



Liability traps for the  
volunteer leader

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LIABILITY  
TRAPS FOR  
THE  
VOLUNTEER  
LEADER

**BUT I'M A VOLUNTEER!**



# Volunteer Trap #1

volunteers don't have to work as hard as paid guides!





IT'S NOT ABOUT THE MONEY!



SALARY isn't  
relevant  
Non-Profit  
status isn't  
relevant



What responsibility do you have as volunteer leader?

DUT  
STANDARD of  
CARE

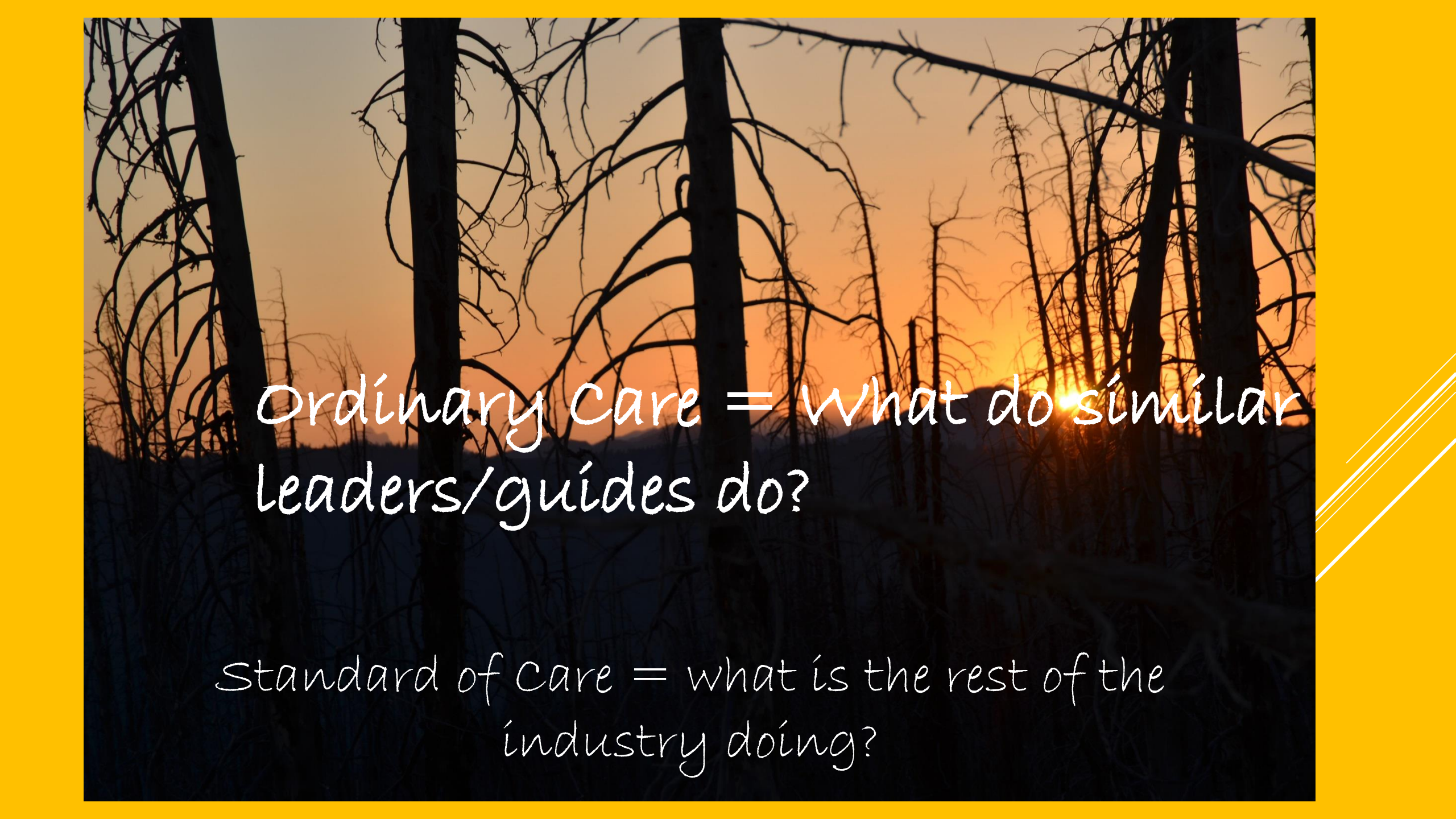


Ordinary care for an adult or for a legal entity such as a corporation means the care a ***reasonably careful*** adult person or corporation would exercise under the ***same or similar circumstances***.

## ORDINARY CARE

Negligence is the failure to exercise ***ordinary care***. It is the doing of some act that a ***reasonably careful*** person would not do under the ***same or similar circumstances*** or the failure to do some act that a ***reasonably careful person*** would have done under the ***same or similar circumstances***.

**NEGLIGENCE**



Ordinary Care = what do similar  
leaders/guides do?

standard of care = what is the rest of the  
industry doing?

Volunteer trap #2  
We're all just friends!



A photograph of a mountain landscape. In the foreground, a bright green tent is pitched on a patch of snow. The tent is surrounded by several tall, dark evergreen trees. In the background, a large, rugged mountain peak rises against a blue sky with wispy white clouds. The sun is low on the horizon, casting a warm glow on the mountain's rocky surface. The overall scene is a serene, high-altitude wilderness setting.

Volunteer trap #3

I'm just the little guy + no  
one's going to sue me!"

Sad but true...

Sometimes volunteers/ leaders/  
guides/ instructors get sued 😞

What protection do you have?

\*Insurance

\*Liability Releases

\*Volunteer Statute



## MOUNTAINEERS STEWARDSHIP/EVENT WAIVER AND SIGN-IN SHEET

Name and Location of Project: \_\_\_\_\_ Date: \_\_\_\_\_

### THE MOUNTAINEERS SIGN-IN AND LIABILITY RELEASE

I hereby state that I wish to participate in event, courses and/or activities offered by The Mountaineers, a non-profit corporation. I recognize any outdoor activity may involve certain dangers, including but not limited to the hazards of traveling in mountainous terrain, accidents or illness in remote places, force of nature, and the actions of participants and other persons. I further understand and agree that without some program providing protection of its assets and its leaders, The Mountaineers would not be able to offer its courses and activities.

I understand that in this course our activity, I MAY BE PHOTOGRAPHED. I agree to allow my photo, to be used for any legitimate purpose by The Mountaineers.

In consideration of and as part payment for the right to participate in the activities offered by The Mountaineers, **I agree to RELEASE, HOLD HARMLESS AND INDEMNIFY The Mountaineers and its members from any and all liability, claims and causes of action arising out of or in any way connected with my participation, or the participation of any minor that I am signing on behalf of, in any activities offered by The Mountaineers. This includes but is not limited to all liability claims and causes of action in any way connected to property owned or leased by the Mountaineers, or the actions or inactions of any Mountaineers employees, members, agents, and or volunteers.**

I personally assume all risks in connection with these activities. If I am signing on behalf of a minor, I further agree to HOLD HARMLESS AND INDEMNIFY The Mountaineers and its members from all liability, claims and causes of action which the minor may have arising from the minor's participation in activities. The terms of this agreement shall serve as a release and indemnity agreement for my heirs, personal representative, and for all members of my family, including any minors (PARENTS OR LEGAL GUARDIANS MUST SIGN FOR ALL PERSONS UNDER EIGHTEEN (18) YEARS OF AGE).

	Name (PLEASE PRINT LEGIBLY)	Signature	Sign out	Under 18?	E-mail	Address	Phone
1							
2							
3							
4							
5							
6							
7							



- ▶ RELEASES DON'T WORK FOR MINORS
- ▶ RELEASES ONLY ENFORCEABLE FOR NEGLIGENCE-NOT GROSS NEGLIGENCE
- ▶ RELEASE SHOULD BE CLEARLY LABELED "RELEASE" AND NOT BURIED IN ANOTHER DOCUMENT
- ▶ ACKNOWLEDGEMENT OF SPECIFIC AND GENERAL RISKS INVOLVED AND ACKNOWLEDGING WAIVER OF RIGHT TO SUE

IS A RELEASE ENFORCEABLE?

# RCW 4.24.670

## LIABILITY OF VOLUNTEERS

Except as provided in subsection (2) of this section, a volunteer of a nonprofit organization or governmental entity shall not be personally liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if:

(a) ***The volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;***


(b) ***If appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice,*** where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(c) ***The harm was not caused by*** willful or criminal misconduct, ***gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer;***


(d) ***The harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft,*** or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to either possess an operator's license or maintain insurance; and

(3) ***Nothing in this section shall be construed to affect the liability, or vicarious liability, of any nonprofit organization or governmental entity with respect to harm caused to any person, including harm caused by the negligence of a volunteer.***

# NOT OUT OF THE WOODS

- ▶ Sexual harassment
  - ▶ Discrimination based on a protected class
  - ▶ sex abuse of minors/vulnerable adults
  - ▶ failure to accommodate disabilities
- 
- A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, set against a blue background.

# TIPS TO AVOID AN “EMPLOYMENT” LAWSUIT

- ▶ maintain boundaries
  - ▶ no, we don't have a sense of humor
  - ▶ indiscreet remarks that relate to a protected class
  - ▶ remember that your social media and electronic communication could be made public
- 
- A decorative graphic consisting of several parallel white lines of varying lengths, slanted diagonally from the bottom right towards the top right, set against a blue background.

A landscape photograph featuring several dead, bleached tree trunks in the foreground. In the background, there are snow-capped mountains under a sky with a warm, orange and pink sunset glow. The text "AND THEY LIVED HAPPILY EVER AFTER" is overlaid in white, bold, serif font across the middle of the image.

**AND THEY LIVED HAPPILY EVER AFTER**