Rural Premises Liability in Iowa:

A Legal Review

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Owning property is richly rewarding. It can also be fraught with liability. This fact sheet provides a general overview of several key legal issues that owners and occupiers of rural property in Iowa should understand. It is not a comprehensive review of liability risks or the steps landlords or tenants can take to reduce them. Rather, it is designed to educate landlords, tenants, and those who advise them regarding the main forms of tort liability associated with possessing rural property in Iowa. Landowners and tenants are encouraged to consult with legal counsel and insurance experts for additional information and advice on how to mitigate specific liability risks.

Negligence

Any discussion of premises liability should start with a general principle. Every one of us, whether we own property or not, *possesses a duty to exercise reasonable care when our conduct creates a risk of physical harm*.[ii] Bottom line, tort law requires that we take responsibility for our own actions and the hazards we create. If we don't, we can be sued and ordered by a court to pay damages to those we have harmed. Although there are a number of different torts or civil causes of action for which plaintiffs may seek damages, far and away the most common is *negligence*. It is the cause of action most frequently leading to premises liability.

Negligence is an unintentional tort. It is a cause of action seeking compensation for *unintentional* harm. Negligence is a trap for the unwary. Legally speaking, it's a trap for the *unreasonable*. In a typical premises liability case, an injured party sues a landowner or tenant claiming that his or her injuries were caused by the defendant's negligence.

To prevail in a negligence action, a party must prove four elements:

- A duty of care
- A failure to conform to that standard,
- Causation, **and**
- Damages

It is not enough to prove one or two. If a plaintiff does not prove all four elements, the *defendant* will prevail in a negligence action. Owners or tenants concerned about premises liability should understand these elements and the obligations they impose.

Duty of Care

The first question in a negligence action is, "Did the defendant have a duty of care toward the plaintiff?" This is a question of law for the court.[iii] If there is no duty of care, there will be no trial. Absent a legal duty, there can be no recovery for negligence. "An actor ordinarily has a duty to exercise reasonable care ***when the actor's conduct creates a risk of physical harm.***"[iv] An Iowa court will determine whether a duty of care exists by examining (1) the relationship between the parties and (2) public policy considerations flowing from imposing a duty.[v]

Relationship between the Parties

Generally, owners and occupiers of land in Iowa owe a ***duty to exercise reasonable care in the maintenance of their premises for the protection of lawful visitors***.[vi] One key principle impacting the extent of this duty is that "liability is premised upon control."[vii] This means, for example, that a property owner may not owe a duty of care to a visitor who is injured by a hazard that is under the control of the tenant.

In one Iowa case, a landlord who had installed a grain bin—but no longer controlled it—owed *no duty* to an employee of the tenant who was injured due to the alleged hazardous condition of the bin.[viii] Similarly, a landlord was found to owe no duty to a person injured by a dog where the tenant, not the landlord, was in control of the property and the dog.[ix] This was true even though the landlord "knew or had reason to know the dog was dangerous." Key to this determination was the fact that the landlord did not have any right to control the tenant's dog, which was acquired *after* the tenant took possession.[x]

Conversely, if a person is injured by property under the control of the landlord, not the tenant, the landlord (and not the tenant) will owe the duty of reasonable care. Courts may look to the terms of the lease agreement when analyzing which party was in control of the hazardous condition. Landlords and tenants should keep this principle in mind when negotiating lease terms. Absent special terms, a standard lease grants a tenant *exclusive possession* of the leased property.

Public Policy

In exceptional cases, a court may find "an articulated countervailing principle or policy" warranting the denial or limitation of liability in a particular class of cases. Those cases, however, are rare. The existence of a countervailing public policy, like the question of whether a duty arises out of a given relationship, is a matter of law for the court's determination.

> **Example**: Iowa courts have applied this principle to find that a physician owes no duty to a third-party injured by an epileptic patient when the patient had a seizure while driving.[xi] The court found that to hold otherwise would risk disrupting the physician-patient relationship and could cause physicians to make overly harsh decisions regarding impairment limitations.

Statutes and the Duty of Care

Sometimes a statute specifically limits a duty. For example, the Iowa Recreational Use statute (detailed below) specifically limits the duty of care owed by an owner or occupier of agricultural land to a person using the property for recreational purposes.

Conversely, a statute may *impose* a duty of care where one would not otherwise exist.[xii]

Breach of Duty

The key question in most negligence cases is whether the defendant *breached* the applicable duty of care. This is a jury question that is integrally related to the scope of the duty itself. English common law liability cases were governed by a somewhat confusing triad of duties. Those rules, which distinguished between *invitees*, *licensees*, and *trespassers,* were carried to America, where state courts also applied them. In a nutshell, the highest duty of care was owned to an invitee, who was a business guest. A less stringent duty was owed to a licensee, who was typically a social guest. Finally, landowners owed no duty at all to trespassers, those who were on the property without permission.

In 2009, the Iowa Supreme Court followed the lead of a number of other jurisdictions to abolish the distinction between *invitees* and *licensees*. Finding the distinction "confusing," the court ruled that a general standard of *reasonable care* would yield more equitable results. As such, the court created the current rule: owners and occupiers of land in Iowa owe a ***duty to exercise reasonable care in the maintenance of their premises for the protection of lawful visitors***.[xiii] In a negligence action against a landowner or tenant, the question is whether that duty was breached or violated. This is a subjective judgment call that will be made by a jury (or a judge in a bench trial).

The Iowa Supreme Court has stated that the following factors are to be considered in evaluating whether a landowner or occupier has exercised *reasonable care* for the protection of lawful visitors:

- the foreseeability or possibility of harm;
- the purpose for which the entrant entered the premises;
- the time, manner, and circumstances under which the entrant entered the premises;
- the use to which the premises are put or are expected to be put;
- the reasonableness of the inspection, repair, or warning;
- the opportunity and ease of repair or correction or giving of the warning; and
- the burden on the land occupier and/or community in terms of inconvenience or cost in providing adequate protection[xiv]

Under this standard, landowners are liable for damages caused by **known** dangers that they *fail to repair* or for which they *fail to warn* known visitors. Under this standard, landowners must use reasonable care in *maintaining their premises* for the protection of their lawful visitors.

> **Example**: The mailman delivering mail to John and Sally's mailbox trips and injures himself on an extension cord the Johnsons' were using to power their Christmas lights.

John and Sally may be liable to the mailman for his injuries because it was foreseeable that a visitor could trip and injure himself on the cord.

What about Trespassers?

In Iowa, a landowner does not owe the same standard of care to a "trespasser" or someone who has no legal right to be upon another's land.[xv] At common law, a possessor of land owed no duty to a trespasser, except (1) not to injure him willfully or wantonly, and (2) to use reasonable care after his presence becomes known to avoid injuring him. The policy behind the rule is that intruders who come without the landowner's permission have no right to demand that he provide them with a safe place to trespass, or that he protect them in their wrongful use of his property.[xvi]

In 2002, the Iowa Supreme Court upheld this rule, finding that it should *not* be abolished. In *Alexander v. Med. Assocs. Clinic*, the defendant owned an open field. The plaintiff entered defendant's property to retrieve his sister's dog and fell in a ditch. The plaintiff seriously injured his knee and sued the corporate landowner, arguing that it negligently maintained its property. The Iowa Supreme Court affirmed the district court's judgment in favor of the landowner, finding that the common law rule "strikes an appropriate balance between the interests of the landowner and the trespasser." Quoting the Florida Supreme Court, the Iowa Court noted, "It is unreasonable to subject an owner to a 'reasonable care' test against someone who isn't supposed to be there and about whom he does not know."[xvii]

What about Child Trespassers?

A special duty rule applies to protect children who are too young to understand certain risks. Therefore, when a property owner *should* know that children are likely to trespass onto his or her property, the owner must take reasonable care to protect them. Specifically, a possessor of land is subject to liability for physical harm to trespassing children caused by an artificial condition upon the land if:

- the place where the condition exists is one upon which the possessor knows or has reason to know that children are likely to trespass, and
- the condition is one of which the possessor knows or has reason to know and which he realizes or should realize will involve an unreasonable risk of death or serious bodily harm to such children, and
- the children because of their youth do not discover the condition or realize the risk involved in intermeddling with it or in coming within the area made dangerous by it, and
- the utility to the possessor of maintaining the condition and the burden of eliminating the danger are slight as compared with the risk to children involved, and
- The possessor fails to exercise reasonable care to eliminate the danger or otherwise to protect the children.[xviii]

"Sometimes called the "attractive nuisance" doctrine, this rule requires landowners or possessors of property to safeguard young trespassers from danger. The danger need not be "attractive." Rather, the occupier of the land must simply have reason to believe that children will trespass to be subject to a duty of care.

> **Example**: Joe and Karen have an old well on their property. Although they live in the country, children who live in the neighborhood have been known to wander onto their land. Given these facts, Joe and Karen would have a duty to cover or fill the well in such a way as to protect trespassing children from danger.

Causation

Before a plaintiff can prevail in a negligence action, he or she must prove that the defendant's breach of duty was the *cause* of the plaintiff's harm. Iowa courts have long required proof that the defendant's conduct was both the "cause in fact" and the "legal (or proximate) cause" of the harm. Cause in fact is a simple "but-for" test, meaning that "but-for" the defendant's conduct, the injury would not have happened. The second causation inquiry seeks to determine whether the cause of the accident is so remote or attenuated that liability should not be imposed as a matter of public policy.

In 2009, the Iowa Supreme Court found that the term "proximate cause" had led to "significant uncertainty and confusion" among jurors.[xix] Consequently, the Court adopted the approach of the Restatement (Third), replacing the term "proximate cause" with the phrase "scope of liability." The scope of liability rule seeks to limit an actor's liability "to those physical harms that result from the risks that made the actor's conduct tortious." This principle is intended to prevent the unjustified imposition of liability by "confining liability's scope to the reasons for holding the actor liable in the first place."[xx]

The Court offered this example to explain the scope of liability inquiry:

> A hunter returns from the field and hands his loaded shotgun to a child as he enters the house. The child drops the gun (an object assumed for the purposes of the illustration to be neither too heavy nor unwieldy for a child of that age and size to handle) which lands on her foot and breaks her toe. Applying the risk standard described above, the hunter would not be liable for the broken toe because the risk that made his action negligent was the risk that the child would shoot someone, not that she would drop the gun and sustain an injury to her foot.[xxi]

The scope-of-liability issue is fact-intensive. It is usually a question for the jury.

> **Example**: Landowners took apart their trampoline and left the parts about 38 feet from a highway. During a strong wind, the trampoline parts blew into the public roadway, injuring a motorist. The landowners' actions were obviously the "but-for" cause of the motorist's injuries. The question was whether they satisfied the "scope of liability" test. The Iowa Supreme Court ruled that a reasonable fact finder *could* find that the harm suffered by the motorist resulted from the risks that made the landowners' conduct

> negligent. Thus, the Court ruled that whether the motorist's injuries fell within the "scope of liability" for which the landowners should be responsible was a question for the jury.[xxii]

Damages

A party cannot prevail in a negligence action unless he or she can show that there were actual *damages*. Because damages are an element of a negligence action, nominal damages (i.e. $1) should not be awarded. As such, a negligence action cannot be maintained if there were no actual damages. If a party has suffered personal injury as a result of another's negligence or fault, the injured party is entitled to actual.[xxiii] Likewise, the general rule in Iowa is that emotional distress damages are not recoverable in torts absent intentional conduct by a defendant or some physical injury to the plaintiff.[xxiv]

Comparative Negligence

Sometimes, a person suing for negligence was also negligent. For example, a jury may find that a visitor who stepped in a hole was negligent for failing to avoid the hole. That same jury, however, may find that the occupier of the land unreasonably failed to warn or protect the visitor from the dangers of the hole. In such cases, Iowa law allows the jury to apportion the fault so as require the defendant to compensate the plaintiff for only that portion of the harm he or she caused. Only where the plaintiff's negligence is greater than the combined percentage of fault attributed to all defendants is the action barred.[xxv]

The law also seeks to allocate fault among defendants. Each party bears the burden to compensate the plaintiff for the percentage of harm he or she caused. A defendant found to bear 50 percent or more of the fault can be jointly and severally liable for economic damages, meaning that he or she can be required to pay the entire amount of damage.[xxvi]

Limitations on Liability

Iowa Recreational Use Statute

Realizing that the risk of potential liability might prevent landowners from opening their property to recreational users, the Iowa Legislature passed Iowa Code ch. 461C in 1967. Often called the *Iowa Recreational Use Statute*, this law encourages private owners and occupiers of land to make land and water areas available to the public for recreational and urban deer control purposes by limiting liability toward persons entering their property for these uses.[xxvii] The law's provisions are to be "construed liberally and broadly in favor of private holders of land to accomplish" its purposes.[xxviii]

The statute's protection applies to "holders" of land. This includes owners, tenants, or others "in control" of the premises.[xxix] The statute does not, however, apply to the State of Iowa or any public body. Furthermore, the liability protections apply to *private* "land" falling into one (or a combination) of the following categories:

> Abandoned or inactive surface mines; caves; **land used for agricultural purposes**; marshlands; timber; grasslands; or the privately owned roads, paths, trails, waters, water

> courses, exteriors and interiors of buildings, structures, machinery, or equipment appurtenant thereto.[xxx]

Holders of private land located in a municipality in connection with and while being used for urban deer control are also protected under the statute.

Specifically, the law states that a *holder* of land ***owes no duty of care*** to:

> Keep the premises safe for entry or use by others for recreational purposes or urban deer control, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.[xxxi]

Furthermore, the statute provides that a *holder* of land who directly or indirectly invites or permits a person to use his or her property for recreational purposes or urban deer control ***without charge*** does not:

- Extend any assurance that the premises are safe for any purpose.
- Confer upon such person the legal status of an invitee or licensee to whom the duty of care is owed.
- Assume a duty of care to such person solely because the holder is guiding, directing, supervising, or participating in any recreational purpose or urban deer control undertaken by the person on the holder's land.
- Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.[xxxii]

Under the statute, "recreational purpose" means the following or any combination thereof:

> Hunting, trapping, horseback riding, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycling, all-terrain vehicle driving, nature study, water skiing, snowmobiling, other summer and winter sports, educational activities, and viewing or enjoying historical, archaeological, scenic, or scientific sites while going to and from or actually engaged therein.[xxxiii]

"Recreational purpose" also includes "the activity of accompanying another person who is engaging in such activities" (i.e. a chaperone accompanying a school group).[xxxiv] The statute *does not* protect holders of land from liability "for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity."[xxxv] The statute also *does not* apply to protect holders of land who charge for the recreational activity.[xxxvi] Consequently, landowners who charge a fee for a hunting party to use their land or for a school group to tour their property are not protected by the statute. Normal negligence principles apply to such cases.

Several provisions detailed above were added to the statute by the Iowa Legislature in 2013 after a negligence case against a dairy farmer and his wife garnered statewide attention. In *Sallee v. Stewart,*[xxxvii] the Iowa Supreme Court ruled that the Iowa Recreational Use Statute did not bar a negligence action brought by a parent chaperone against dairy farmers giving a gratuitous farm

tour to a kindergarten class. The dairy farmers had invited the kindergarten class to tour their farm to learn about a "typical day on the farm." While touring the hayloft, a chaperone stood on a bale of hay covering a hole in the loft floor. The bale gave way, and the chaperone fell through the hole, breaking her leg. The chaperone filed a negligence action against the farmers. The farmers defended on the grounds that they owed no duty to the chaperone under the Iowa Recreational Use Statute. The statute did not at the time include the phrase "educational activities" in the definition of "recreational purpose." Nor did it specially include those "accompanying another person who is engaging in such activities" in the definition. After the farmers prevailed at the district and appellate court levels, the Iowa Supreme Court reversed, finding that the Statute did not apply and that the case should have gone to the jury.

Specifically, the Court found that a field trip to a dairy farm was not a covered "recreational purpose" under Iowa Code ch 461C. The statute, the Court ruled, specifically listed those recreational activities—such as hunting—for which landowners owed participants only a limited duty of care. The Court noted that the statute did not contain a catch-all provision to extend the protection to activities not found on that list. The Court stated that it was only the Iowa Legislature, and not the Court, that could expand the definition of "recreational purpose." The Supreme Court sent the case back to the district court for a trial on the merits.

In response to *Sallee v. Stewart*, the Iowa Legislature immediately amended Iowa Code ch. 461C, to extend the protections granted to those freely opening their property for recreational use. Specifically, the amendment expanded the definition of "recreational purpose" to include "educational activities" and the related activities of chaperones.

Meanwhile, *Sallee v. Stewart* wound its way back to the trial court, where (under the old statute) a jury found in favor of the dairy farmers. The jury determined that the farmers were not negligent and that they did not cause the chaperone's injuries. In 2015, the Iowa Court of Appeals affirmed the verdict, finding that it was supported by sufficient evident. As such, even without the statute's protection, the dairy farmers were not liable to the chaperone. This case, however, demonstrates the value of the statute in preventing lengthy and costly premises liability litigation. Here, a jury ultimately found the dairy farmers not liable under standard negligence principles. However, protection under the Iowa Recreational Use Statute would have preempted a costly trial by allowing a court to dismiss the action immediately for want of a duty of care.

What the Statute Does Not Do

Iowa Code § 461C.7 specifically states that nothing in the Iowa Recreational Use Statute should be interpreted so as to:

1. Create a duty of care or ground of liability for injury to persons or property.
2. Relieve any person using the land of another for a recreational purpose or urban deer control from any obligation which the person may have in the absence of this chapter to exercise care in the use of such land and in the person's activities thereon, or from the legal consequences of failure to employ such care.
3. Amend, repeal or modify the common law doctrine of attractive nuisance.

Waivers or Releases of Liability

An owner or occupier of land may, in some cases, seek to limit his or her potential tort liability by asking guests to sign a release of liability form. For example, before allowing a hunting party to enter his premises to hunt for a fee, the landowner may ask the hunters to sign release of liability forms. Such releases—if properly drafted[xxxviii]—should be enforceable to prevent the hunters from later prevailing in a negligence action against the landowner. The Iowa Supreme Court has ruled that such contracts are not void as against public policy.[xxxix] Such a release, however, would not protect a party for liability stemming from his or her willful, reckless, or malicious conduct.

It is also the law in Iowa that release of liability forms signed by parents on behalf of their minor children are ***unenforceable***.[xl] The Iowa Supreme Court ruled in 2010 that courts must protect minor children from the forfeiture of their personal injury claims caused by a parents' execution of preinjury releases.[xli] While the Iowa Recreational Use Statute will shield landlords and tenants from negligence liability with respect to children (as long as the statutory requirements are met), a properly executed waiver of liability will not. Thus, occupiers of land have significant risks of negligence liability where children are not engaged in a recreational or educational activity on their property *or* where the occupier of the land **charges a fee** for admission.[xlii]

Trespass

It is important to note in a discussion of premises liability that landowners or tenants may themselves have a legal cause of action when a person trespasses upon their property. Trespass can be both a civil and a criminal wrong. The gist of a civil claim for trespass is the "wrongful interference with one's possessory rights in property." A person is subject to civil liability to another for trespass, even if he causes no harm to any legally protected interest of the other. To prove a civil trespass, a plaintiff must show that the defendant intentionally (a) entered land in the possession of the other, or caused a thing or a third person to do so, or (b) remained on the land.[xliii] Trespass also includes intentionally failing to remove from the land something that the person is under a duty to remove. This would include, for example, a tenant leaving machinery on the landlord's property after the lease has expired. The general rule is that the measure of damages in trespass actions is the amount of money that will compensate the person injured for the loss sustained.[xliv] A plaintiff in a trespass may be entitled to nominal, actual and/or punitive damages.[xlv]

No Posting Required

In a number of states, landowners must post "no trespassing" signs to protect their land from hunters. Iowa is not one of those states. In other words, Iowa hunters may not hunt on another person's property without their express permission (regardless of whether a "no trespassing" sign is posted). Without that permission, they are trespassing.

Iowa Code § 716.7(2)(a)(1) defines criminal "trespass" as follows:

> Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense, to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, or to hunt, fish or trap on or in the property, including the act of taking or attempting to take a deer.[xlvi]

Specifically excluded from this definition is entering another's property in "the unarmed pursuit of game or fur-bearing animals by a person who lawfully injured or killed the game or fur-bearing animal which comes to rest on or escapes to the property of another." Also excluded is "entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property." In other words, if your garbage can blows onto your neighbor's land, you can retrieve it without committing a criminal trespass.

Any person who knowingly trespasses upon the property of another commits a *simple* misdemeanor.[xlvii] If injury to a person or property (in an amount greater than $200) results from the trespass, the person commits a *serious* misdemeanor.[xlviii] Likewise, a person who commits a trespass while hunting deer (other than farm deer) commits a *simple* misdemeanor. Individual sheriff's departments may have special procedures for enforcing Iowa's no trespassing laws.[xlix] Landowners concerned about a trespass should contact their local sheriff's office for more information.

> **Cautionary Note:** Landlords and tenants should be careful when clearing brush or trees from a fence row. Crossing onto your neighbor's property can result in a trespass, which can lead to costly damages.[l]

Strict Liability

Sometimes, a tenant or landlord may be subject to *strict liability* where the legislature has determined that certain risks (for public policy purposes) should be borne by particular parties. In such cases, no proof of negligence or proof of intent is required. It is enough to show that the harm occurred.

One example is Iowa Code § 351.28, which imposes strict liability on dog owners for damages done by the owner's dog. Contributory negligence is not a defense under the statute. In other words, it does not matter if the person injured by the dog was negligent in approaching the dog. The dog owner will be liable for all of the damage. The only exception to liability is where the dog has rabies (and the owner did not know it) or the person injured by the dog was committing an unlawful act which contributed to the harm.

Nuisance

A detailed description of the law of nuisance is beyond the scope of this fact sheet. It is important, however, in the context of premises liability, to mention the tort of nuisance.

A private nuisance is an actionable interference with a person's interest in the private use and enjoyment of their land.[li] Parties must use their own property in such a manner that they will not unreasonably interfere with or disturb their neighbor's reasonable use and enjoyment of their property. Nuisance actions often arise in the context of animal feeding operations. They usually stem from activities that create odors, pollution, dust, smoke, or noise. They have also sometimes arisen where a landowner has installed large property, such as a wind power turbine, on their property.

Whether a lawful business is a nuisance depends on the reasonableness of conducting the business in the manner, at the place, and under the circumstances in question. The Iowa Supreme Court has held that the existence of a nuisance depends on the following three factors:

- priority of location,
- the nature of the neighborhood, and
- the wrong complained of[lii]

Whether a party has created and maintained a nuisance is ordinarily a factual question for the jury.

Although the Iowa legislature has passed laws to restrict nuisance actions arising from agricultural activities, the Iowa Supreme Court has found portions of these provisions unduly oppressive and unconstitutional.[liii]

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[ii] *Thompson v. Kaczinski,* 774 N.W.2d 829 (Iowa 2009).
[iii] *Fry v. Mount*, 554 N.W.2d 263, 265 (Iowa 1996).
[iv] *Thompson v. Kaczinski,* 774 N.W.2d 829, 834 (Iowa 2009).
[v] In most cases involving physical harm, the general duty of reasonable care will apply and the question of the existence of a duty is not at issue. Although Iowa courts used to consider the foreseeability of harm in determining whether a duty of care existed, that question has now been shifted to the jury when they answer the question of whether the defendant failed to exercise reasonable care.
[vi] *Koenig v. Koenig*, 766 N.W.2d 635 (Iowa 2009).
[vii] *McCormick v. Nikkel & Assocs., Inc.,* 819 N.W.2d 368, 372 (Iowa 2012).
[viii] *Van Essen v. Farmers Coop. Exch*., 599 N.W.2d 716, 720 (Iowa 1999).
[ix] *Allison ex rel Fox v. Page*, 545 N.W.2d 281, 283 (Iowa 1996).
[x] *Id*.
[xi] *Schmidt v. Mahoney*, 659 N.W.2d 552 (Iowa 2003).
[xii] See, e.g., *Madden v. City of Iowa City*, 848 N.W.2d 40 (Iowa 2014).
[xiii] *Koenig v. Koenig*, 766 N.W.2d 635 (Iowa 2009).
[xiv] *Id*.
[xv] *Alexander v. Med. Assocs. Clinic*, 646 N.W.2d 74 (Iowa 2002).
[xvi] *Id*.
[xvii] *Id*.

[xviii] *Rosenau v. Estherville*, 199 N.W.2d 125, 135 (Iowa 1972).
[xix] *Thompson v. Kaczinski* , 774 N.W.2d at 837.
[xx] *Id.*
[xxi] *Id*. at 838.
[xxii] *Id*.
[xxiii] *Strever v. Woodard*, 160 Iowa 332, 141 N.W. 931 (1913).
[xxiv] *Clark v. Estate of Rice ex rel. Rice*, 653 N.W.2d 166, 169 (Iowa 2002).
[xxv] Iowa Code § 668.3. At common law, plaintiffs were barred from recovering against a defendant if the plaintiff shared any fault.
[xxvi] Iowa Code § 668.4. A defendant required to pay the full amount can seek contribution from other defendants also liable for the harm.
[xxvii] Iowa Code § 461C.1.
[xxviii] *Id.*
[xxix] Iowa Code § 461C.2(2).
[xxx] Iowa Code § 461C.2(3).
[xxxi] Iowa Code § 461C.3(1).
[xxxii] Iowa Code §461C.4.
[xxxiii] Iowa Code § 461C.6(1).
[xxxiv] *Id.*
[xxxv] Iowa Code § 461C.6(1).
[xxxvi] Iowa Code § 461C.2(5).
[xxxvii] 827 N.W.2d 128 (Iowa 2013).
[xxxviii] A release of liability waiver must clearly and specifically release the landowner from negligence liability. General exculpatory language is not sufficient. *Sweeney v. City of Bettendorf*, 762 N.W.2d 873 (Iowa 2009).
[xxxix] *Huber v. Hovey*, 501 N.W.2d 53 (Iowa 1993).
[xl] *Galloway v. State*, 790 N.W.2d 252 (Iowa 2010).
[xli] *Id*. at 258.
[xlii] As noted above, the Iowa Recreational Use Statute does not apply where a fee is charged.
[xliii] *Robert's River Rides, Inc. v. Steamboat Development Corp., 520 N.W.2d 294, 301 (Iowa 1994), abrogated on other grounds by Barreca v. Nickolas, 683 N.W.2d 111 (Iowa 2004).*
[xliv] *Bangert v. Osceola Co.*, 456 N.W.2d 183, 190 (Iowa 1990).
[xlv] *Bethards v. Shivvers, Inc*. 355 N.W.2d 39, 45 (Iowa 1984).
[xlvi] Other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, which is on or in the property by a person who is outside the property.
[xlvii] For a simple misdemeanor, there shall be a fine of at least $65 but not to exceed $625. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine. Iowa Code § 903.1(a).
[xlviii] For a serious misdemeanor, there shall be a fine of at least $315 but not to exceed $1,875. In addition, the court may also order imprisonment not to exceed one year. Iowa Code § 903.1(b).
[xlix] For example, see http://dbqcosheriff.com/pdf/DCSO%20Trespass%20Notice%20060215.pdf.
[l] *See, e.g.,* https://www.calt.iastate.edu/blogpost/clearing-your-neighbors-fence-line-without-permission-could-cost-you-big.
[li] *Weinhold v. Wolff*, 555 N.W.2d 454 (Iowa 1996).
[lii] *Id*.
[liii] See, e.g., *Gacke v. Pork Xtra, L.L.C.*, 684 N.W.2d 168 (Iowa 2004); *Bormann v. Bd. of Supervisors*, 584 N.W.2d 309, 321 (Iowa 1998).