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1. *Marklinger v. British Columbia*, 2026 BCSC 710

Background

The Plaintiffs, acting as the family and personal representatives of the deceased, brought a civil action against provincial government ministries following a fatal accident on a public hiking trail. The Plaintiffs alleged that the Defendants breached their duty of care by failing to properly maintain the trail, assess dangerous trees, and documenting safety inspections. The Defendants accepted that they owed a general duty of care but asserted that their liability was restricted by the *Occupiers Liability Act* (OLA), which lowered the standard of care for recreational trails, and requires a Plaintiff to prove "reckless disregard" to establish liability.

Facts

On July 17, 2018, the deceased was hiking along the Ripple Rock Trail near Campbell River, British Columbia. The trail was a public Crown trail managed by Recreation Sites and Trails BC. It was open to the public, free of charge, and marked with trailhead signage warning users of natural hazards. During the hike, a dead standing alder tree located adjacent to, and uphill from, the trail suffered a sudden root-plate collapse, resulting in it falling and striking the deceased and causing fatal injuries.

Four months prior to the incident, in March 2018, a certified provincial parks manager had conducted a visual inspection of the trail using the methodology of the Wildlife/Dangerous Tree Assessor's Course (WDTAC). The inspector observed the specific tree in question but determined that it was leaning parallel to and away from the trail. Because it did not appear to lean toward the trail, he concluded it did not pose an imminent risk of failure into the public target zone and required no removal. The inspector did not create or retain any written field cards, data logs, or notes documenting this trail assessment.

Decision

The Court's analysis focused strictly on the statutory protections and liability limits set out under Section 3 of the OLA.

- **Trail Classification:** The Court confirmed that the Ripple Rock Trail satisfied the statutory definition of a "recreational trail" under s. 3(3.3)(c) of the OLA, noting that the route was clearly defined, explicitly directed by roadway signage, and supported by a dedicated parking lot and trailhead information board.
- **Statutory Standard of Care:** Under s. 3(3.2) of the OLA, any person who enters an unmarked recreational trail for a recreational activity is legally deemed to have willingly assumed all risks. Consequently, the default duty under s. 3(1) to ensure visitors are "reasonably safe" is displaced. Under s. 3(3)(b), the occupier owes only a lesser duty not to act with "reckless disregard" to the safety of the person.
- **Core-Policy Immunity vs. Operational Implementation:** The Court held that high-level government decisions regarding resource allocation, budgeting, and the formal adoption of WDTAC protocols constitute immune core-policy decisions. However, the actual physical execution of trail inspections and the management of field records by local staff constitute operational implementations that are subject to private law negligence review.

- **Meaning of Reckless Disregard:** The Court ruled that "reckless disregard" requires an element of intentionality. It is defined as doing or omitting to do something that the occupier should recognize as likely to cause damage or injury, while simply not caring whether such harm results. It requires a conscious persistence in a dangerous course of conduct or a deliberate failure to inquire in the face of a known risk.
- **Assessment of the Defendants' Conduct:** The Court determined that the inspector's visual assessment was reasonable for a trail categorized as Level of Disturbance 1 under WDTAC guidelines, which only demands a visual check for obvious, imminent hazards. Expert evidence confirmed that the root failure occurred beneath the soil and lacked visible surface indicators, making it undetectable by a standard visual inspection. Because the inspector genuinely evaluated the tree and concluded it was leaning away from the path, any misclassification or subsequent failure to complete the WDTAC's minimum documentation standards amounted to an inadvertence or accident rather than a conscious, reckless indifference to public safety.

Conclusion

The Supreme Court of British Columbia concluded that the Plaintiffs failed to establish that the Defendants acted with reckless disregard for the deceased's safety under the OLA. The Court affirmed that wilderness hiking carries inherent risks, and occupiers cannot be held to a standard of perfection or are expected to eliminate all naturally occurring dangers. The claim was dismissed.

2. *S.T.H. v. Ivanhoe Cambridge Inc.*, 2026 BCSC 695

Background

The Plaintiff sought damages for severe physical and psychological injuries resulting from a civil assault, battery, false arrest, and false imprisonment perpetrated by mall security guards. The action was brought against the mall owner, Ivanhoe Cambridge Inc., and its security contractor, Paladin Security Group Ltd. Among the claims advanced, the action directly invoked the *Occupiers Liability Act* (“OLA”) regarding the property owner's statutory duty of care. On the first day of trial, the Defendants formally admitted liability for the claimed torts, including a negligent breach of their duties under the OLA.

Facts

The incident occurred at Metropolis at Metrotown (the “Mall”), a retail property owned and operated by Ivanhoe Cambridge Inc. Security guards employed by Paladin Security Group Ltd. confronted the 18-year-old Plaintiff under the mistaken belief that an active, long-term property ban was in place. Despite the Plaintiff's cooperation in exiting the premises, the guards forced the Plaintiff into a painful arm lock, paraded him through public corridors, and executed multiple violent physical “take downs” on the exterior plaza of the Mall property, causing the Plaintiff to suffer a concussion and severe bruising. The Plaintiff was then handcuffed, searched by a male guard, and imprisoned in a locked detention cell for 45 minutes. It was formally admitted that Ivanhoe Cambridge Inc. was an occupier of the Mall within the meaning of the OLA and owed a statutory duty to ensure visitors would be reasonably safe while using the premises.

Decision

Because the Defendants admitted liability at the outset of the trial, the Court's legal analysis under the OLA focused on the scope of the admitted breaches, the validity of the Defendants' mitigating arguments, and the resulting causation of damages. The Defendants formally admitted that they negligently breached their statutory duty as occupiers under the OLA to take care that in all the circumstances the Plaintiff would be reasonably safe to use the Mall.

The Court rejected the Defendants' assertions that the private property status of the Mall or the Plaintiff's natural resistance to a painful physical hold mitigated the occupier's liability. Justice Marzari clarified that while a shopping mall is privately owned, it is a property open to the public, meaning members of the public are lawful visitors and not trespassers. Because the guards' underlying justification for evicting and detaining the Plaintiff was entirely mistaken and unfounded, the force used lacked any legal baseline. The Court held that this negligent breach of the occupier's duty directly caused the Plaintiff's prolonged physical trauma and severe, chronic Post-Traumatic Stress Disorder (PTSD).

Conclusion

The Court concluded that the Defendants were jointly and severally liable for all compensatory damages flowing from the breach of the OLA. The Defendants were ordered to pay a total of \$800,481 in compensatory damages, comprising \$250,000 for non-pecuniary and aggravated damages, \$25,000 for past income loss, \$500,000 for loss of future earning capacity, \$25,000 for the cost of future care, and \$481 for provincial healthcare recovery costs.

Of particular note, the security contractor, Paladin, was found solely liable for an additional \$1,000,000 in punitive damages due to corporate-level misconduct. The Plaintiff was awarded costs of the action.

3. *Doerksen v. Sun*, 2026 BCCRT 641

Background

The Applicant sought \$1,500 in compensation for veterinary expenses after his partner's dog was bitten and injured by a dog owned by the Respondent. The Applicant pursued remedies under British Columbia legal frameworks governing pet owner responsibility, which include occupiers' liability. The Respondent denied liability, alleging that the Applicant's dog had provoked the encounter.

Facts

The incident occurred while the parties were camping near Chehalis Lake. The Applicant, his partner, and their dog, were utilizing a campsite area close to where the Respondent and their dog were also camping. The Respondent's dog bit the Applicant's partner's dog, causing injuries that required emergency veterinary treatment. The entirety of the interaction took place at a remote campground, completely removed from any permanent residential or commercial land owned or occupied by the Respondent.

Decision

The Civil Resolution Tribunal ("CRT") evaluated the dispute by reviewing the three distinct legal pathways under which a pet owner can be held liable in British Columbia: occupiers' liability, scienter, and negligence.

Focusing on occupiers' liability, the Tribunal emphasized that this statutory framework explicitly governs the legal duty of an individual who owns or occupies land or property to ensure that persons or property will be reasonably safe while visiting that specific premises. Because the evidentiary record demonstrated that the dog attack occurred in a public recreational camping area and did not take place on or near any property owned or occupied by the Respondent, the CRT held that occupiers' liability did not apply to the facts of the dispute.

Conclusion

The Tribunal concluded that liability under occupiers' liability could not be established because the incident occurred entirely off-premises. As the Applicant was also unable to meet the necessary burden of proof to establish liability under the alternative framework of negligence, the claim was dismissed in its entirety.

4. *Shannon v. Shea*, 2026 BCCRT 947

Background

The Applicant sought damages for veterinary expenses and lost wages after his dog was attacked and injured by a dog owned by the Respondents. The Applicant asserted that the Respondents were legally responsible for the incident under three separate frameworks, including occupiers' liability. The Respondents denied liability and disputed the core facts of the altercation.

Facts

The incident occurred shortly after 6:00 a.m. within a residential neighborhood. While the Applicant was walking his dog on a leash along Pine Crescent, the Respondents' unleashed dog charged from an intersecting street and initiated an attack. The entirety of the dog attack and subsequent physical altercation took place on public neighborhood streets and lanes, occurring completely off the Respondents' personal residential property.

Decision

The CRT assessed the historical frameworks for pet owner liability, specifically reviewing the application of the OLA. The CRT clarified that occupiers' liability concerns the legal duty of an individual who owns or occupies land or property to ensure that a person will be reasonably safe while on that specific property. Given the evidence established that the attack did not occur on the Respondents' property, the Tribunal held that occupiers' liability did not apply to the dispute. Instead, the Tribunal noted that liability for the incident had to be evaluated under the distinct legal frameworks of scienter or negligence.

Conclusion

The Tribunal concluded that the Respondents could not be held liable under the OLA because the incident did not occur on the Respondents' property. While the occupiers' liability claim was wholly inapplicable to the facts of the case, the Applicant was ultimately successful in establishing liability under the separate common law framework of negligence.

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ABOUT ALEXANDER HOLBURN BEAUDIN + LANG LLP

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