



THE LEGAL BRIEF



Dog Bites

by John D. Whitaker

In a perfect world, the laws would be clear, easy to understand and remember. That was the way we thought it was in law school when we learned about dog bites. The rule we learned was called the "one bite rule." If the dog had no history of biting people, then the dog's owner was not liable if he did bite someone. This was an easy rule to remember, but unfortunately it was wrong. The fact is that there are several ways your dog can get you sued in Wyoming, and the fact that you have a nice dog may not make any difference.

The reason these rules are complicated is primarily based upon all of the different ways a dog can cause injury. We all know about situations where a dog actually bites someone. Then there are the cases where the dog barks at someone and they fall off your porch or trip when running from your dog, or when your dog chases a motorcycle and the driver becomes distracted and wrecks. The law is complicated because the ways a dog can cause injury are complicated.

Wyoming has three basic legal theories which impose liability on a dog's owner, and if you own a dog you better listen up.

The first theory is called strict liability. This is where a dog owner knows his dog is dangerous because he has a history of causing trouble. The determining factor in these cases is the owner's knowledge of the dog's dangerous propensities. Once you know you have a dangerous dog, you may be liable for the trouble he causes. This is really where the one bite rule applies, but it need not be a bite. If you know the dog likes to chase motorcycles and you do not properly restrain him, you may be strictly liable for the damage he causes chasing things.

The second theory is that of negligence, and the analysis



is based upon foreseeability of harm. In law, this is frequently called the reasonable person standard. So, liability can be based upon facts which a reasonable person would know were likely to cause harm. If you have a friendly dog and a neighbor child is in your house bonking him on the head with a hose, a reasonable man would probably intervene to get the dog away from the child. Failure to act as a reasonable person can be evidence of negligence. There are other requirements, but I think the thing to remember is that the law expects us all to act reasonably under the circumstances, and failure to do so can create liability.

The third theory of liability is the violation of a statute. There is a Wyoming Statute §11-31-301, which prohibits an owner or custodian of a dog from allowing a dog to attack a person in a vicious manner. Evidence that the dog has attacked a person in a place where the person has a right to be is evidence of viciousness under the statute. The City of Casper also has an ordinance which prohibits domestic animals from running at large. Violations of either of these laws can be used as evidence of negligence.

Dog bites result in over 5 million injuries annually. About 800,000 need medical attention. Between 15 and 20 people die each year as the result of dog bites, and most bites occur to the face. Most of the victims of dog bites are children.

I have litigated a number of dog bite cases, and in my experience insurance companies view dog bite injuries to the face of a child as being very dangerous cases. The damages will frequently go well beyond the insurance policy limits in a standard homeowner's insurance policy. What this means is that little Fido could cause you to lose everything.

Dogs are wonderful companions. I have two perfectly worthless dogs that I couldn't get along without. If you have a dog, and you want to keep your house, keep the little maniac on a short, strong leash.

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at JDWL@aol.com or by calling his office in Casper at 265-6204.