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Legal Matters®

The law of dogs (and other pets)

Most dog owners will tell you that Fido or Spot is just like a member of the family. And the law often agrees with them – which means that people may have complex legal rights and responsibilities when a pet is injured, or when someone is injured by a pet.

For instance, if a dog bites someone, the owner might be legally responsible to pay compensation for the harm...and other people might be responsible, too, depending on the circumstances.

As with many things, the law varies from situation to situation, so it's important to consult with an attorney to determine your rights.

As a general rule, dog owners have a legal duty to be careful in handling and securing their pets. In some states, how careful the owner has to be depends on whether the owner has reason to believe that the dog is dangerous. Sometimes, in order to be compensated, a dog-bite victim must prove that the dog had previously bitten someone else, or at least snapped or growled at people and gave indications that it might be unsafe.

But in other states, the court system has



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rejected this rule, saying it's unfair to innocent victims. In these states, a dog owner might be responsible for any harm caused

by a pet, even if the owner wasn't "on notice" that the dog might attack.

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Energy products might be hazardous to your health



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Energy drinks such as Rockstar, Monster and RedBull – as well as energy supplements such as 5-Hour Energy – are notorious for their ability to keep people awake. These products can contain a whopping 500 milligrams of caffeine per serving, which is about seven times the amount you'd find in a can of Coke or Pepsi.

The products are popular with a lot of people, including long-haul truckers, students cramming for exams, and partiers who like to club-hop until dawn.

However, a recent report by the Food and Drug Administration suggests that the buzz could be coming at a severe cost. According to the FDA, the use of Monster and 5-Hour Energy may be connected to 166 health incidents, including 18 deaths, since 2004.

Most of these incidents involved increased heart rate, headaches, changes in blood pressure, nausea and dizziness. More than half the incidents reported were considered serious or life-threatening or required emergency hospitalization.

As a result, the FDA is investigating whether energy products pose a threat to teenagers and people with preexisting medical conditions.

Currently, many energy products are sold as “dietary supplements” instead of as food items. Dietary supplements are subject to a much more lenient set of regulations; for instance, they don't have to receive FDA approval before they're put on the market. As a result of the FDA report, some members of Congress are now calling for these products to be reclassified.

Understanding the law of dogs (and other pets)

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Some courts have decided that a dog owner has to be extra careful if the animal is a pit bull or similar breed – because no matter how nicely the dog has behaved in the past, these particular breeds have a history of aggressive behavior.

And the result often depends on the specific situation – for instance, whether the dog was on a leash, whether the victim was trespassing at the time or provoked the animal, and even whether the dog bit the victim as opposed to causing other harm such as by tripping or frightening someone.

The result can even depend on the breed of the pet. For instance, some courts have decided that a dog owner has to be extra careful if the animal is a pit bull or similar breed – because no matter how nicely the dog has behaved in the past, these particular breeds have a history of aggressive behavior.

Sometimes, people other than the dog owner can be responsible for a dog bite. For instance, in a recent case in Minnesota, a young man and his dog Bruno visited the man's father. On a walk, Bruno attacked a miniature schnauzer. When the schnauzer's owner tried to separate the two dogs, he fell and broke his hip.

The schnauzer's owner sued the father, and the Minnesota Supreme Court said the father could be responsible even though he wasn't actually Bruno's owner. That's because the father allowed his son to bring Bruno to his house, laid down rules for Bruno while visiting, and apparently helped take care of the dog while it was at his home.

Sometimes, a landlord can be held responsible for a tenant's dogs. For instance, the Connecticut Supreme Court recently held that a tenant in public housing who was attacked by another tenant's dog could sue the local housing authority for neglecting to enforce

provisions in the lease prohibiting dangerous pets.

The housing authority argued that it wasn't the owner or keeper of the dog, but the court said the authority apparently knew the dog was dangerous and was required to protect tenants from known dangers on the property.

While dog-bite victims can often be compensated for their injuries, another question is what happens if it's the pet that's injured. Do pet owners have any rights if someone carelessly injures their beloved animal?

Long ago, the legal rule was that any animal you owned was considered your property. If someone carelessly harmed your animal, you could sue for the “market value” of the animal – in exactly the same way that if someone totaled your car, you could sue for its “blue book” value.

That's still the rule in most places, but occasionally a court will decide that a pet is more like a member of the family, and that harm to a pet is different from harm to an inanimate object.

For instance, the California Supreme Court recently decided a case in which a man who was upset over a boundary dispute injured his neighbor's miniature pinscher with a baseball bat. The Court allowed the neighbor to sue for his emotional distress as well as the dog's veterinary expenses.

And another California court recently required a veterinarian who had carelessly nicked a dog's intestine during a surgical procedure to compensate the dog's owners for the \$38,000 they paid for emergency treatment to save their pet.

Nursing home could be sued in spite of its contract

Many nursing homes go out of their way to protect themselves legally in the admission contracts they make their residents sign. These contracts often say that if the nursing home does something wrong, residents and their families will be limited in their right to compensation. Residents who sign the agreements usually assume that they have no choice in the matter, and many aren't even aware of the restrictions because they're in the "fine print."

But sometimes, families can be compensated fairly in spite of what the contract says.

For instance, many of these contracts contain an "arbitration" clause. This says that if there's a legal dispute, the family cannot sue in court – instead, the dispute must be resolved by a private, neutral third party, and usually one who belongs to an association chosen by the nursing home.

This is bad news for the family, because they lose many of the protections of the court system, including rules of evidence and the right to have a case heard publicly by a jury.

In one recent case, a woman in a nursing home in Pennsylvania died from injuries she suffered when she was thrown from a wheelchair while being



transported to a doctor's appointment.

When her family sued for compensation, the nursing home pointed to the admission contract, which said that any dispute arising from the contract had to go to arbitration.

But in this case, the Pennsylvania Superior Court sided with the family. It said that the contract required arbitration if there was a financial dispute with the nursing home, but the woman's wheelchair injury was a separate matter and didn't "arise from" the admission contract.

Injured? Here's why you need to act quickly

If you, a loved one, or a friend has suffered an injury, it's important to speak to an attorney quickly to determine your rights. That's because the law contains a "statute of limitations" which says that if you wait too long to pursue justice, you might be out of luck.

Sadly, the limitations period for injuries is often very short – much shorter than that for other types of lawsuits, such as contract disputes. (That's unfortunate, because many injured people don't think to talk to a lawyer right away simply because they're dealing with the effects of the injury.)

An additional problem is that it's not always clear when the limitations period starts to run. That is, sometimes people aren't aware immediately that they've suffered harm, or that the harm might be due to someone else's carelessness.

For instance, in a recent case in Utah, a woman's doctor treated her for a perforated colon. When her condition worsened, her husband moved her to

another hospital where she was treated by different doctors and recovered.

A little more than two years after switching doctors, the woman sued her original physician for failing to treat her properly. The doctor argued that she had no right to sue, because the limitations period in Utah was two years, and she should have known she had a medical malpractice claim at the time she first switched physicians.

Fortunately for the woman, the Utah Supreme Court ultimately decided that the woman's mere "suspicion" that the doctor had done something wrong wasn't enough to start the two-year clock ticking.

However, the case is an important reminder that if you've been injured and have any reason to believe that someone else might be at fault, you should speak with an attorney right away. Waiting too long to see what happens could mean that by the time you're absolutely sure you deserve compensation, it's too late to obtain it.

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What if you and someone else were both at fault?



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Sometimes an accident is the result of two or more people doing something wrong. What happens then?

Long ago, the legal system had a rule that people couldn't be compensated for their injuries if they were partly to blame – even if they were just a little bit to blame. This was a harsh rule, because it meant that people who were only a tiny bit at fault often couldn't be compensated at all.

Today, in the vast majority of cases, the rule is different. A jury or judge will compare how much each person was at fault, and allow an injured person to be compensated as long as that person was less at fault than the other one. (Of course, the injured person's compensation might be reduced to reflect that fact that he or she was at least somewhat to blame.)

For example, a man in Florida took a test drive of an all-terrain vehicle, and was injured by its spinning tires when the vehicle rolled on top of

him. The problem is, the man was legally drunk at the time he took the ATV out for a spin.

Now, it's obvious that drunk driving is wrong, and that the man was at least partly to blame for the rollover.

However, the man was able to prove in court that the ATV had a faulty "tilt sensor" that should have shut down the engine automatically once the vehicle tilted 65 degrees or more. He provided evidence that the manufacturer was aware that the part didn't work well, but didn't fix the problem in order to save money and rush the vehicle to market.

The man argued that he was partly at fault for the rollover because he was drunk, but that the company was more at fault, because he would have walked away from the rollover completely unharmed if the tilt sensor had worked properly.

A jury agreed that the company was more at fault for the injury, and awarded the man compensation.



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