

Mistakes Equine Professionals Make and How to Avoid Them

By Julie I. Fershtman, Attorney at Law



EQUINE INDUSTRY PROFESSIONALS such as riding instructors, stable owners, and horse breeders have difficult and complicated jobs. Their customers can be demanding, the horses with which they work have minds of their own and act on instinct, with an ever-present risk of injury to the horses themselves and to people riding or around them. Overhead expenses, such as hay, grain, labor, and fuel can be tremendous.

The law affects numerous aspects of what equine professionals do, but many are simply too busy in their day-to-day work to remember details that can prevent disputes and litigation. This article addresses a few examples of mistakes that equine professionals have made and offers suggestions for avoiding them.

1 If You Use Contracts, Get Them Signed

In my opinion, equine professionals should use well-written contracts. Sometimes, however, professionals let down their guard when it comes to insisting upon the execution of a contract. This example really occurred in a lawsuit I handled several years ago:

A busy riding instructor presented a liability release form to a new client, but the client asked to take it home and return it before the following week's lesson. Days later, the client returned without a signed release and had no intention of providing one. The instructor never followed up, either, and assumed that the client had

signed the form. Unfortunately for the instructor, the problem was discovered after the client was injured from a bite and filed a lawsuit.

If you have contracts, use them. Also, make sure that they are properly signed and on file.

2 Don't Be Too Trusting in Your Business Transactions

This example also occurred:

A busy boarding stable in the southeast United States filed its contracts in the barn office, but left the door unlocked. A customer, the stable believes, snuck into the office and removed her contracts before filing a lawsuit against the stable. The contracts, which included releases, were never seen again, and the client denied signing them.

Attention to detail can make all the difference for equine professionals. Follow up on your requests, such as requests that contracts be signed, and make sure that your clients and visitors have followed them. And because your signed contracts might

be important to protect you from liability one day, keep them in a secure place. Discard them only after your lawyer gives his or her approval.

3 Share Bad News

Other real-life examples of disputes:

- A horse sustained a severe cut while under a trainer's care, but the trainer assumed that the owner did not need to know and treated it himself. An infection followed, which the trainer also attempted to treat on his own without notifying the owner. The horse's condition worsened. Yet, the trainer attempted to treat the serious infection, even as it worsened. No veterinarian was summoned until the horse required costly surgery and was sidelined from competition for months.
- A breeding farm's veterinarian palpated a broodmare to check her condition before breeding to the farm's stallion. During the exam, however, the veterinarian accidentally perforated the mare's rectum. The problem became apparent from the moment that blood could be seen on the veterinarian's glove. On the advice of the veterinarian, the mare was observed and not taken to a veterinary hospital. It was not until the following day, when the mare went into shock, that the farm manager notified the mare owner. By then, the mare had to be euthanized.

Trainers are duty-bound to give reasonable care to clients' horses under their care, custody, and control. In the examples above, legal action followed against the trainer and breeding farm, claiming that each one failed to give the horse reasonable care and failed to communicate soon enough for the owner to monitor the horse's condition. In addition, if the horses in these examples were insured with a policy of equine insurance, non-communication with the insurer might complicate matters further, and the insurer would likely deny coverage because of late notice.

Equine professionals can require their clients to provide current contact information to help them communicate when

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problems occur. Equine professionals who stable insured horses belonging to others can also insist that their clients supply them with the most current equine insurer emergency contact information so that the insurer can receive notice when the owner cannot be reached. Well-written contracts that specify how problems will be handled and provide contact information can help, as well.

4 Never Compromise in Your Attention to Safety

One of my books, *Equine Law & Horse Sense*, offers a hypothetical example of a busy riding instructor whose assistant alerts her one night to a broken buckle on a school horse's bridle. With a yawn, the exhausted instructor says: "I'll take care of it in the morning." The instructor forgets to make the repairs, and a student is injured the next day when the bridle is used in a lesson. For equine profession-

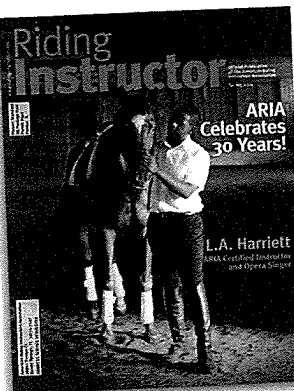
als, the point cannot be emphasized enough: Make safety a priority at all times, regardless of how busy your schedule may be.

Conclusion

Careful advance planning can prevent some legal disputes from occurring or potentially lessen the severity of problems. Manage your business carefully and take it seriously. For example, consider using well-written contracts that comply with the applicable state's law, follow sign posting and contract language requirements of the equine activity liability law where you work or do business (if a law exists and its requirements apply to you), purchase proper liability insurance, and seek knowledgeable advice. Your efforts will pay off. **R**

This article does not constitute legal advice. When questions arise based on specific situations, direct them to a knowledgeable attorney.

Julie Fershtman is one of the nation's most experienced equine law practitioners. A shareholder with the firm Foster Swift Collins & Smith, PC, based in Michigan, she has successfully tried equine cases before juries in four states. She has also drafted hundreds of equine industry contracts and is a Fellow of the American College of Equine Attorneys. She has spoken on equine law in 28 states, including at the nation's largest equine industry conventions. For more information, please visit www.fershtmanlaw.com, www.equinelaw.net, or www.equinelaw.info.



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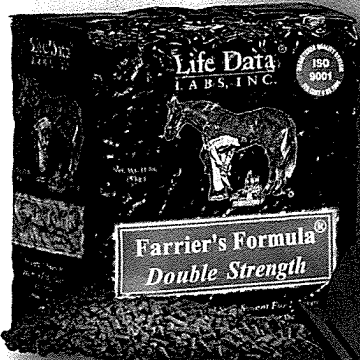
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