Plaintiff planning points in sporting litigation

Dr Keith Tronc, Brisbane


Keith Tronc

This article is painted with a broad brush. The aim is to provide a checklist of points for the plaintiff lawyer to consider, when planning sporting litigation.

For example, what are the common causes of action to have in mind when drawing your initiating proceedings? What defences are likely to be relied upon by the other side? How can you effectively block those defences?

The topic of sports and the law is very broad and is the subject of whole reference books. This article is designed merely as an appetite whetter, pointing out some useful general strategies. For the many aspects of sports law not covered here, such as criminal offences on the sporting field, sports tribunals, advertising, defamation, sex discrimination in sport, and the restraint of fair trade in sporting contracts, for example, you can follow up by consulting a comprehensive text such as *Sport and the Law — An Australian Perspective* by G. M. Kelly, published in 1987 by LBC.

Rampant professionalism: the new dimension in sports litigation

Sporting amateurism is not completely dead and will probably never die out fully, but the advent of high professional salaries for top players, accompanied by big money sponsorships, agents, advertising contracts, and television coverage has had a profound effect upon the whole equation of sporting litigation, all the way down to interschool matches and underage club competition.

Insurance against injury, and coverage against actions for negligence have now become commonplace. The old reluctance by injured participants to sue for damages, because of loyalty to the game, or because of sympathy for an impecunious player or struggling club, has gone. Sports competition is now part of a big-money "leisure industry".

The basic causes of action

As you plan the plaint or writ, seeking just treatment and fair damages for your injured client, what causes of action should you be considering as the essential basic ingredients of your suit? Perhaps your injured client was a paying participant of a hot-air balloon ride which ended up in the river or tangled in power lines? Perhaps your client's jaw was broken in an illegal football tackle? Maybe your client was injured when his bobsled failed to take a corner, hurtled off the metal track and hit a tree? Perhaps your client's parasail towing boat was badly positioned, carelessly manoeuvred and too slow? Perhaps your client was a spectator at motor racing, struck by the flying debris of a collision? Maybe your client was a skier who suffered injury when a defective ski harness parted company? Perhaps the bungee jumping attendant's calculations of weight, distance and recoil were mathematically unsound?

In such cases, go to one or more of the following causes of action as your basic starting points in litigation planning:

- Negligence
- Breach of contract
- Breach of Trade Practices Act (Is the defendant a company?)
- Sale of Goods Act
- Assault
- Trespass to the Person.

You can often rely on one of these when constructing your sporting injuries plaint. Perhaps it might be more than one. Consider all the possibilities. Build in all the reasonable alternatives. Force the defendant to fight on a number of fronts. If you cover a wide range of alternative causes of action, defendants are usually more likely to want to discuss settlement.

If your client was playing football and sustained a broken jaw from an opponent's forearm in the application of a coup-de-grace following a tackle, then the appropriate cause of action will probably be assault, or trespass to the person. If the jaw-breaking followed, or was followed by, vindictive and vengeful gibes, threats, and expressions of delight, then look into the feasibility of suing for exemplary or aggravated damages as well, depending on the circumstances.

Do you have an alternative cause of action in the breach of some statutory duty?

As part of your strategy of "loading" the defendant with as many alternative causes of action as possible, give some thought as to whether you can include breach of statutory duty as another string to your bow.

When your client was injured in the hot-air balloon fire, after the balloon hit power lines, came down on a major arterial road and its basket was struck by a car before slamming into a house, had there been any prior breach of a duty under air navigation legislation, to supplement the basic breach of duty in the obvious primary negligence action? Always search the likely relevant statutes.

When your bobsledding client was injured, was it as a result of defective design in the construction of the metal bobsled track, or in the steering and braking arrangements of the bobsled car? If your expert engineering report discloses defective design, then you have a combined negligence and breach of statutory duty action available. Metal-track bobsledding constitutes an "amusement device" and there would normally be statutory obligations for the owner-operator under the *Workplace Health and Safety Act* or similar legislation.

In formulating your pleadings, don't use a single artillery shot when a concentrated barrage is possible. Check your legal ammunition, and use the bombardment of all reasonable alternative causes of action to force your opponent to the settlement table.

Can your injured client claim on private insurance or statutory insurance?

Perhaps your sporting client had a personal insurance policy covering his income-producing bodily equipment (like Michael Flatley's sixty million dollar coverage of his Lord of the Dance legs), or perhaps the club he played for had taken out a more modest policy covering players' injuries and their potential losses of income. Sometimes, your representation will involve battling the insurance company, attempting to persuade them that their claim of so-called "exemption" is neither reasonable nor valid under the terms of the contract. If the insurance company has had a bad year, with massive payouts for floods and bushfires, you might have to apply your skills in insurance law, when you encounter a sudden unexpected reluctance to be either generous or reasonable, in interpreting the policy terms.

If your client is a "registered player" of a "sporting organisation" or an "enrolled player" of a school, under the *Sporting Injuries Insurance Act (NSW)* 1978, then he or she may have recourse to a no-fault accident compensation scheme for injury arising out of participation in sporting activities (providing, of course, that the sporting organisation has paid its premium on behalf of its registered players).

Can you checkmate the volenti defence?

Usually, yes. Usually, fairly easily. In sporting litigation, volenti non fit injuria is frequently raised, but is often no more than a desperate, futile and unsuccessful defence ploy.

Many sports involve risks, obviously. But volenti, if it is properly relied upon as a defence, involves the plaintiff consenting, not just to a risk of injury, but also to the lack of care producing that risk (see *Wooldridge v Sumner* (1963) 2 QB 43 at 69, per Diplock LJ). As Lord Denning pointed out with his usual clarity and precision in his dissenting judgment in *White v Blackmore* (1972) 2 QB 651 at 663:

"No doubt the visitor takes on himself the risks inherent in motor racing, but he does not take on himself the risk of injury due to the defaults of the organisers. People like to see the competitors taking risks, but they do not like to take risks on themselves ... They rightly expect the organisers ... to do all that is reasonable to ensure their safety. If the organisers do everything that is reasonable, they are not liable if a racing car leaps the barriers and crashes into the crowd. But, if the organisers fail to take reasonable precautions, they cannot excuse themselves from liability by invoking the doctrine of volenti non fit injuria, for the simple reason that the person killed or injured does not accept the risks arising from their want of reasonable care."

To sum up the concept of the volenti defence:

1 A participant or spectator may know there is a risk inherent in a sporting activity.
2 If injury occurs within the area of inherent risk, and without breach of care by anyone, there is no case.
3 If the organisers are negligent, or a competitor breaches a duty of care, there may be a case.
4 If there is specific evidence, for example an express agreement that a participant or spectator has consented not merely to the general overall dangers of a sporting activity, but also to a particular risk from which a relevant injury occurs, then the defence of volenti may apply.

See:

a) *Australian Racing Drivers Club v Metcalf* (1961) 106 CLR 177 (injured motor racing spectator);
b) *Rootes v Shelton* (1967) 116 CLR 383 (water skier injured as a result of negligent driving of the ski-towing launch).

Rules of the game: the jumping-off point in countering a volenti defence

If the defendant tries to rely on volenti, look first to the rules of the sport, if there are any. It is usually held that if persons participate in a sporting activity, they have impliedly consented to all the conduct permitted under the rules. Inevitable minor transgressions of the rules will also usually be held to have been consented to, but not wilful major breaches, carrying with them the foreseeability of injury above and beyond what is to be normally expected in a body-contact sport.

In *Giumelli v Johnston* (1991) Aust Torts Reports 81-085, the plaintiff had been deliberately elbowed in the head during an Australian Football match. It was held by King CJ that:

"Assault, more properly battery, is for present purposes the unlawful application of force by one person to another without that other person's consent. The respondent's injury was sustained in the course of a bodily contact sport. The rules of Australian Rules Football permit bodily contact, including strong bodily contact, in the course of the game. Those who participate in a football match are taken to consent to the infliction on them of such physical force as is permitted by the rules of the game. It was accepted by the respondent in evidence, moreover, that some bodily contact outside the rules of the game is to be expected as an ordinary incident of a football match. ... I think that it may be accepted that the consent which a participant in a football match gives to the application of physical force to him extends to physical force of that kind notwithstanding that it involves some infringement of the rules ...

"Although a player's consent to the application of force to him in the course of the game extends not only to the application of force within the rules of the game but also to certain commonly encountered infringements of the rules ... such consent cannot be taken to include physical violence applied in contravention of the rules of the game by an opposing player who intends to cause bodily harm or knows, or ought to know, that such harm is the likely result of his actions."

Usually no volenti defence if acts of bodily force or interference go beyond the accepted rules of the sport

In *McNamara v Duncan* (1979) 26 ALR 584, the plaintiff received a fractured skull in an Australian Football match as a result of a sharp blow to his head from the defendant. The defendant argued that if the blow was held to be intentional, then the plaintiff had consented to it, having accepted the risk that it might happen, because foul play was a common feature of the sport.

Fox J held that the blow had been intentional and was not an act in the ordinary legitimate course of a game of Australian Rules football. Nor had the plaintiff consented to receiving such a blow contrary to the rules of the game, even though such conduct might and probably did occur:

"I do not think it can reasonably be held that the plaintiff consented to receiving a blow such as he received in the present case. It was contrary to the rules and was deliberate. Forcible bodily contact is of course part of ▶

Australian Rules Football, as it is with some other codes of football, but such contact finds justification in the rules and usages of the game. **Street on Torts** *(4th ed, p 75) deals with the presumed ambit of consent in cases of accidental injury: 'A footballer consents to those tackles which the rules permit, and, it is thought, to those tackles contravening the rules where the rule infringed is framed to maintain the skill of the game; but otherwise if his opponent gouges out an eye or perhaps even tackles against the rules and dangerously.'* **Prosser, Law of Torts** *(3rd ed, p 103) says: 'One who enters into a sport, game or contest may be taken, to consent to physical contacts consistent with the rules of the game. (per Fox J at 588)."*

Should you also sue the other club?

In Rogers v Bugden (unreported, Sup CT NSW, No. 12022 of 1985, 14 December, 1990), Lee J held that a particular tackle by Canterbury Club rugby league player Mark Bugden on the former Cronulla and Australian captain Steve Rogers, constituted an "unlawful assault", and that Bugden's club, Canterbury, had "authorised" the assault and so was also liable for damages. The judge held that Bugden was an employee of the Canterbury club and although his assault on Rogers was not "expressly or impliedly authorised" by the club, it had nevertheless authorised him to use force, with the Canterbury coach having made it as "clear as crystal" to his team that they should do all they could, to prevent Rogers from "using his talents to the full". Bugden knew that high tackles were outside the rules of the game.

An appeal was dismissed. The NSW Court of Appeal exonerated Bugden from personal animosity and held that illegitimate conduct had not been authorised. However, there was a plain risk that motivation by a club employer could, in some cases, lead to the adoption of illegitimate means of winning. Any employer which encouraged action "close to the line" would have to bear, in an appropriate case, the consequences of player actions that went "beyond the line".

Have you a plaintiff's hurdle to overcome, in the form of an exemption clause, warning, or disclaimer?

It is an occasional tactic for sports organisers to attempt to build in a sort of volenti-type defence, by asking intending participants to sign a disclaimer of liability, a waiver, clearance, or an indemnity. Prominently exhibiting a warning sign to spectators, either on display near the entrance or included in the purchased ticket or printed program, is another device used by sports organisers in an attempt to guard against litigation:

"Spectators attend at their own risk"

"No liability is accepted for any accident or injury however caused".

Signed disclaimers, waivers and indemnities are particularly common in the so-called "adventure sports" such as downhill skiing, rock climbing, volcano inspecting, abseiling, scuba diving, white water canoeing, hang gliding, hot air ballooning, bungee jumping, skydiving, and wilderness trekking, for example. It is often made clear to intending participants that they will not be permitted to take part at all, unless they first sign a "clearance". Contractual exemption clauses of this kind can be binding and can be effective to bar any recovery of damages. It all depends on the wording and upon the age of the participant.

Your first point of inquiry should be the injured plaintiff's age. If your client is a legal infant, a signed exclusion of liability is futile in any attempt by the defendant to fend off litigation. Minors cannot sign away their own right to sue for negligence, nor can their parents sign away this right on their behalf.

If your injured client has signed a disclaimer of liability, then check the wording. If the sporting organisers have expressly stated that they are not to be liable in respect of their own or their servants' negligence, and your client has signed acceptance of this term, then the courts will usually give effect to such a statement. But in the knowledge that participants may shy away from direct references to negligence and refuse to sign waivers and disclaimers, there is often a reluctance by sporting organisers to explicitly refer to negligence, leaving a big legal weakness for you to attack. Exclusion clauses, disclaimers and waivers will also be interpreted strictly against the person seeking to rely on them:

"A disclaimer can only be effective to cut down the common law liability so as to exclude liability for negligence if it expresses that intention in unequivocal language. (See **Morgan v Lipscombe** *(1992) VLR 10 at 14)."*

Other authorities to assist your counter-attack upon notices, warnings, waivers and purported disclaimers of liability, would be:

a) *Photo Production Ltd v Securicor Ltd (1980)* AC 827 at 846.
b) *Graham v The Royal National Agricultural and Industrial Association of Queensland* (1989) 1 Qd R 631.
c) *Canada Steam Ship Lines Limited v The King* (1952) AC 192 at 208 per Lord Morton.

The "Lord Morton principles" as they have become known, in the Canada Steamship case, mean that if a defendant wants to exclude liability for negligence, he has first of all to be very explicit in stating that liability for negligence is included. More importantly, if only "general words" are used in the disclaimer, which general words in themselves would be sufficient to apply to negligence, those words will nevertheless not be adequate to exclude liability, unless negligence were the only likely source of liability for which the defendant could be responsible:

*"... the existence of a possible head of damage other than that of negligence, is fatal ..., if the words used are prima facie wide enough to cover negligence on the part of his servants (***Canada Steamship Lines** *(1952) A 192 at 208)."*

In *Bright v Sampson and Duncan Enterprises Pty Ltd* (1985) 1 NSWLR 346, a roller skater suffered injury as a result of the defective state of the floor. The defendants tried to rely on a notice at the entrance to the skating rink which stated:

"No responsibility is accepted by the management for any injuries to patrons. Skating is at the patron's own risk and is a condition of entry."

The court held that the notice did not operate to fully exclude liability:

"If skating is 'at patron's own risk', that risk might well include a collision with another skater to which the respondent's conduct in permitting the rink to be overcrowded, or in some other way, is a contributing factor. But it can hardly cover the sudden fall of roof timber upon the patron's head or the appearance of a chasm in the middle of the rink as a result of the subsidence of defective floor materials. " (per Samuels JA at 360)

A trend which is becoming increasingly evident in the decisions of Australian

courts is towards a kind of "indefeasible duty" by sporting organisers, following the view of Lord Denning in *White v Blackmore* that they are bound to make their premises, equipment, location and procedures reasonably safe. Any power to modify that duty by disclaimers, exemption clauses and the like, should be read down by that fundamental requirement.

In the words of Lord Denning, if sporting organisers "could 'snap their fingers at the law' merely by putting up warning notices" (or using general disclaimers), "this would be intolerable". It would be even less tolerable if insurance companies could collect premiums, merely get the insured to put up notices or generally disclaim liability, then "confidently pocket the proceeds" (*White v Blackmore* at 665-667).

Will the defence of contributory negligence stick?

Like the frequently unsuccessful volenti defence in sports litigation, contributory negligence is a defence for the defendant to explicitly plead and prove. It is usually more successful than volenti, and may result in an apportionment of liability and a consequent reduction of damages.

Check the facts and cross-examine your injured plaintiff client. Has he or she been culpable or negligent too? Did your client wilfully ignore the barriers and sit too close to the dangerously designed track? Did they contribute to their own downfall by refusing to wear the available seatbelts in the negligently driven jet boat?

Is there any videotaped evidence available?

The rise of professionalism in sport, with its accompanying increase in the financial sporting stakes, has been aided and abetted by television. Television creates sporting heroes and increases their financial worth. Sporting participants, like parliamentarians and protesters, perform for the camera.

Evidence wins legal battles. What evidence have you got, beyond the usual witness statements? Can you deliver a knock-out counter-punch to the defence, by producing a blow-by-blow visual record of your plaintiff client's injury?

Use the services of a para-legal group such as the "Australian Plaintiff Investigators" to turn up whatever damning evidence is available on tape. Employing that kind of professional assistance, you are often able to track down, not only any available video recordings made by commercial television channels, but often a variety of equally damning home video records.

Should you be suing the referee?

As you survey the possible defendants of your action, consider the facts and decide if the referee is a worthwhile litigation target. Was your client injured as a result of the umpire's acts of commission or omission?

In the big-money world of professional sport, referees have graduated to star status. They are often well-paid and highly trained, with a level of proclaimed expertise that harnesses them with high levels of responsibility, liability and expected standards of duty of care.

Were there prior incidents of dirty play, with player thugs not properly brought to account and penalised? If your client was injured as a result, then sue the ref.

Was there a failure to intervene promptly and bring a fight quickly to an end? And was your client injured as a result of the prolongation of that fight? Sue the ref.

Did the referee inspect the players' boots and yet allow players to take the field with dangerous studs in their boots? If the condition of boots was relevant to your client's injury, sue the ref.

Should the coach and the team doctor be sued as well?

If the coach has caused your client's injuries by demanding a level of participation that is too much, or too soon, or if there has been an absence of adequate prior preparation, then join the coach as a defendant. This is all part of the planning strategy which should feature in your assembly of the plaint. Was your client required by the coach to do something far beyond his or her capabilities, or age expectations? Was your client injured because he was ordered by the coach to take the field again too soon after an earlier injury? If so, sue the coach.

Was your client's most recent injury partly the result of medical negligence involving incompetent diagnosis, poor treatment, or inappropriate advice in relation to a former injury? Sue the doctor.

If the team's aerobics instructor had required exercises that were clearly dangerous or excessive, or had failed to carry out prudent pre-activity screening, sue the instructor.

If your client has been injured because the coach of the other team has encouraged his players to commit foul play, then sue the other coach. Half-time exhortations to "kill them this quarter" can lead to personal liability for the coach. The law is clear. It has always been the maxim "Qui facit per alium facit per se" — he who does a mischief through an agent does it for himself.

Some of the more general plaintiff planning questions which you should consider in relation to sports and athletics coaching liability are:

a) Was the activity both mentally and physically suited to the athlete's age and condition?
b) Was the activity adequately supervised?
c) Was the athlete progressively trained and properly coached to avoid danger?
d) Were up-to-date written reports maintained?
e) Were the facilities adequate and the equipment safely set up?
f) Were first aid facilities and expertise readily available?
g) Were communication facilities to emergency assistance readily available?
h) Was there mismatching of athletes in height, weight, age, skill levels, or maturity?
i) Were coaching personnel properly selected, prepared, and trained, and then continuously updated and upgraded in the necessary skills and knowledge?
j) Were the coaches accredited?

What if you decide to sue the occupier of the sporting premises where your client was injured?

The excruciating old distinctions between contractual entrants, invitees and licensees have now given way to a broader concept of occupier's liability, based on the general principles of negligence. In pleading your plaintiff client's case, if he or she was injured as a result of defective or dangerous premises, you will no longer have to concern yourself with a prior analysis of the precise basis of his or her presence at the sporting arena. ▶

See:

a) *Hackshaw v Shaw* (1985) 59 ALJR 156.

b) *Papaatonakis v Australian Telecommunications Commission* (1985) 59 ALJR 201.

and the now standard leading case on occupier's liability —

c) *Australian Safeway Stores Pty Ltd v Zaluzna* (1987) 162 CLR 479.

Is non-delegable duty available to you as a plaintiff weapon?

If the injured plaintiff client is a school student, then you may also have in your armoury the concept of a non-delegable duty of care owed by the educational employer, in addition to any duty owed in the usual vicarious fashion, as a result of breaches by the employer's agents and servants. See:

a) *Watson v Haines* (1987) Aust Torts Reports 80-094.
(A boy with long thin neck foreseeably injured after collapse of Rugby League scrum in school match.)

b) *The Commonwealth v Introvigne* (1981) 151 CLR 258.
(A boy injured by piece of falling flagpole in playground horseplay activities.)

Whenever client plaintiffs in sporting litigation are children, a number of special factors operate, which you need to keep in mind:

a) They sue through "next friends".

b) The statute of limitations can be made to wait until three years after children have reached adulthood.

c) Because of their more limited experience and age, they may have a considerably reduced understanding of the nature of the risks involved.

d) They will probably have been participating in the sporting activities under the direction of adults in a semi-compulsory situation, such as games and sports directed and organised by school officials.

e) Contractual exclusion clauses do not apply to plaintiffs who are legal infants.

A bibliography of relevant authorities

To assist in your preparation of pleadings and your formulation of causes of action for your plaint or writ, I have compiled a fairly extensive list of relevant authorities, research of which may provide you with the necessary edge to win. Some of them are North American cases, where litigation itself has almost become a sport. ■

Dr Keith Tronc is a barrister-at-law in private practice and former solicitor and professor of education. He can be contacted on: **phone** 07 3236 2770 or **fax** 07 3236 1998

Motor racing
Hall v Brooklands Auto Racing Club (1933) 1 KB 205.
O'Dowd v Fraser (1959) WN 173.
Australian Racing Drivers Club Ltd v Metcalf (1961) 106 CLR 177.
White v Blackmore (1972) 2 QB 651.
McComiskey v McDermott (1974) IR 75.
Rush v Modified Sprint Car Association of New South Wales (Unreported, Sup Ct NSW, Lee J, No. 916 of 1985, 18 April 1986).
Wilks v Cheltenham Homeguard Motor Cycle and Light Car Club (1971) 2 All ER 369.
Emmett v Manning (1985) 40 SASR 297.

Skiing and Snowmobiling
Nabozny v Barnhill 334 NE 2d 258 (1975), 77 ALR 3d 1294.
Ninio v Hight 385 F 2d 350 (1967), 24 ALR 3d 1442.
Gilsenan v Gunning (1982) 137 DLR (3d) 252.
Fink v Greeniaus (1973) 43 DLR (3d) 485.
Taylor v R in Right of British Columbia (1980) 112 DLR (3d) 297.
Ryan v Hickson (1974) 55 DLR (3d) 196.

Ice Hockey
Murray v Harringay Arena Ltd (1951) 2 KB 529.
Payne and Payne v Maple Leaf Gardens (1949) 1 DLR 369.
Wilson v Vancouver Hockey Club (1983) 5 DLR (4th) 282.
Robitaille v Vancouver Hockey Club (1981) 124 DLR (3d) 228.
Sutphen v Benthian 397 A 2d 709 (1979).
R v Maki (1970) 14 DLR (3D) 164.
R v Green (1970) 16 DLR (3d) 137.

Water skiing
Rootes v Shelton (1967) 116 CLR 383.
Rogers v Rawlings (1969) QdR 262.

Australian Rules Football
McNamara v Duncan (1971) 26 ALR 584.
Smith v Emerson (1986) Aust Torts Reports 80-022.
Giumelli v Johnston (1991) Aust Torts Reports 81-085.
Horkin v North Melbourne Football Club Social Club (1983) VR 153.

Rugby League
Watson v Haines (1987) Aust Torts Reports 80-094.
Nowak v Waverley Municipal Council (1984) Aust Torts Reports, 80-200.
Commonwealth v Lyon (1979) 24 ALR 300.
Canterbury-Bankstown Rugby League Football Club Ltd v Rogers (1993) Aust Torts Reports 81-246.
Re Lenfield (1993) Aust Torts Reports 80-222.
Hilton v Wallace (1989) Aust Torts Reports 80-231.

Rugby Union
O'Brien v Mitchell College of Advance Education (unreported, Sup Ct NSW, Yeldham J, 17 November 1985).
R v Billinghurst (1978) Crim LR 553.
R v Johnson (1986) 8 Cr Ap R 343.
Van Oppen v Clerk to the Bedford Charity Trustees (1989) 1 All ER 273.
Simms v Leigh Rugby Club (1969) 2 All ER 923.

Soccer
Condon v Basi (1985) 2 All ER 453.
R v Bradshaw (1878) 14 Cox 83.
R v Moore (1898) 14 TLR 229.
Sibley v Milutinovic (1990) Aust Torts Reports 81-013.
R v Venna (1975) 3 All ER 788.
R v Gingell (1980) Crim LR 661.
McNab v Auburn Soccer Sports Club Ltd (1975) 1 NSWLR 54

Swimming and diving
Harris v Laquinta-Redbird 522 SW 2d 232 (1975), 87 ALR 3d 372.
Nagle v Rottnest Island Authority (1993) 177 CLR 423.
Tonkin v Gunn (1988) Aust Torts Reports 80-219.
Wright v The Scout Association of Australia (unreported, Qld Sup Ct, Ambrose J, No. 4548 of 1980, 14 December 1988).
Commonwealth of Australia v Connell 5 NSWLR 218.
Black v South Melbourne Council (1964) 38 ALJR 309.
Clarke v Bethnal Green Borough Council (1939) 55 TLR 519.
Hornberg v Horrobin (unreported, Qld Sup Ct, No. 836 of 1997, 24 October 1997, Ambrose J).

Dog racing
Pett v Greyhound Racing Association Ltd (1969) 1 QB 46.
Maloney v New South Wales National Coursing Association Ltd (1978) 1 NSWLR 161.
Freedman v Petty (1981) VR 1001.

Horse racing and Gymkhanas
Goldman v Johannesburg Club (1904) TR 251.
Hall v N.S.W. Trotting Club Ltd (1977) 1 NSWLR 378.
Watson v South Australian Trotting Club Inc (1938) SASR 94.
Standfield v Uhr (1964) QdR 66.
Moloughney v Wellington Racing Club (1935) NZLR 800.
Evans v Waitemata Pony Club (1972) NZLR 773.
Wooldridge v Sumner (1963) 2 QB 43.
Carrera v Honeychurch (1983) 32 SASR 511.
Forbes v N.S.W. Trotting Club Ltd (1979) 143 CLR 242.
Johnston v Frazer 21 NSWLR 89.
Calvin v Carr (1979) 53 ALJR 471.

Golf
Cleghorn v Oldham (1927) 43 TLR 465.
Castle v St Augustine's Links Ltd (1922) 38 TLR 615.
Sans v Ramsey Golf and Country Club Inc (1959) 29 NJ 438.
Matheson v Northcote College (1975) 2 NZLR 106.
Nixon v Gay (1987) Aust Torts Reports 80-098.
The Albany Golf Club Incorporated v Carey (1987) Aust Torts Reports 80-139.

Cricket
Bolton v Stone (1951) AC 850.
Commonwealth v Oliver (1962) 107 CLR 353.
Miller v Jackson (1977) QB 966.

Boxing
R v Coney (1882) 8 QBD 534.
Pallante v Stadiums Pty Ltd (No. 1) (1976) VR 331.
La Valley v Stanford 79 NE 2d 437 (1947).
R v Young (1866) 10 Cox 371.

Spectators
Hall v Brooklands Auto Racing Club (1933) 1 KB 205.
Voli v Inglwood Shire Council (1963) 110 CLR 74.
Murray v Harringay Arena Ltd (1951) 2 KB 529.
Australian Racing Drivers Club Ltd v Metcalf (1961) 106 CLR 177.
Evans v Waitemata Pony Club (1972) NZLR 773.
White v Blackmore (1972) 2 QB 651.
Wooldridge v Sumner (1963) 2 QB 43.
Wilks v Cheltenham Car Club (1971) 2 All ER 369.
Forbes v N.S.W. Trotting Club Ltd (1979) 143 CLR 242.

Gymnastics and trampolining
Wright v Cheshire County Council (1952) 2 All ER 789.
Gibbs v Barking Corporation (1963) 1 All ER 115.
Robertson v The Hobart Police and Citizens Youth Club Inc (1984) Aust Torts Reports 80-629.
Bills v State of South Australia 38 SASR 80.

Basketball
Albers v Independent School District No. 302, 487 P 2d 936 (Idaho, 1971).