

WAIVER & RELEASE

A waiver and release is a legal document in which a person voluntarily gives up a right in a contractual agreement (i.e. the right to collect damages or sue.) Waiver and release forms are typically used to protect a person or a business from liability by warning participants of the risks and harm that can occur from an activity. By signing a waiver, the individual is saying that they understand the risks and are agreeing to go forward with the activity anyway.

BEST PRACTICES CHECKLIST

Effective waivers include the following:

<input checked="" type="checkbox"/>	Notice of legal document: The waiver needs to give notice to the person signing it that they are signing a legal document.
<input checked="" type="checkbox"/>	Parties: The waiver needs to identify who is being protected by the waiver and who it applies to.
<input checked="" type="checkbox"/>	Assumption of Risk Language: The waiver needs to contain language that clearly explains the risk of the activities that the person is waiving their rights to.
<input checked="" type="checkbox"/>	Negligence: The waiver needs to have language in which the person signing the waiver agrees to give up their right to sue for negligent acts, to include negligence on the part of the insured.
<input checked="" type="checkbox"/>	Plain Language: The waiver needs to be written in a clear and unambiguous manner so that it can be easily understood. The waiver also needs to be designed for the specific activity the signer is participating in.
<input checked="" type="checkbox"/>	Waiver Format: The waiver needs to be formatted in a manner that it is obvious to the signer what they are signing. Waivers should be: <ul style="list-style-type: none"> ➤ No more than one page in length; ➤ Written in large and readable font with headings and important sections bolded; and ➤ Written in a manner where the waiver language is not embedded with other information (e.g. membership fees, model releases, marketing information etc.)

Note: While waivers are not bullet proof, a properly drafted waiver and release can be a very effective risk management tool. Over the years, the waiver is proven to be an effective defense tool in protecting sports and entertainment organizations from law suits where an individual “assumes the risks” associated with an activity in where he or she decides to participate in.