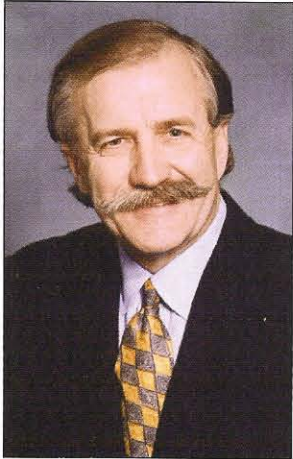


trainer liability



By Mati Jarve
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I RECENTLY TOOK MY 2-YEAR-OLD COLT TO A NATIONALLY KNOWN WESTERN pleasure trainer hoping to cash in on some of the big futurities this summer and fall. A few weeks later I received a telephone call from the trainer informing me that my horse broke loose from one of his ranch hands and suffered a career ending injury when he ran into a fence. Is the trainer liable? Will his insurance company pay me for the damages?

A trainer can be held responsible for damages if it can be proven that he was negligent. In order to prove negligence you must establish three elements. First, that the trainer owed you a duty of care. Second, that the duty was breached. Third, that the breach was the proximate cause of the damages.

The first element is easy. You turned over the care, custody and control of the colt to the trainer. The law in most jurisdictions will obligate the trainer to perform those duties as an ordinary reasonable trainer.

The second element is usually where the disputes arise. In order to prove a breach of the duty, you must demonstrate that the trainer failed to act as an ordinary reasonable trainer under the same or similar circumstances. This is almost always a fact sensitive analysis. In this case it would be important to know why the colt broke loose in the first place. If the horse broke loose due to circumstances known, or should have been known to the trainer, there will probably be liability. For example, if the ranch hand was not properly trained in the handling of young horses, the trainer may be held responsible. Or, if the colt spooked because the trainer's dog was yapping at his heels, the trainer may be at fault. On the other hand, just because the colt broke free doesn't mean that the trainer was at fault. It is well known that young horses, especially colts, can be fractious. If the horse behaved in an unexpected or unpredictable way the trainer probably will not be held accountable. In other words, if the behavior of the horse under the circumstances was unforeseeable the law will not impose liability. Moreover, there is a well known maxim in the law that negligence is never presumed, it must be proven.

The third element, proximate cause, requires you to prove that the breach was the cause of your damages. It certainly appears in this case that if a breach occurred, it led directly to the damages that were sustained. There are cases however, where the damages are so remote or unexpected that the chain of causation is broken. Or, where there is no causative connection between the breach and the damages incurred. For example, in this case it is conceivable that the trainer was negligent for not properly training his ranch hand but that the cause of the colt breaking loose had nothing to do with the lack of training of the handler. Under this scenario there would be no liability and no cause of action against the trainer.

The above analysis does not change whether the trainer had insurance coverage or not. The real question is whether the trainer had insurance at all and if he did, whether it would cover this particular claim. Unlike mandatory automobile insurance in most state, trainers are not required to carry insurance at all. Moreover, even if the trainer does carry insurance, it must be of the right kind. A general liability policy may not afford the proper coverage for situations such as this. The trainer would be well advised to consult with his attorney or insurance agent to make sure he has the coverage that he thinks he has and needs.

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