

Overcoming Relationship Challenges in Dog Attack Cases

Woodland Hills personal injury attorney Barry P. Goldberg contends that most people involved in dog attack cases fail to consider some challenges that are often present in dog attack cases. Because dog attack cases are “strict liability” and there is no “one free bite” rule in California, it is easy to assume that dog attack cases present few challenges to the experienced personal injury practitioner. In fact, dog attack cases are never “easy” and not every personal injury lawyer is prepared to deal with those challenges.

Most dog attacks occur with dogs we are familiar with---a neighbor’s dog or a relative’s dog. So---a dog bite---make a claim. Not so fast. Most clients who seek counsel on dog attacks are not so prepared to sue or make a serious claim against their neighbor or relative.

The first thing that needs to be accomplished is “de-briefing” the client regarding the legal and insurance system in place. It is paramount to explain that one of the reasons Homeowner’s Liability Insurance is in effect is just for this precise eventuality. The homeowner (and dog owner) has been paying in premiums for years and often make no claims whatsoever. Rather than creating an “adversary” relationship with the neighbor or relative, the insurance “relationship” intervenes. It creates a claim evaluation system completely and totally outside the involved parties’ day to day lives. Further, the strict liability rule often assists in this process. We do not have to concentrate on “fault” per se. (Although comparative fault of the victim is a favorite insurer defense these days, that analysis focuses on the victim’s conduct, not the dog owner’s conduct.)

An experienced dog attack lawyer will take steps to “de-compress” the personal relationship challenges right from the start. If necessary, it is appropriate for the dog attack lawyer to write a very cordial letter to the dog owner to overcome this challenge. The tone of the letter should be conciliatory and acknowledge the good relationship of the parties notwithstanding the unfortunate event. Because of the dog owner’s love of his or her animal, it is important to state that the purpose of making a personal injury claim has nothing to do with disciplining or threatening the dog. It is often good form to state in the alternative that if the shoe were on the other foot, and it was the dog owner that was bitten by the victim’s dog, the victim’s family would not hesitate to cooperate and provide insurance information to assist that dog owner in making a quick recovery.

It is important to stress to the dog owner that returning to “normal” as quickly as possible is the goal so that the neighbors (or relatives) can promptly return to the status quo and existing relationship. More importantly, the attorney should clearly communicate that this is an important priority for the victim and victim’s family.

An experienced dog attack lawyer will make clear that he or she will do everything possible to keep the dog owner from being inconvenienced and will further do everything possible to avoid litigation. This will put most dog owners at ease and more willing to cooperate. In some cases, an attorney should offer to be available to answer questions about the process and remove all mystery concerning the intent of the claim.

After the dog attack attorney has communicated all that need be said to reasonably place the dog owner at ease, it is absolutely imperative that the dog owner be enlisted to move the claim to the next level. The

letter should provide at least two options for the dog owner. First, the dog owner could informally provide the Homeowner's Insurance information, including the insurer's name, contact information and the policy number to the lawyer. Second, and in the alternative, the dog owner should be requested to ***forward the attorney's letter directly to the insurance company*** and allow the insurer to do the work and make the follow up contact with the lawyer.

Providing the alternative to forward the attorney letter demonstrates that there is nothing wrong with anything said in the attorney's letter and nothing wrong with the dog owner communicating with the victim's lawyer. Perhaps more importantly, a forwarded letter allows the dog owner to understand that the claim will be handled above board and the assurances contained within the letter will be honored.

Although it is always difficult to make a claim against a neighbor or relative, by following a reasonable protocol, an experienced dog attack attorney can actually enlist cooperation from the dog owner while preserving the existing good relationship between the parties.