

DOG BITES AND OTHER ANIMALS ATTACKS

In a recent survey performed by the American Pet Products Association pet ownership in the United States is at an all-time high. Dogs are especially popular and have taken over millions of households in America. Dogs and other pets are a great addition to the family as they bring unconditional love, joy, and companionship. Unfortunately, dogs also can bite and each year more than four million people are the victims of dog bites. This extends to other pets that are considered exotic animals but the law slightly differs. Animals, although can be domesticated, are still wild animals by instinct and have a tendency to revert to their wild mannerisms no matter how well trained they are. However, there are common law and statutory remedies available to obtain relief. The defendant will present the defense that the plaintiff provoked the animal or was trespassing. If you have been a victim of a dog/bite or animal attack then you should seek proper medical care immediately.

Severity of injuries depend on many factors:

- Breed
- Size of the victim
- Duration of the attack
- How quickly victim received medical attention

What do you need?

- Photographs of injury
- Name and address of owner
- I.D tags of the animal
- Name of witnesses
- Photos of the animal who attacked

Victim has to show they were not trespassing, tormenting, or abusing the dog/animal at the time the injuries were sustained. Most dog bites/attacks fall under homeowner insurance liability and covers bodily injuries to others. If there is no insurance than the individual can file a claim against the owner. Further, there does not need to be a bite to file a claim as long as the dog caused some injury such as falling to the ground or twisting of the back in the wrong way.

Damages:

- Cosmetic procedures to treat scarring
- Pain

- Medical bills
- Mental suffering/PTSD
- Scarring

Under M.G.L. c.140 S155- once it shown that the defendant is the owner of the dog he is liable regardless of whether the dog has shown violent tendencies in the past, has bitten before, or is considered to be a stereotypical vicious breed.

Dog attacks:

Massachusetts has a strict liability on dog owners/keepers for the harmful actions of their dog. Under **M. G. L. c140 §155** this applies to, “any damage to either the body or the property of the person” meaning the person does not have to be bitten in order to make a claim. Strict liability means that there is no notice or duty requirement to impose liability. All a person needs to show is ownership or control of the dog and that someone was injured. Strict liability still applies even if the pet caused the injury at home or on a public street. On the other hand negligence occurs when a dog owner knew or should have known about the vicious propensity of the dog due to past bites.

What if the dog owner was not involved?

Even if the owner was not involved the dog owner can still be held liable. The law imposes liability on the owner/keeper even if the owner or keeper is a minor. Further, a dog sitter can be held liable or more than one person can be liable at the same time.

Who is a ‘keeper’?

In Massachusetts a keeper is someone who harbors with an assumption of custody, management, and control of the dog. **Brown v. Bolduc, 29 Mass. App. Ct. 909 (1990)**. The mere presence of a dog not enough to prove keeping. **Mailet v. Mininno, 266 Mass. 86 (1929)**.

Child teasing/playing with dog

A minor who is under the age of 7 is presumed not to have been teasing, tormenting, or abusing the dog. This can be overcome with proof.

Police dog

Depends on the facts but could be a civil rights claim.

Important to remember for dog bites:

- Under section 155 a keeper of a domestic animal is bound to exercise only reasonable care to prevent injury by it
- Statute governing liability for damages caused by a dog is an expansion of the common law and it eliminates the need to prove the owner knew of the dangerous character and habits of his dog
- Dogs should be well trained to obey basic commands like sit, down, and stay
- If the owner or keeper is a minor then the parents of the minor shall be liable for such damage

Other animals: (ferrets, cats, birds, large cats)

The burden on the plaintiff is to prove that the animal caused the injury and was owned/kept by the defendant. If the owner had knowledge of viciousness but failed to act in order to prevent injuries to others then owner should take steps to make sure the animal is secured from access to the public. If one harbors animals that are considered to be wild (lion, bears, monkeys) they are often held strictly liable for the harm that results if the animal escapes regardless if animal is known to be dangerous.

Under **M.G.L. c. 131, S23**, “A person shall not engage in the propagation, cultivation, or maintenance of, or dealing in fish, birds, mammals, reptiles, or amphibians, or parts thereof without having obtained a propagator’s license.” Birds, mammals, reptiles, and amphibians are referred to undomesticated because they are wild by nature.