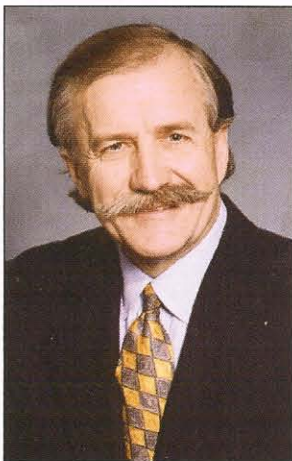


## wrecks in the ring



By Mati Jarve  
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**I** WAS RECENTLY RETAINED BY A HORSE SHOW EXHIBITOR WHO WAS SERIOUSLY injured in an accident while competing in a class. The accident occurred because the footing in the arena was so hard that the horse fell down when executing a high speed maneuver. The horse fell on top of the exhibitor causing substantial personal injury to the rider.

Is this a case?

The answer, as in most legal matters, is—it depends. Certainly the horse show management has an obligation to provide a safe facility for the use of the exhibitors. In addition, the owner of the show grounds has a similar duty. If there was a separate maintenance crew, they too may have some liability.

After identifying the potential defendants, the theory of liability must be established. Clearly, it is not safe to have horses show in an arena that is so hard that it is virtually hardpan. It is well known that horses wear metal shoes. It is also well known that horses wearing metal shoes have very little traction on hard surfaces, like concrete or asphalt. Consequently, if the footing in the arena is allowed to become so hard that it causes the horses to lose traction, it becomes unsafe for horse and rider.

In the first instance, it is the responsibility of the owner of the show grounds to make sure that the footing is comprised of the proper types of soils and to keep the ring properly maintained. Depending on the jurisdiction, this is sometimes a non-delegable duty of the landowner. The show management has the obligation to keep the arena well groomed and properly inspected to make sure the footing is safe for the exhibitors and horses. If the footing is too hard, the arena should be conditioned with the appropriate implements to break up and soften the soil. If that can't be immediately accomplished, the arena should be off limits to all horses until such time as the footing can be properly prepared. Also, if there are low spots or wet spots in the arena, they too should be appropriately groomed before horses are permitted to use the facility.

Although most states now have equine activity statutes on the books, these statutes would be of limited applicability because they are intended to limit lawsuits involving the inherent risks of equine activity. It is unlikely that a court would determine that showing a horse on an unreasonably hard surface is an inherent risk of equine activity.

On the other hand, many if not most horse shows now require liability waivers to be signed as a condition of showing. If the waiver is determined to be enforceable that will of course bar the lawsuit. However, many form waivers are defective for a variety of reasons. If it is determined that the waiver was not valid for any reason, the defense of waiver will be stricken.

The legal principle of comparative or contributory negligence may partially or totally bar the lawsuit. Once again, depending on the jurisdiction, if it is proven that the exhibitor was also negligent in showing his horse under the circumstances, the damages may be reduced by the exhibitor's level of negligence. Some states would totally bar the claim.

So, is there a case?

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