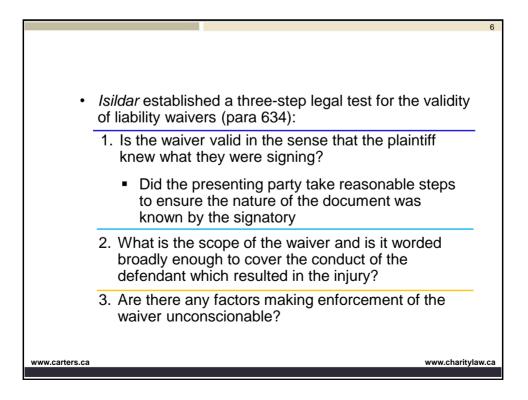
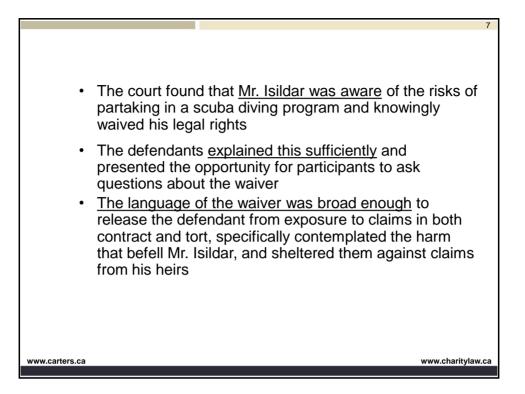
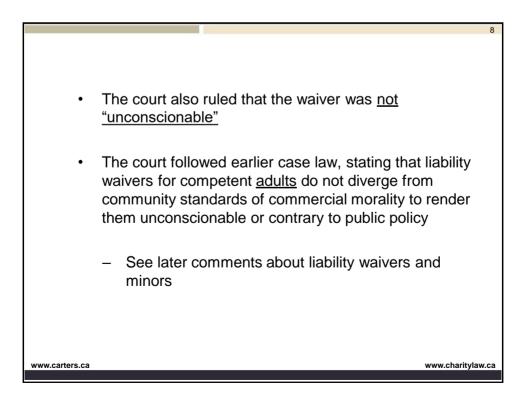


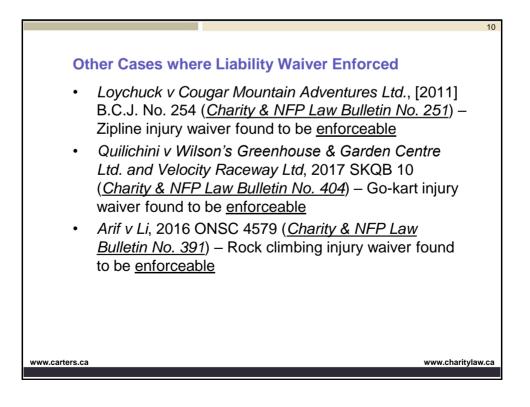
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C. ENFORCE	ABILITY OF LIABILITY WAIVERS
1. Primary C	ases where Liability Waiver Enforced
lsildar v. Kanata Diving Supply	Reported on in <u>Charity &amp; NFP Law Bulletin No. 178</u>
[2008] O.J. No. 2406 (OSCJ)	<ul> <li>Case provides guidance on key elements of well- drafted liability waiver</li> </ul>
FACTS:	<ul> <li>Mr. Isildar had died while partaking in a recreational scuba program</li> </ul>
	<ul> <li>The court found that the liability release (waiver) and assumption of risk agreement that he had signed were properly drafted, and enforceable</li> </ul>
	<ul> <li>As a result, the lawsuit by surviving relatives was dismissed</li> </ul>
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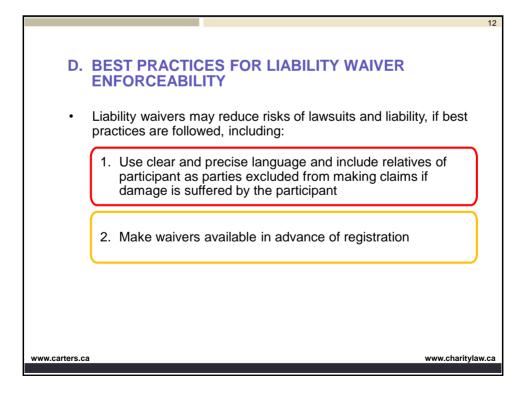


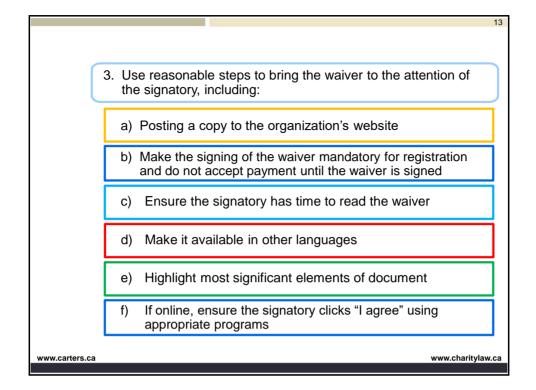


Levitta v. Crew and True North Hockey Canada 2015 ONSc5• Discussed in <u>Charity &amp; NFP Law Bulletin No. 375</u> • Mr. Levitta, a hockey player in an adult recreational league, was injured during a game by an opposing player• Both the opposing player, who was blamed for Mr. Levitta's injuries, and the league were sued• The court dismissed argument that the waiver was unenforceable• The waiver clearly addressed the inherent risks of playing ice hockey and the type of injury which Mr. Levitta suffered (a broken leg)		9
<ul> <li>Mr. Levitta, a hockey player in an adult recreational league, was injured during a game by an opposing player</li> <li>Both the opposing player, who was blamed for Mr. Levitta's injuries, and the league were sued</li> <li>FACTS:</li> <li>The court dismissed argument that the waiver was unenforceable</li> <li>The waiver clearly addressed the inherent risks of playing ice hockey and the type of injury which Mr. Levitta suffered (a broken leg)</li> </ul>	Crew and True North Hockey Canada 2015 ONSC 5316	Discussed in <u>Charity &amp; NFP Law Bulletin No. 375</u>
<ul> <li>5316</li> <li>Both the opposing player, who was blamed for Mr. Levitta's injuries, and the league were sued</li> <li>FACTS:</li> <li>The court dismissed argument that the waiver was unenforceable</li> <li>The waiver clearly addressed the inherent risks of playing ice hockey and the type of injury which Mr. Levitta suffered (a broken leg)</li> </ul>		league, was injured during a game by an opposing
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2. Case wh	nere Liability Waiver Not Enforced
Peters v	Discussed in <u>Charity &amp; NFP Law Bulletin No. 444</u>
Soares, 2019 BCSC 189	<ul> <li>The liability waiver was contained in a club membership agreement for the defendant martial arts academy</li> </ul>
	<ul> <li>The waiver did not make mention of risk of injury during <u>competitions</u></li> </ul>
FACTS:	<ul> <li>The plaintiff was injured during a competition and alleged negligence on the part of the academy</li> </ul>
	<ul> <li>The court stated that the waiver <u>did not extend</u> to competitions as it only mentioned a risk of injury during classes</li> </ul>
	<ul> <li>"releases only cover matters specifically in the contemplation of the parties at the time the release was given"</li> </ul>
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	4.	Ensure a comprehensive description of event, risks, and waiving of legal claims	
	5.	Include indemnity clause for harm done to other participants, and costs incurred by the organization	
	6.	Include liability waiver for medical treatment	
	7.	Include a media release waiver	
	8.	Include waiver of liability for organization AND its employees, volunteers, officers, directors and members	
	9.	Ensure waivers are properly organized and stored for later reference	
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