



## **WHAT A DOG BITE VICTIM IN TEXAS NEEDS TO KNOW (HOMEOWNER'S POLICY, TEXAS DOG BITE LAW, AND HIRING A DOG BITE LAWYER)**

**THESE THREE PAGES ARE A MUST READ FOR DOG BITE VICTIMS-HOWEVER, OBVIOUSLY THE FIRST THING ONE SHOULD DO WHEN BIT BY A DOG IS SEEK MEDICAL ATTENTION IF NECESSARY! ONCE YOU ARE IN A STABLE CONDITION THE FOLLOWING ITEMS CAN BE CONSIDERED AND UNDERSTOOD.**

**FACT: A vicious dog can kill a small child in less than seven seconds.** If a child lives through a vicious dog attack they are typically left with severe cut wounds and permanent scarring. Injuries to elderly and even adults in good physical condition can be life threatening or severe.

The law in Texas allows us to keep vicious dogs on our property. Like everything, doing so comes with a price. Unfortunately, the price too often involves the life or safety of a nonthreatening person in your home. **If someone is not prepared to take responsibility for the damage that their vicious dog causes to people who are not trespassers, they should not own the dog or have it on their property.** In Texas, if an individual decides to keep a dangerous dog on their property they may do so but they are liable for any damage that the vicious dog creates.

### **CAN I RECOVER FROM HOMEOWNER'S INSURANCE POLICY?**

The short answer is "yes". However, as in all cases, it is important to claim and plead your situation truthfully and properly as to not void insurance coverage. A lawyer experienced in handling dog bite cases will be able to assist you with the process and make sure that Homeowner's is dealt with properly. **A recorded or written statement should never be given to the insurance company without the presence/assistance of a lawyer.**

## **DO I HAVE A VALID DOG BITE CASE?**

**If you have been bitten by a dog it is very important that you speak with an attorney to review your case (SEE “Hiring a Dog Bite Attorney” below) as soon as possible. The following laws will be considered by your attorney when they review your dog bite case to determine the right to recovery.**

### **TEXAS LAW**

Dog bite recovery in Texas can fall under Strict Liability, Negligence, or Negligence Per Se. The most powerful and important category of recovery for potential clients to understand is Strict Liability recovery. Strict Liability recovery is essentially the fact stated in the Intro to this article describing that IF a property owner has reason to know of the dangerous propensities of the dog they will be responsible for any damage that it causes.

The legal elements are:

- 1) the animal is of a vicious, dangerous or mischievous nature (most dogs that are biting people fall into this category);
- 2) the owner or keeper had actual or constructive knowledge (they knew or should have known) of such characteristics, tendencies or traits; and,
- 3) the injury or damage resulted from such dangerous propensities.

**These elements are extracted from Texas caselaw which essentially adopted the Restatement (Second) of Torts § 509 (1938). The restatement section and some applicable case law is included below for your reference.**

#### Authority:

§ 509 HARM DONE BY ABNORMALLY DANGEROUS DOMESTIC ANIMALS.

“Except as stated in §517, a possessor of a domestic animal which he has reason to know has dangerous propensities abnormal to its class [class refers to “domestic pet dogs” and not the particular breed of that specific dog], is subject to liability for harm caused thereby to others, except trespassers on his land, although he has exercised the utmost care to prevent it from doing the harm.”

*Marshall v. Ranne*, 511 SW2d 255 (Tex. 1974).

*Villareal v. Elizondo*, 831 SW2d 474 (Tex.App.—Corpus Christi 1992, no writ).

*Wells v. Burns*, 480 SW2d 31 (Tex.App.—El Paso 1972, no writ).

*Powers v. Palacios*, 794 SW2d 493 (Tex.App.—Corpus Christi 1990), *rev'd on other grounds*, 813 SW2d 489 (Tex. 1991).

*Moore v. McKay*, 55 SW2d 865 (Tex.Civ.App. 1933, no writ)

## **TIPS ON HIRING A DOG BITE LAWYER**

1. **DON'T WAIT.** Insurance adjusters are trained to get you to say small things that will be turned against you. Additionally, they are trained to attempt to put the liability on the homeowner and state that there is no insurance coverage available. A dog bite lawyer will typically swiftly handle these situations so that liability is clear and insurance readily accepts the claim.
2. **EXPERIENCE.** Ask your dog bite lawyer if they are familiar with Dog Bite law in Texas and HOW MANY dog bite cases they have handled. Typically it is best to find a dog bite lawyer on the internet or through a friend and NOT off of a TV commercial.
3. **PAYMENT.** Most attorneys who take Dog Bite cases, including DLG Luce, LLP., do not charge the client ANYTHING up front. Your attorney should talk to you to evaluate the case without charging anything. Your attorney should also pay all case expenses and should only be paid if there is a successful recovery. Such payment should be a percentage of the recovery and not an hourly bill for all work done.
4. Ask your lawyer to provide you with all pertinent correspondence as your claim moves forward. Your attorney should do this automatically without your having to ask but the sad truth is that many attorneys do not keep their clients informed about the status of their claim.
5. Be candid with your attorney. For example, if you desire to file a claim against insurance but DO NOT want to sue the homeowner, just be up front with the attorney. A good dog bite attorney will help you understand what your options are so that you can make an INFORMED decision.