

AN EQUINE LAW PRACTITIONER

TRAINER/CLIENT RELATIONSHIPS & THE LAW

Written by Julie I. Fershtman, Attorney at Law

Julie Fershtman is one of the most experienced Equine Law Practitioners in the USA. A Shareholder with the firm Foster Swift Collins & Smith, PC, based in Michigan, she has successfully tried equine cases before juries in four states. She has also drafted hundreds of equine industry contracts and is a Fellow of the American College of Equine Attorneys. She has spoken on Equine Law in 28 states, including the nation's largest equine industry conventions. For more information, please visit: fershtmanlaw.com - equinelaw.net - equinelaw.info.

Horse trainers and automobile mechanics have nothing in common. Cars can be fixed, but some horses, by comparison, seem impossible to break. Mechanics usually can estimate the time and cost needed to restore a car to proper performance, but few horse trainers can estimate how long it will take to turn a horse into a polished performance prospect. And no trainer gives a "six month/6,000 mile warranty."

The trainer/customer relationship creates fertile ground for disputes. For example:

- A horse owner, after visiting the trainer's facility a few times but not seeing his horse in active training, might assume that the trainer has done nothing.

- After spending thousands in training fees, the owner might receive long-overdue news from the trainer: the horse is simply not capable of performing at the level the owner desires.

These were real disputes, and people involved in them considered pursuing legal action. Many trainer-client disputes, however, can be avoided. Here are some suggestions to help trainers and their clients work better, address problems, and maybe prevent problems from occurring:

1. **Discuss Goals.** The best time to discuss training goals is before the trainer/client relationship begins. Maybe the client wants a hot-off-the-track Thoroughbred to become a competitive A-Circuit Show Hunter. Maybe the client believes his slow-legged horse will be a top-notch Western Pleasure winner. Maybe neither of these clients wants to keep the horse in training for more than a few months. Communication will help the client decide which direction to take – sell the horse, "take a gamble" on more training, pursue different goals, or get another opinion. Communication can also help prevent bitter feelings in the future.

2. **Promises.** Lawyers know that promises of future performance, as a general matter, are not necessarily fraudulent statements. But trainers who promise a horse's future performance are creating unrealistic expectations. On the other hand, all trainers can fairly promise that they will use their best efforts to train a horse as agreed in an effort to satisfy their clients' goals.

3. **Contracts.** Everyone in a training arrangement stands to benefit from a carefully-drafted training contract. At a minimum, the training contract can include: a statement of purpose of the training, fees and payment obligations, payment deadlines, what to do in

the event of an emergency (who to contact, authorization to seek veterinary attention on the owner's behalf, and more), whether the trainer can solicit or accept offers to sell the horse for a given price, and the applicable state law. Contracts can also include releases of liability (where allowed by law), insurance requirements, indemnification, and many others.

4. **Professionalism.** Horse training is a serious service business. The relationship works best when both parties take their obligations seriously. For the trainer, this means training the horse as promised and in good faith. For the customer, this means paying the trainer on time.

5. **Law and Disputes.** State laws can directly impact how a trainer must proceed as to certain types of disputes, and all of these laws differ state-to-state. These laws include:

- Agister's lien laws/stablemen's lien laws, found in most states, address how a stable or trainer can take drastic action involving a horse left for care and keeping if payment has not been timely made.
- In some states, trainers must comply with debt collection practice laws.
- State laws also determine maximum interest rates trainers can charge on unpaid balances.

Knowing the law is only part of the process. Trainers should be mindful of when to assert their legal rights. Trainers rushing to court too hastily against their clients, such as lawsuits involving unpaid fees, might be surprised when confronted, in response, with a counterclaim (a counter-suit) brought against them for negligent care of a trained horse. Regardless of who ultimately wins the case, legal expense and disruption to both parties from a lawsuit might be far more than either bargained for.

6. **Ending the Relationship.** Not all trainer-client relationships will succeed. When the relationship ends, all accounts between the parties should be promptly settled. Also, both parties should think carefully before "bad-mouthing" the other; the right of free speech in our country is a constitutionally-protected guarantee, but there are legal limits. Claims of slander (spoken defamatory words), libel (written defamatory words), disparagement, and illegal interference with the other's business relationships could force the parties' relationship to continue for a long time – in a courtroom.

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