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

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

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

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

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

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

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

No requisite control to make Exxon occupier of premises

sponsor of company picnic did not assume control of premises

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
"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

47