & all camp activities safe

43 Y acknowledged involvement in trail ride

filled out "Irregularity Report" and "Accident Report Form"
for Y's files

44 Y selling weekend as package deal
including trail ride arranged by Y

45 Y's relationship with stable gave Y measure of control

over manner trail ride was conducted

46 Y incurred legal duty to provide Thornhill
with a reasonably safe trail ride

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