



LEGAL EQUESTRIAN™

My friend and I were trail riding and came across three dogs that were off-leash. The dog owners failed to get control of the dogs and the dogs attacked us while on horseback. The dogs viciously pursued us for about 15 minutes before the owners got them under control. Neither horse nor riders were injured; however, we were terrified the entire time. What legal remedies are available to horseback riders when dog owners refuse to control their animals?

There are legal remedies available in California for injuries sustained by the actions of a dog to both animals and humans; however, absent any injury or damages, there is no basis for litigation.

California's Civil Code § 3341 provides that the owner, possessor, or harbinger of any dog or other animal, that shall, on the premises of any person other than the owner, possessor, or harbinger of such dog or other animal, kill, worry, or wound any . . . horse. . . shall be liable to the owner of the same for the damages and costs of suit, to be recovered in any court of competent jurisdiction.

Further, California's Civil Code § 3342(a) provides that the owner of any dog is liable for the damages suffered by any person who is bitten by the dog while in a public place or lawfully in a private place, including the property of the owner of the dog, regardless of the former viciousness of the dog or the owner's knowledge of such viciousness.

If the attack by the dogs had caused any injury to either the horses or the riders, the owners of the dogs would have been found strictly liable for the dogs' actions. Animal owner's and/or keeper's may also be sued for negligence when a characteristic of a certain animal creates a foreseeable risk of harm and the owner/keeper fails to exercise ordinary care to prevent the risk.¹ If injuries had been sustained in the incident above, the dog owners could have been found negligent for failing to restrain the animal with a dangerous habit and failing to provide for or exercise control over the animal even if it had not previously manifested a dangerous trait.²

Absent injuries, the only real recourse is to report the owners for violation of local leash laws. California Civil Code § 3342.5(e) allows local counties and cities to establish legislation for local dog control. Prior to hitting the trails, all horseback riders should check local leash laws and call authorities when necessary.

While it is terrifying to be attacked by dogs while on horseback, unfortunately California does not recognize emotional distress as an appropriate damage in this circumstance.

This article is meant to provide general information only and is not intended to constitute legal advice. The information in this article is not intended to establish an attorney-client relationship between attorney and reader. The contents of this article are not a substitute for seeking the advice of legal counsel.

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¹ Drake v. Dean (1993) 15 CA4th 915, 929, 19 CR2d 325

² Barnett v. La Mesa Post No. 282 (1940) 15 C2d 191, 194, 99 P2d 650, 651