

## PREFACE

Originally, there were 13 articles in *Selected Studies in Highway Law* (SSHL) on tort liability arising out of state highway activities, including design, construction, and maintenance. Although many articles were supplemented over the years, new cases and developments needed inclusion, and some of the existing material needed revising. As always, the objective is to keep the text current and meaningful for administrators, practitioners, and others concerned with transportation tort liability.

The Tort volume of *Selected Studies in Highway Law* consisted of the following articles and supplements:

- *Liability of State Highway Departments for Design, Construction, and Maintenance Defects*, by Larry Thomas. Supplemented by *Legal Research Digest* (LRD) No. 2, *Supplement to Liability of State Highway Departments for Design, Construction, and Maintenance Defects*, by John C. Vance (Dec. 1988).
- *Personal Liability of State Highway Department Officers and Employees*, by John C. Vance. Supplemented by LRD No. 4, *Supplement to Personal Liability of State Highway Department Officers and Employees*, by John C. Vance (Dec. 1988).
- *The Public Duty Defense to Tort Liability*, by Kenneth G. Nellis, LRD No. 17 (Dec. 1990).
- *Liability of State and Local Governments for Snow and Ice Control* by Larry W. Thomas. Supplemented by LRD No. 9, *Supplement to Liability of State and Local Governments for Snow and Ice Control*, by John C. Vance (Feb. 1990).
- “Liability for Wet-Weather Skidding Accidents and Legal Implications of Regulations Directed Reducing Such Accidents on Highways,” by Larry Thomas, *Selected Studies in Highway Law*, vol. 4, ch. 8, “Tort Liability,” p. 1899 (Dec. 1980).
- *Liability of State and Local Governments for Negligence Arising Out of the Installation of Warning Signs, Traffic Lights, and Pavement Markings*, by Larry W. Thomas. Supplemented by LRD No. 3, *Supplement to Liability of State and Local Governments for Negligence Arising Out of the Installation of Warning Signs, Traffic Lights, and Pavement Markings*, by John C. Vance (Dec. 1988).
- *Legal Implications of Highway Departments' Failure to Comply with Design, Safety, or Maintenance Guidelines*, by Larry W. Thomas. Supplemented by LRD No. 26, *Legal Implications of Highway Department's Failure to Comply with Design, Safety, or Maintenance Guidelines*, by John C. Vance (Dec. 1992).
- *Liability of the State for Injury-Producing Defects in Highway Surface*, by John C. Vance. Supplemented by LRD No. 10, *Supplement to Liability of the State for Injury-Producing Defects in Highway Surface*, by John C. Vance (Apr. 1990).
- *Liability of State Highway Departments for Defects in Design, Construction, and Maintenance of Bridges*, by William P. Tedesco. Supplemented by LRD No. 14, *Supplement to Liability of State Highway Departments for Defects in Design, Construction, and Maintenance of Bridges*, by John C. Vance (June 1990).
- *Liability of the State for Injury or Damage Occurring in Motor Vehicle Accident Caused by Trees, Shrubbery, or Other Vegetative Obstruction Located in Right-of-Way or Growing on Adjacent*

*Private Property*, by John C. Vance. Supplemented by LRD No. 27, *Supplement to Liability of the State for Injury or Damage Occurring in Motor Vehicle Accident Caused by Trees, Shrubbery, or Other Vegetative Obstruction Located in Right-of-Way or Growing on Adjacent Private Property*, by John C. Vance (Apr. 1993).

- “Liability of the State for Injuries Caused by Obstruction or Defects in Highway Shoulder or Berm,” by John C. Vance, *Selected Studies in Highway Law*, vol. 4, ch. 8, “Tort Liability,” p. 1966-N123 (Jun. 1988).
- “Duty of State to Erect and Maintain Guardrails, Barriers, and Similar Protective Devices,” by John C. Vance, *Selected Studies in Highway Law*, vol. 4, ch. 8, “Tort Liability,” p. 1966-N157 (Jun. 1988).
- *Impact of the Discretionary Function Exceptions on Tort Liability of State Highway Departments*, by John C. Vance, LRD No. 6 (June 1989).

The following articles were also relied upon and updated as well:

- *Liability of the State for Injury-Producing Defects in Highway Surface*, by John C. Vance. Supplemented by LRD No. 10, *Supplement to Liability of the State for Injury-Producing Defects in Highway Surface*, by John C. Vance (Apr. 1990).
- *Risk Management for Transportation Programs Employing Written Guidelines as Design and Performance Standards*, LRD No. 38, by Richard O. Jones (Aug. 1987).

The NCHRP 20-6 committee responsible for the text decided to reorganize the articles and supplement them for this new text on transportation law. The committee authorized a new framework for topics in the field, which would permit periodic updating.

The new text covers areas that are typical of or unique to the field of transportation tort liability and basically relies upon the initial articles for some of its work. It does not address other matters for which transportation departments could be sued, such as intentional torts or employment discrimination; nor does the text discuss aspects of tort liability, such as contributory negligence or statutes of limitations, which are not unique to transportation law.

The text covers six principal subjects: (1) basic theories of tort liability of public transportation agencies; (2) transportation agencies’ activities that may give rise to tort liability and defenses for discretionary activities; (3) immunities and defenses of the transportation department to such tort actions; (4) trial preparation, evidentiary rules, and strategies in public transportation tort litigation; (5) procedural considerations; and (6) shifting or sharing of tort liability by the department. The purpose of the new organization of the material is to facilitate the inclusion of new materials and provide information that is easily searchable.