

Kleps Law Office, PLLC

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By Michael Kleps, a general practice attorney in Bellingham, Washington

Michael T. Kleps
114 W. Magnolia, Ste. 444
Bellingham, WA 98225
michael@klepslawoffice.com
(360) 650-1766



Dog bite, OUCH!

Two attorneys from my floor spoke at the September 23, 2009 Dog Bite Institute in Seattle. One of them invited me to the seminar as their guest, and while I do not plan on making this a practice area, I decided to attend. My father and sister are both veterinarians. In the last two months two friends who are dog owners have shared bite stories with me. And, I have experienced the discomfort of being bitten and barked at by a poorly trained dog (please note a dog must be unusually persistent to make me feel uncomfortable). So for my friends, family, and clients with dogs here is what I learned:

CIVIL LIABILITY: In Washington State the owner of any dog that bites any person shall be liable for such damages as may be suffered by the person bitten, regardless of the whether the dog had been vicious before. RCW 16.08.040 This means that on the first bite, a court most likely will hold the owner of a dog liable for damages caused by the bite.

The person bitten must be lawfully on the premises where the bite occurred. A person knocking on your door probably has your implied consent to be present on your property. RCW 16.08.050 Consent is not presumed, however, when the property is fenced or reasonably posted. RCW 16.08.050 Congratulations to those of you who have good fences or a 'beware of dog' sign posted – the mailperson may have a tougher time suing you.

An increasingly raised defense is that a dog owner is not liable if the plaintiff provoked the dog. RCW 16.08.060 What constitutes provocation is not clear. Probably, a court will not hold a child under six years old responsible for provoking a dog because young children are unable to understand the weight of their actions.

Ownership can be a tricky issue also. Liability potentially may be pinned on any person possessing, harboring, keeping, having an interest in, or having custody or control of an animal. RCW 16.08.070(7).

CRIMINAL LIABILITY: A person commits the crime of possession of a dangerous dog when he or she is the owner of a dog that aggressively attacks and causes severe injury or death of any human and the owner either knew or should have known that the dog was potentially dangerous. RCW 16.08.100

Say you ask the neighbor kid to watch your dog. The dog bites the kid. The parents get angry, call animal control and ask it to declare the dog as a potentially dangerous. Upon completion of proper notice and other processes, the dog owners may be required, among other things, to confine the dog inside a locked building, kennel, pen or other structure having secure sides, bottom and top; use a muzzle and leash (not more than six feet) when the dog is outside the kennel; post insurance on the animal; and/or have the dog wear a bright orange collar bearing the warning "potentially dangerous dog." WCC 6.04.095

Violation of these restrictions could result in a misdemeanor conviction on the first failure to follow the potentially dangerous dog restrictions. If the dog becomes classified as a dangerous dog, the owner could be guilty of a class C felony the second time the dog bites someone. RCW 9A.20.021

I have never felt more proud to have been responsible for taking the family Yorkshire terrier through obedience training.

In Bellingham, we are lucky that Adam Karp (<http://www.animal-lawyer.com/>), one of the most practiced attorneys nationwide, resides in our community. Also, Jim Haigh (jchaigh@haighlaw.com) gave a great presentation on Insurance matters.