

# THE DARK SIDE OF SPORTS

## The Legal Dictionary: Part 2

Legal terms you need to know: K-Z

In continuing from last issue's column (May/June 2008), Dr. Marc Rabinoff put together the following list of important legal terms that will be used in future articles about safety and liability.

**liability:** An obligation to do or refrain from doing something. A duty that eventually must be performed. An obligation to pay money. Signifies money owed, as opposed to assets. Also used to refer to one's responsibility for their conduct, such as contractual liability, tort liability or criminal liability.

**litigation:** Legal proceedings.

**malfeasance:** The doing of an act that is wrongful and unlawful.

**misfeasance:** The performance of an act in a wrongful or injurious manner. The improper performance of an act which might have been lawfully done.

**negligence:** Failure to exercise that degree of care that a person of ordinary prudence (a "reasonable man") would exercise under the same circumstances. The term refers to conduct that falls below the standard established by law for the protection of others against unreasonable risk of harm.

**perjury:** The willful assertion as to a matter of fact, opinion, belief or knowledge, made under oath by a witness in a judicial proceeding, to the issue or point of inquiry and known to such witness to be false.

**plaintiff:** The one who initially brings the suit in a civil case.

**settlement:** A voluntary agreement in which the parties resolve their dispute.

**statute:** An act of the legislature, adopted pursuant to its constitutional authority, by prescribed



It's never too early to teach proper weight training technique to minimize your risk of becoming involved in lawsuits.

means and in certain form such that it becomes the law governing conduct within its scope.

**statute of limitations:** Any law that fixes the time within which parties must take judicial action to enforce rights or else be thereafter barred from enforcing them.

**strict liability:** In tort and criminal law, liability without showing of fault. It is often the case in tort law that one who engages in an activity that has an inherent risk of injury, such as those classified as ultra hazardous activities, is liable for all injuries proximately caused by his enterprise, even without a showing of negligence.

**subpoena:** A command to appear at a certain time and place to give testimony upon a certain matter.

**suit:** Any proceeding in a court of justice by which an individual pursues that remedy that the law affords.

**precedent:** A previously decided case that is recognized as authority for the disposition of future cases.

**product liability:** A relatively recent development in the law of torts that dictates that "a manufacturer is strictly liable in tort when an article he places in the market, knowing that it is to be used without inspection for defects, proves

to have a defect that causes injury to a human being."

**prosecution:** The act of pursuing a lawsuit or criminal trial. Also the party initiating a criminal suit.

**prosecutor:** A public official, either elected or appointed, who prepares and conducts the prosecution of persons accused of crime. In certain cases, the legislature may appoint a special prosecutor to conduct a limited investigation and prosecution.

**testimony:** Evidence by a competent witness under oath or affirmation.

**tort:** A private or civil wrong or injury independent of contract, resulting from a breach of a legal duty.

**verdict:** The finding of a jury on the matter submitted to it.

**vicarious liability:** The attachment of responsibility upon one person for the actions of another.

**willful and wanton:** Typically an act that not only is negligent but also exhibits a conscious disregard for the safety of others. The act must have been knowingly and intentionally committed or committed under circumstances evidencing reckless disregard for the safety of others.

**waiver:** An intentional and voluntary giving up, relinquishment or surrender of some known right.

*"The Dark Side of Sports" is a regular feature by Dr. Marc Rabinoff that answers questions about safety and liability based upon actual litigations.*



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