

## RCPT 365 Legal Liability and Risk Management (3)

### Department of Recreation, Parks and Tourism Radford University

Fall, 2009

M W F 10:00 – 10:50 Waldron 200

**Instructor: Dr. Teresa O'Bannon**

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Office Hours: Monday thru Thursday, 2:00 – 3:00pm  
and by appointment

**Catalog Description:**

Legal issues relating to park and recreation administration and programming, risk management planning and implementation in park and recreation settings

**Prerequisite:**

RCPT 210 and RCPT 313, or permission of chairperson

**Expected Outcomes:**

Upon successful completion of the course, students will be able to, or will exhibit the:

**8.26** Understanding of the following related to recreation, park resources, and leisure services:

**8.26:01** Legal foundations and the legislative process

**8.26:02** Contracts and tort law

**8.26:03** Regulatory agents and methods of compliance

**8.27** Understanding the principles and practices of safety, emergency, and risk management related to recreation, park resources, and leisure services.

**Required Text:**

Peterson, J. A., Hronek, B. B., & J. R. Garges (2008). *Risk management for park, recreation, and leisure services*. (5<sup>th</sup> Ed.). Champaign, IL: Sagamore.

**Recommended Texts:**

Spengler, J.O., Connaughton, D.P., & Pittman, A.T. (2006). *Risk management in sport and recreation*. Champaign, IL: Human Kinetics.

**Supplemental readings from other sources will be assigned during the course of the semester.**

It is vital that you activate your Radford e-mail account or have your Radford e-mail forwarded to your regular e-mail account. During the course of the semester, you will be required to receive e-mails from the instructor.


### Course Schedule

The schedule is a guideline. Topics will invariably shift due to weather closures, guest speakers, etc.

## WEEK 1

Introductions; syllabus review


Why study the law and risk management? 8.26:01

 Near-drowning video

 Reading:

- Textbook introduction – Why risk management?

U.S. judicial structure & procedures 8.26:01

 How a bill becomes a law

 Role of the Judicial Branch


## WEEK 2

U.S. judicial structure & procedures 8.26:01

Contract liability, waivers and assumption of risk 8.26:02

 Reading:

- Chapter 1 – What are torts?

 Handouts on WebCT/in class


- Rules and regulations handout on WebCT
- Waiver examples handout, including:
  1. Southern California Cycling Federation Standard Athlete's Entry Blank and Release Form
  2. Cypress Valley Canopy Tours
  3. Sonoma State U. release and waiver of liability and indemnity agreement
  4. Little Sluggers Softball League

 Quiz 1

## WEEK 3

Torts 8.26:02

Recreation land use statutes

 Handout on WebCT:

- VA land statute: Virginia Code §29.1-509

Negligence 8.27

Topic: Negligence 8.26:03; 8.27


 Reading:

- Chapter 2 - Negligence


 Quiz 2

## WEEK 4

Negligence



 Reading on WebCT:

- Risk Management for Campus Recreation newsletter v.1(4)  
Standard of Care 8.27

 Reading Online

- Slip and fall accidents – overview <http://injury.findlaw.com/personal-injury/personal-injury-a-z/slip-fall.html>

 Readings:

- Chapter 3 – Standard of care
-  Class discussion of V.B. v. State (handout)
-  *Quiz 3*

## WEEK 5


 Reading:

- Ch. 11 of Spengler et al: Aquatic Safety (available on reserve in the TRC and Tourism Lab libraries)


### Introduction to Mock Trial

 Case Examples Activity

- Discussion of the topics presented at the 21<sup>st</sup> Annual Conference on Sport, Physical Activity, Recreation and Law conference  
<http://ww2.coastal.edu/cmclone/program.html>

 Online readings:

- <http://www.usdoj.gov/usao/eousa/kidspage/glossary.html>

 Readings on WebCT:


- Terms and definitions PowerPoint presentation from [www.nolo.com](http://www.nolo.com)

Case examples 8.26:01, 8.27

Sample cases and terms from <http://www.howielaw.com/> (Howie & Smith, L.L.P.)


## WEEK 6

### Employee Rights 8.26:03

 Reading:

- Chapter 4 – Employee rights

### Playground Safety 8.26:03, 8.27


 *Take-home activity*


 Reading:


- Ch. 10 of Spengler et al: Playground Safety (available on reserve in the TRC and Tourism Lab libraries)

## WEEK 7

 *Midterm Exam*

 Playground inspection activity

 Mock Trial preparations


 Readings on WebCT:

- The best educator wins: The psychology of learning in the courtroom; Gomez, M. The Legal Intelligencer, March 15, 2006
- Courtroom procedures handout


## WEEK 8

### Discussion of playground activity

### The Risk Management Plan 8.26:03

 Readings:

- Chapter 5 – Employee rights




 Reading on WebCT:

- Corbett, R. Spring 1993, v. 12 (2) Risk Management for the Recreation


- Professional in *Recreation Alberta*
- *Quiz 4*

## WEEK 9

### The Risk Management Plan

-  Online reading:
  - Sport and Recreation Law Association 8.26:03
-  Mock Trial preparations
-  Reading on WebCT:
  - Minick, R. D. (2006, May) Addressing Jurors' Natural Tendencies: The Role of Motive in Civil Litigation in *For The Defense*


## WEEK 10

 Mock Trials 8.26:01- 03, 8.27

## WEEK 11

### Mock Trial wrap-up

### Risk management plan update

-  Work on risk management plans

### Security and Personal Safety 8.27

Discussion of Virginia § 63.2-1509, Virginia § 63.2-1510, mandatory reporters of child abuse

-  *Quiz 5*

### Readings:


- Chapter 6 – Security and personal safety
- Ch. 3 of Spengler et al: Protecting Children (available on reserve in the TRC and Tourism Lab libraries)

## WEEK 12

### Natural Disasters: lightning & other hazards 8.27

### Reading:

- Ch. 5 of Spengler et al: Lightning Safety (available on reserve in the TRC and Tourism Lab libraries)

 Work on risk management plans

 Risk management plans due

## THANKSGIVING BREAK

## WEEK 13

### Bloodborne Pathogens 8.26:03

### Reading:

- Ch. 6 of Spengler et al: Bloodborne Pathogens (available on reserve in the TRC and Tourism Lab libraries)

### Drug Testing 8.26:03

### Reading:

- Ch. 8 of Spengler et al: Drug Testing (available on reserve in the TRC and Tourism Lab libraries)

Semester review  
✍ Quiz 6

## WEEK 14

Course Evaluations  
Last day for proof of certifications  
Semester discussion  
Preparation for final exam

### Final Exam –December date and time to be determined

\* Readings, above, are to be done ahead of time so that we can discuss the chapters on the days they are scheduled.

#### Assignments and Grading:

<i>Assignment</i>	<i>Points</i>	<i>Percentage</i>
Quizzes (6 @ 10 points each)	60	28%
Midterm exam	40	18%
Final exam	40	18%
Mock trial	15	7%
Risk management plan	30	14%
CPR (adult/child/infant) certification	10	5%
First Aid	10	5%
AED Certification	10	5%
<b>Total points possible</b>	<b>215</b>	

Extra Credit: 3 points awarded to group that “wins” the mock trial

#### CPR/First Aid/AED certification

Each class member should become certified in CPR (adult/child/infant), first aid, and use of AEDs. If you are already certified in these areas, you will need to show that your certification is valid until at least January 1<sup>st</sup>, 2010. There will be several opportunities to become certified (or recertified) over the course of the semester. Fees for certification will vary, depending on where the class is offered. You are responsible for finding and enrolling in training classes. Proof of certifications must be provided on or before the last class meeting. **(8.26:03, 8.27)**

#### Risk Management Plan

You will be working in pairs to develop a risk management plan for a facility/agency of your choosing. The plan is due in class on November 21<sup>st</sup>. The purpose of this assignment is to provide training and practice in the development of risk management plans. The risk management plan will include the 16 steps as discussed in Chapter 5 of your Peterson, et al textbook. **(8.26:01-03; 8.27)**

#### Exams and Quizzes

Quizzes will be given on the dates presented in the schedule. Quizzes will cover material in lecture, reading, and from guest speakers. A midterm exam and a final exam will be given.

The midterm will contain information presented to that point in the semester and the final exam will be comprehensive, covering the entire semester. (8.26:1-3; 8.27)

### Mock Trial

Mock trials consist of groups role-playing a trial based on an assigned recreation-related case. Each group member will have a specific role, such as victim, prosecuting attorney, witness, etc. Arguments must be well-written and rehearsed. This project allows you to show you have learned legal foundations and the legislative process contracts, waivers and tort law where applicable and methods of compliance, depending on the case assigned to you. Furthermore, you will have the opportunity to demonstrate that you understanding the principles and practices of safety, emergency, and risk management related to recreation, park resources, and leisure services as they apply to the case. (8.26:1-3; 8.27)

### Attendance Policy

Attendance should be considered mandatory. You will not earn points for attending class regularly, however your active presence may someday save a life or aid you in fighting a lawsuit. Furthermore, there is a great deal of group work in this class and you will be expected to participate fully. *See illness policy below*

### Assignments

Assignments must be turned in on the date they are due, at the beginning of the class period. Late work will only be accepted with advance approval from the instructor and with legitimate excuses (major illness; family crisis; etc). You are responsible for getting any notes, assignments, etc. from peers, not the instructor. All assignments must be typed. Grading rubrics will be provided for each graded project.

### Readings:

Assigned readings, both from the textbook as well as other materials, will be used in exams, quizzes, and assignments. Lectures will not always include textbook information; however, you are responsible for the reading. Grades are non-negotiable.

### **Grading:**

A	100 - 90
B	89 - 80
C	79 - 70
D	69 - 60
F	59 and below

Points will be awarded for each assignment. Final grades will be based on total points earned. The instructor reserves the right to curve final grades.

Because your assignments are graded using points, keep track of your points in order to determine your grade during the course of the semester. Upon request, a form can be provided to help you do this.

**H1N1/Swine Flu Illness Policy:** If you are sick (especially with flu symptoms), or if you are responsible for a sick child, please contact me by phone or e-mail, and I will make arrangements

for you to miss class. No doctor's note is required. According to the CDC: Take everyday actions to stay healthy.

\* Cover your nose and mouth with a tissue when you cough or sneeze. Throw the tissue in the trash after you use it.

\* Wash your hands often with soap and water, especially after you cough or sneeze. Alcohol-based hands cleaners are also effective.

\* Avoid touching your eyes, nose or mouth. Germs spread that way.

\* Stay home if you get sick. CDC recommends that you stay home from work or school and limit contact with others to keep from infecting them.

**The Learning Assistance and Resource Center (LARC)**, located in 126 Walker Hall, is open to all students Monday through Friday from 9 a.m. until 5 p.m. Certified, trained tutors provide help with basic study skills, writing, reading, and content-specific material. An appointment is necessary and can be made by stopping by Walker 126, calling 831-7704, or IMing "rularcappt".

***In the interests of academic decorum:***

- Contested assignments and/or grades will not be discussed in the classroom or during the class period. Please visit the instructor during office hours or make an appointment to discuss your disagreement.
- Disruptive behavior in class will not be tolerated. This is to include, but is not limited to, sleeping, playing computer games, casual conversation during lecture, etc. You are future professionals and will please conduct yourselves as such in this environment.
- Cellular telephone, instant messenger, and two-way pager use during the class period is prohibited. Cellular telephones, instant messengers, and pagers must be turned off prior to the beginning of class. Exceptions to this rule will be made only for emergency and healthcare workers who are on-call.
- The use of electronic devices (i.e., laptops, PDA's, cell phones, instant messengers, etc.) during exams, beyond the uses approved by the instructor, is prohibited and will be treated as a violation of the Honor Code.
- Any behavior that is deemed disruptive by the instructor will be addressed first by a verbal warning. Following the verbal warning, if the behavior is not corrected, the student will be issued a written warning. If the disruptive behavior continues following the written warning, 10 points will be deducted from the final grade for each occurrence.

**Sample Cases Used In This Class**

- *Bennett v. United States Cycling Federation* (1987) 193 Cal.App.3d 1485, 1487 (not enforceable waiver)
- *Bugg v. American Legion, Anderson Post No. 34* (Ky.App. 6/15/2007)
- *Hawkins v. Peart* (Ohio App. Dist. 10 12/27/2001) (child negligence)
- *Hulsey v. Elsinore Parachute Center* (1985) 168 Cal.App.3d 333, 348 (enforceable release)
- *Goynias v. Spa Health Clubs, Inc.* 148 N.C.App. 554,558 S.E.2d 880 (N.C.App. 02/05/2002) (invitee)

- Santana v. Women's Workout and Weight Loss Centers, Inc. (Cal.App. Dist.6 11/29/2001) (assumption of risk)
- Jekyll Island State Park Authority v. Machurick (assumption of risk)
- Jones v. City of New Iberia No. 01-1085 (La.App. Cir.3 03/27/2002) (maintenance)
- Latimer v. City of Clovis Court of Appeals of New Mexico 495 P.2<sup>nd</sup> 788 1972
- Lewis v. Eisin (Mo.App. E.D. 03/05/2002) (foreseeability)
- Lewis v. Great Southwest Corp. Civil Court Appeals of Texas 473 S.W. 2d 228 1971 (liability)
- Okura v. United States Cycling Federation (1986) 186 Cal.App.3d 1462 (enforceable waiver)
- Soares v. Lakeville Baseball Camp, Inc. Supreme Judicial Court of Mass 343 N.E. 2d 840 1976 (injury to a minor)
- V.B. v. State...District Court of Appeal of Florida, Third District...July 5, 2007 (trespasser)
- Westlye v. Look Sports, Inc. (1993) 17 Cal.App.4th 1715, 1755 (enforceable release)

**Changes may be made to this syllabus at the instructor's discretion. Timely notice of any changes will be given to students.**