

The SCA Equestrian Marshal's Guide to Adult Equestrian Liability Waivers and Signage in the 50 States

by

Mike Watkins, Esq., Meridies

April 2007 Update

Over the last decade, the horse industry has heavily lobbied the legislatures of the various states to provide lawsuit protection to equine professionals, meaning those who rent or supply horses, tack, and other equipment, and equine activity sponsors, like the typical equestrian activities found at SCA event.

The legislatures of 45 states, including Pennsylvania in February 2006, responded to the lobbying efforts by passing laws that offer some lawsuit protection to equine activity sponsors and equine professionals. In order to protect the SCA, the Board of Directors asked for legal research to develop waivers that would sufficiently invoke the new statutes to provide more protection for the SCA from lawsuits arising out of injuries or death in equine activities.

This endeavor is not meant to burden the marshalls with more paperwork. In fact, using the new Roster-style waiver approved by the Board, these new forms actually can reduce typical event paperwork. For the five states that have no special protection laws like Alaska, California, Nevada, New York and Maryland, use the Standard Society Waiver and signage.

The only new addition to this new liability protection is the requirement in many of the 45 states for signs with specific language, size/typeset, and quantity to be posted. These signs can be easily made and only a few need to be posted at the required areas. Once the signs are made, with the addition of a weatherproof covering, these signs can be re-used many times through the years. The equestrian marshal in charge "EMIC" should sign each roster as acknowledgement of rider authorization and waiver submission. The law requires that participants in equestrian activities be fully informed of the inherent risks of equine activities before they can knowingly and intelligently surrender their right to sue for an injury or death resulting from an equine activity. These forms and signage language, one for every state including the 5 states that have no special liability protection, inform the potential participant of the inherent risks of equine activities and releases the activity sponsor from liability for harm, placing the risk upon the participant for accidents and other inherent risks of equine activity. No waiver can protect against intentional or reckless acts but the mere accidents can have protection of the new laws.

If you have any questions, please feel free to contact me regarding the usage of the form or the requirements of the signage for your SCA equestrian events.

Respectfully,
Mike Watkins, Esq.
watkijm@auburn.edu

cc:
SCA Board of Directors
President of the SCA

**WAIVER AND INFORMED CONSENT TO PARTICIPATE
IN S.C.A, Inc. EQUESTRIAN ACTIVITIES**

State of Colorado Equine Liability Form Rev 2007

NOTICE: Please read this document before signing. Signing this document affirms that you have read it and understand it in its entirety.

The Equine Activity Liability laws of the State of Colorado, C.R.S. 13-21-119, state among its statutory provisions that, "WARNING: Under Colorado Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to section 13-21-119, Colorado Revised Statutes."

Society for Creative Anachronism, Inc. ("SCA")

P. O. Box 360789, Milpitas, California 95036-0789 Tel (408) 263-0641 Fax (408) 263-0641

WAIVER AND INFORMED CONSENT TO PARTICIPATE IN SCA EQUESTRIAN ACTIVITIES

I, the undersigned, having read and understood the content of this document, agree and consent to the provisions contained herein. It is my intention and desire to participate in SCA period equestrian-related activities including but not limited to, riding or authorization check rides, horse-handling, ground crew, mounted games and combat, marshalling, or being present at equestrian activities as an observer or other activity related, however slight, to equestrian activities at events held by the Society for Creative Anachronism, Incorporated. I hereby acknowledge that I am fully aware of the nature, purpose and risks of equine activities of the SCA, Inc.. I acknowledge that these activities are potentially dangerous and that I voluntarily accept any of the inherent risks involved. In consideration for my being permitted to take part in these activities, I agree to be bound by the rules of the SCA, Inc. and to obey the directions of the marshals and other governing officials of activities. In the event of any disagreements or disputes arising from my taking part in these activities, I agree to submit such disagreements or disputes to a board of arbitration appointed by the SCA, Inc. and abide by any decisions reached by such board. I agree to release, hold harmless, and keep indemnified the Society of Creative Anachronism, Inc., its organizers and agents, officials, servants, and representatives from and against all claims, actions, costs, expenses and demands in respect to death, injury, loss or damage to my person or property, howsoever caused, arising out of or in connection with my taking part in these events even if the same may have been contributed to or occasioned by the negligence of the said body or any of its agents, servants, or representatives. It is understood and agreed that this agreement is to be binding upon myself, my heirs, executors and assigns under the laws of the State of Colorado related to Equine Activity Liability.

I UNDERSTAND THAT THIS IS A LEGAL DOCUMENT. I HAVE READ AND UNDERSTOOD THIS RELEASE AND I UNDERSTAND ALL ITS TERMS. I EXECUTE IT VOLUNTARILY AND WITH FULL KNOWLEDGE OF ITS MEANING AND SIGNIFICANCE. I HEREBY ASSUME ALL OF THE RISKS ASSOCIATED WITH EQUINE RELATED ACTIVITIES.

Legal Name (Please Print), Legal Signature, Date EMIC _____ EVENT _____

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State of Nebraska Equine Liability Form Rev 2007

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The Equine Activity Liability laws of the State of Nebraska , § 25-21,251, state among its statutory provisions that “WARNING: Under Nebraska Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to sections 25-21,249 to 25- 21,253.”

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State of New Mexico Equine Liability Form Rev 2007

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The Equine Activity Liability laws of the State of New Mexico , § 42-13-4 , requires the following Notice of Inherent Risks: **WARNING:** Under New Mexico law, an equine activity sponsor or equine professional is not liable for an injury to or death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to the Equine Activities Liability Protection Act.

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State of Texas Equine Liability Form Rev 2007

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The Equine Activity Liability laws of the State of Texas , § 87.005 , state among its statutory provisions that “WARNING: UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), AN EQUINE PROFESSIONAL IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN EQUINE ACTIVITIES RESULTING FROM THE INHERENT RISKS OF EQUINE ACTIVITIES.”

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State of Wyoming Equine Liability Form Rev 2007

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The Equine Activity Liability laws of the State of Wyoming, §1-1-123, state among its statutory provisions that “Any person who takes part in any sport or recreational opportunity assumes the inherent risks in that sport or recreational opportunity.” **WARNING OF INHERENT RISKS:** Equine Activity is inherently dangerous and equines have: a) the propensity of the animal to behave in ways that may result in injury, harm, or death to persons on or around them ; b) the unpredictability of the animal's reaction to outside stimulation such as sounds, sudden movement, and unfamiliar objects, persons, or other animals; c) collisions with other animals or objects; d) or the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.. An equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities.

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A GUIDE TO SIGNAGE REQUIREMENTS

Of the 45 states that have Equine Activity Liability Protection Laws as of 2007, most require that a sign be posted in the areas of the Equine Activity (Barns, stables, riding and tacking areas). Most state statutes require the sign to be of a certain size with certain size lettering in certain colors schemes. Signage can be of any material including paper so long as it remains clear and legible even in inclement weather such as covering paper printed signs with a clear plastic slip-on cover.

Several states do not require the signage but it is in the best interest of the Society for Creative Anachronism and the participants if they are given reasonable notice as to the inherent risks of equine activities enjoyed by many society members. This guide is intended to inform the Society Equestrian marshallate of the signage to conform with state laws that specify signage and SCA, Inc. interests in those states that do not.

STANDARD SOCIETY SIGNAGE

For those states do not have Equine Activity Liability Protection Laws or do have such laws and do not require by law to have a sign posted, use the following society standard signage on white background with one-inch high black lettering:

WARNING: Equine Activity is inherently dangerous and equines have: a) the propensity of the animal to behave in ways that may result in injury, harm, or death to persons on or around them; b) the unpredictability of the animal's reaction to outside stimulation such as sounds, sudden movement, and unfamiliar objects, persons, or other animals; c) collisions with other animals or objects; d) or the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.. An equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities.

Colorado Section 13-21-119, Colorado Revised Statutes

Such signs shall be placed in a clearly visible location on or near stables, corrals. The warning notice specified shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. The signs and contracts shall contain the following warning notice:

WARNING

Under Colorado Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to section 13-21-119, Colorado Revised Statutes.

Nebraska § 25-21,253

The warning notice signs shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine activity sponsor conducts equine activities if such stables, corrals, or arenas are owned, leased, rented, managed, or controlled by the activity sponsor. The placement of warning notice signs shall be such that they may be readily seen by participants in equine activities. The warning notice signs shall have black letters with each letter of the word "WARNING" a minimum of three inches in height and the rest of the letters a minimum of one inch in height. Every equine activity sponsor shall post and maintain signs which contain the following warning notice:

WARNING

Under Nebraska Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to sections 25-21,249 to 25-21,253.

New Mexico

Operators, owners, trainers and promoters of equine activities or equine facilities, including but not limited to stables, clubhouses, pony ride strings, fairs and arenas, and persons engaged in instructing or renting equine animals shall post clearly visible signs at one or more prominent locations that shall include a warning regarding the inherent risks of the equine activity and the limitations on liability of the operator, owner, trainer or promoter. The warning notice specified shall appear on the sign in black letters, with each letter to be a minimum of one inch in height, and shall state:

WARNING

Under New Mexico law, an equine activity sponsor or equine professional is not liable for an injury to or death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to the Equine Activities Liability Protection Act.

Texas § 87.005

An equine activity shall post and maintain a sign that contains the warning if the equine activity sponsor manages or controls a stable, corral, or arena where the equine activity sponsor conducts an equine activity. The equine activity sponsor must post the sign in a clearly visible location on or near the stable, corral, or arena. The warning posted by an equine professional under this section must be as follows:

WARNING

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Wyoming

This state has a State-Specific waiver but use the Standard society signage.