

# Personal Injury Law Podcast

by Rosenfeld Injury Lawyers

## Dog Bites, Who's Covered, Who's to Blame?

Jonathan Rosenfeld:

Hello everybody! I am Jonathan Rosenfeld, and today on the personal injury podcast we are going to talk about dog bite injuries. And before you start rolling your eyes and say to yourself: "Wow, this guy's really digging deep for topics", the truth is, is that dog bites are probably one of the most common and most significant type of personal injury cases out there that people in every demographic will likely experience. I was doing some intensive research prior to the podcast, and I was looking at Canine Journal and each year, there are four and a half million people who are involved in dog bites. And 800,000 of those people receive medical care for dog bites each year. Very, very significant number. If you look at that number even a little bit closer, probably the more disturbing thing is that children under 14 make up almost half of those 800,000 injuries.

Jonathan Rosenfeld:

So there's almost 400,000 children out there who are injured every year in dog bite cases. And when it comes to the legal aspect of a dog bite case is, I'm going to talk with my guests about very shortly, the dog owner in these situations is typically responsible for the injuries their dogs may inflict on a victim. So, as the owner of a dog, this is a podcast that you want to listen to. As someone who may have been involved in a dog bite, this is also something that you're really going to want to take note of.

Jonathan Rosenfeld:

Because at the end of the day, dog bites make up a very significant percentage of claims made under homeowners insurance policies here in Illinois, and really across the country. They're really one of the most common types of claims made under people's homeowners policies. And today, I'm really excited to have a... In Illinois we can't say an expert, but I've got a very experienced attorney with me who's handled many, many dog bite cases. Gerald Bekkerman. Jerry is a partner in Chicago at the law firm of Taxman, Pollick, Murray, and Bekkerman, and Jerry and his firm have handled dog bite cases really across Illinois in the Chicago area. So, first off Jerry, thank you for joining me today.

Gerald Bekkerman:

You're welcome. Thanks for having me, happy to talk about the fabulous world of dog bites. It's always ironic as a dog owner to discuss a topic, but you're very accurate in the numbers you read. I mean, these are prevalent cases. Dogs bite. There's issues that happen with owning a pet

and there's insurance issues that apply, and there's interesting nuances in the law that apply. And it's a serious topic.

Jonathan Rosenfeld:

To begin with, in Illinois, the state legislature has the Animal Control Act here and you don't have to recite the law to us, okay. But can you sort of give us an idea of what the Animal Control Act is and how it applies to these situations? Because when you're pursuing any type of personal injury case, you can pursue it based on general negligence or, in some situations there's actually a statute that applies to the situation. So, can you just sort of give us a little bit of a rundown of what the Animal Control Act is in Illinois?

Gerald Bekkerman:

Yeah. Basically the law says that if you own an animal, I mean, we'll talk about it, the dog. If a dog, and the key word is without provocation, okay, what does that mean without provocation? So you go up to a doggy on the street and you start poking and prodding at him and the dog bites you. Well, you probably don't need to do that. That's not what a reasonable person does. But, if a dog or any other animal, keep it in the context of dogs cause that's most prevalent, attacks or attempts to attack you, which is another nuance. Basically, attacks you while you're peacefully conducting yourself. So instead of poking and prodding, just sort of walking by a dog, for no reason whatsoever, that dog just lunges at you in the street, it takes a nice, big old chunk out of your thigh. All right.

Gerald Bekkerman:

The owner of that dog is liable to you, the victim, for any damages in a civil court that you can claim as a result of that injury. So what does that mean? We talk about provocation. You can't provoke the dog. I mean, that's a defense and you could lose on a case like that. You got to be peacefully conducting yourself. So the example I gave is very, a common one. It's just walking down the street and the dog bites you. Or, the dog escapes from a fence in someone's property because they left the hole opening or whatever, or the dog leaves it jarred and jumps into the neighbor's yard and attacks a kid, all those are the laws that basically say that you own that dog.

Gerald Bekkerman:

You may have done nothing wrong. Okay? Your dog may have been fine, gentle pup and acting out because they're one and a half years old, and you're just in your home watching the game, having a beer on the couch. Your dog leaves the yard, where there should be and goes into the neighbor's yard and bites the neighbor's kid. You as dog's owner are liable to that child or that victim, whoever the dog bit, for their damages. Those damages are the same as any damage claim in the state of Illinois. So the medical bills, okay. Pain and suffering, loss of enjoyment of life. And oftentimes in these kinds of cases: scarring. Because these dog bites, the significant ones lead very serious scarring, often require plastic surgery, visions, things of that nature. You as a dog owner and your insurance, which is typically involved, are liable to the victim for those monies, even though you, as a human being, did nothing wrong, other than going to get a dog some point in your life.

Jonathan Rosenfeld:

I think one of the things that comes up in a lot of dog bite cases is, first off, these typically happen either in your home or in your neighborhood where you may be walking your dog. And these claims typically involve friends or family members who may be at your house or in your yard. And a lot of times there's a hesitation involved with victims of these cases in terms of pursuing a claim against the dog owner. And can you talk a little bit about what the claims process is? Because a lot of times I've spoken to people where they're like, "You know what, I don't want to pursue a case against my relative or my neighbor, because I don't want to be the bad guy. I liked that person". First off, can you just sort of explain a little bit about the insurance coverage for these cases?

Gerald Bekkerman:

Sure. So any home owner, typically when you purchase homeowners insurance and you purchase for whatever limits you have 300,000, 500,000, a million more, whatever you and your broker or whatever you're required to by the mortgage company work with. When you purchase that insurance dog bite protection if you will, insurance for your pet is provided. So you've got to disclose say I own a Goldendoodle. I own a German Shepherd. I own this. I own that. I own a Beagle. And as part of the coverage for your homeowners, the same as if they would fall down your stairs, cause you didn't maintain your stairs, if they get bit by your dog, if they're acting peacefully, they'll provoke it. And they're where they're supposed to be. So if you invite somebody over to your house, they're where they're supposed to be. They're not trespassing, right? And your dog influenced damage on them by biting them.

Gerald Bekkerman:

They have a claim against your insurance. So no different than if you didn't maintain your stairs and someone falls through them and injures themselves, they can sue you and file a claim, same thing with your dog. And it does often happen. A lot of cases are between family members or friends or play dates where someone's dog nipped at a child's eye, and unfortunately, now that child's got scarring under the eye, the rest of their life. It can be an uncomfortable topic, but honestly that's what you have insurance for. I mean, if you're paying for the insurance and your pet injures a friend or family member and causes a great despair financially, mentally, physically. You probably want them to get whatever they're entitled to under the law in the state of Illinois. And that's what we have insurance, and that's how typically the process would work.

Jonathan Rosenfeld:

Yeah. I think a lot of times people have a misconception that they're somehow going to cause some financial hardship where the dog owner or their friend or whatever. But the truth is, is that that claim is paid by their homeowners insurance company and there's really no money paid out of their pocket. Correct?

Gerald Bekkerman:

Correct. Usually the homeowners coverage is sufficient, and most homeowner insurance coverage policies are pretty significant and are adequate to pay for the kind of injury sustained in dog bite cases. So yeah, it's not going to be "Oh gosh, I'm suing my aunt and she's going to lose everything". It really is an insurance coverage issue. Now, in some situations, unfortunately there either is no insurance or some pets are excluded. Some breeds of dog may not be applicable

under the coverage. It's rare, but in most scenarios, insurance will cover you for injuries sustained by a pet, if your pet bites somebody or injures somebody. And it doesn't have to be, it's interesting, attacks or attempts to attack. So, there's also nuances of case law in cases we've had where it sounds silly, but you know, the dog runs at you. It doesn't bite you, but it knocks you down, break your shoulders as a result of getting bulldozed by a German shepherd. Well, that's the same thing. That's the animal control act. That's a compensable cause of action, your insurance would take care, et cetera.

Jonathan Rosenfeld:

Jerry you're reading my mind. That's exactly what I was going to talk with you about, is a situation where a non bite injury, those are also covered. So, that was great. I guess one of the other situations that comes up in a lot of these cases is, someone may have a dog, and also talking about non bite injuries, a dog may claw someone, and the claw injury is actually covered as well as the bite. So it's really, when we're talking about dog bites, it really encompasses anything related to a dog. But one of the situations that seems to come up over and over and over again in these cases, is scarring and really how to put a value on that.

Jonathan Rosenfeld:

Insurance companies love to be very formulaic when it comes to valuing claims in any type of situation. Whether it's car accident, premises liability, dog bite, whatever it is, they love to punch numbers into their computer and have the computer spit out a formula and say, "Hey, all right. Your case is worth X amount of dollars because these are your bills and these are your lost wages, and these are your other expenses related to your case". But the truth is, is that to look at dog bite cases exclusively based on your economic damages is really not fair or realistic because a scar on a face, [inaudible 00:13:12] someone who, especially for a young person, can really be a significant impediment to their life in terms of every aspect of their life, from their social to their vocation or whatever. So as a lawyer who handles these cases, how do you try to convey those scarring or the cosmetic injuries to an insurance adjuster or a jury, if you file a case?

Gerald Bekkerman:

Sure, that's a great question. Yeah. In dog bite or Animal Control Act, cases are different because a lot of times there's not a lot of significant, if you will, medical treatment. Sure, there's a really big bite, deep scars. You need revision surgery, you need plastic surgery. I mean, medical bills will come up. And a lot of times, it's a couple thousand dollar trip to the ER, but now all of a sudden you have a huge scar running across your face and you're 28 years old, right. Or you're 15 years old. And those scars are permanent. So how do we value those? Well, we have opinions from plastic surgeons to decide: is this fixable. If it's fixable, what kind of treatment is it? Is it a lifetime of putting creams on your face? Or is it legitimate plastic surgery? Can we skin graft from a different part of your body to try to fix the wound? All sorts of variables.

Gerald Bekkerman:

So oftentimes these are not fixable injuries and it does come down to the scarring, right? So, what is the effect of the scarring? Is that victim seeking psychological treatment because they're so embarrassed to show their face, show their arm, show their leg. If they have a huge dog bite on their calf, are they afraid to take off their pants for fear of a mockery? Those are all really

serious non-economic damages. They go to emotional distress, they go to traumatic experiences. And we as lawyers, our job is to maximize that value. How do we do that? Witness testimony, person's testimony, psychiatric testimony, right? All those things. You can't be more than just a medical bill on a piece of paper. And just because you're still at work, you didn't lose time from your job because of a dog bite doesn't mean that every day you're at work, you're self-conscious about how people at the office perceive you with the scar on your arm or on your face.

Gerald Bekkerman:

So our job as lawyers is to really explain that and make a sympathetic argument to a jury, supported by whatever evidence we can find. And a lot of times those rewards do become very significant for the right person. I mean, if you are tattooed head to toe, skulls and bones, and you have a little scratch on your arm from a Rottweiler bite, it's probably not going to be too dramatic for you. But if you're a 21 year old female, it was a scar on her face. It's going to be permanent. You think that's going to affect your ability to date, to find a job, to wear makeup, dress, and all that for the rest of your life. I mean, that's really serious. It warrants admitting and compensation.

Jonathan Rosenfeld:

Very, very good points. You know, I think movie stars aside, these cases really can be significant and impact people. And I think we talked in an earlier podcast about the importance of photographs. Photographs in a dog bite case are probably one of the most important pieces of evidence out there. And if anyone ever is involved in a dog bite case, taking a cell phone picture of the immediate bite wounds at the scene, at the hospital, that's really important. And I think you'd also agree that maybe given the right situation, getting a professional photographer out there after the scar may have healed, that may have keloided or something, is also important to really help convey the full extent of the injuries. So, I think that's something that is important, and I've seen you do this repeatedly on these cases.

Gerald Bekkerman:

Yeah. We get professional photographers. We do every three months, every six months. We kind of track the progression of the scarring. Insurance companies usually want to see a picture a year out or so. After a year, you kind of know what's possible, what's not. We'll supplement that with any plastic surgery opinions or options for revision surgery or improvement, but typically after a year or so, the photos, they don't go away. But you also want to document how bad it was. The beginning. A lot of times things do improve. We've had some really grotesque, gruesome photographs, and in a year or two it really gets a lot better. But you went through that as the victim, you had to live with that grotesque bite or that chunk of your skin missing or surgical revision you had to go through, we document that. Because that shouldn't be forgotten. That's compensable. That goes to the emotional trauma you sustain. It goes to the physical pain you sustain. And that evidence is very, very important.

Jonathan Rosenfeld:

Jerry. Again, this is not necessarily the sexiest personal injury topic out there, but this is really good information. Really useful information. And you did a great job breaking it down for us. So thank you for joining me today, and I look forward to talking with you again.

Gerald Bekkerman:

Absolutely. Just remember, don't provoke those dogs. Nothing good can happen. I appreciate your time John, and happy to talk about this and any other topic with you.