

Is a Horse Trainer Liable for the death of a Customer's Horse?

By Julie I. Fershtman, Attorney at Law
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The horse owner leaves her horse with a horse trainer for boarding and training. Months later, the horse colicked while under the trainer's care, and a veterinarian later euthanized the horse.

Does the horse owner have a case when a horse dies under the care of a trainer?

What the Law Expects of a Trainer's Services

When a person leaves a horse with a trainer or a stable for care and keeping, the law generally expects the stable or trainer to use "reasonable care" in keeping the horse. In the eyes of the law, this means that the facility must use the degree of care that a prudent and careful trainer or stable would use in similar circumstances. A horse owner who brings a claim against her trainer for the loss of his horse must prove that the trainer fell short of this standard and should be liable (legally accountable) for the damages that resulted.

Making a Case

Proving that the trainer is liable requires considerable effort, especially since it is widely known that horses can develop colic even with the best of care. In a court of law, the owner cannot merely point to the loss of her horse and make the trainer legally responsible. The owner will need to prove what the trainer did (or what the trainer failed to do) that led to the horse's demise. As examples:

- **The Attending Veterinarian.** Will the veterinarian who attended to the horse support that something was wrong with the horse's care that led to its death? If the veterinarian will testify in this manner, this could be evidence to support a case against the trainer.
- **Autopsy/Necropsy.** A post-mortem (after death) examination of the animal by a licensed veterinarian sometimes could potentially solve the mystery of what caused the horse's death and whether improper care and attention played a role. If the examination supports that improper care from the trainer caused the problem, this also could support a case.
- **Witnesses.** Did anyone see the trainer give the horse improper care? Can someone, for example, prove that the trainer fed the horse moldy hay? This testimony might help support a case that the trainer gave the horse negligent care.

Damage Control for the Trainer

What preventative measures can the trainer take? Here are two:



Insurance

Insurance will not prevent problems from happening, but it could spare the trainer the burden of hiring a lawyer or settling disputes with his own funds. Many trainers and equine professionals are surprised to learn that their business liability insurance policies do not protect them against situations where a customer or horse boarder complains that a horse received negligent care. Equine businesses that purchase a "care, custody, and control" insurance endorsement (sometimes called "care, custody or control" or a bailee's liability policy), however, would likely be protected for claims challenging the quality of care that the horse received. This type of policy is designed to protect against claims involving horses that are injured or die due to the professional's negligence while the animal is in the professional's care, custody, and control.

Boarding Contracts

In most states, it is legal for an equine professional, such as a trainer or boarding stable, to ask customers to sign liability releases. These documents, if they are properly drafted and signed, could potentially stop a customer's claim or lawsuit from succeeding. Make sure your documents are properly worded.

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Damage Control for the Owner

Unfortunately, nothing can bring back a horse that had to be put down due to severe colic. Horse owners might, however, purchase policies of equine insurance that are designed to compensate them for the loss of a horse and for the expenses associated with the horse's care. Talk with an insurance agent about mortality, major medical, and/or loss of use insurance. ■

This article does not constitute legal advice. When questions arise based on specific situations, direct them to a knowledgeable attorney.

About the Author

Julie Fershtman is one of the nation's most experienced Equine Law practitioners. A lawyer for nearly 27 years, she is a shareholder with Foster Swift Collins & Smith, PC (www.fosterswift.com) and has successfully tried equine cases before juries in 4 states. She has drafted hundreds of equine industry contracts and is a Fellow and officer of the American College of Equine Attorneys. She has spoken on Equine Law in 28 states and is listed in The Best Lawyers in America, 2013. For more information, please visit www.fershtmanlaw.com, www.equinelaw.net, or www.equinelawblog.com.

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