



LEGAL EQUESTRIAN™

EQUESTRIAN QUESTION FORUM by Lisa L. Lerch, Esq.

My horse has reared a few times in the past and one person was slightly injured. Now that the horse is a little older, that behavior seems to have stopped. Should I still let people know of her past behavior before they ride her?

Yes. The well-established general rule is that the owner of a dangerous or vicious animal who has knowledge that it is such an animal is liable for any injuries it may inflict upon another unless such other person voluntarily or consciously does something, which brings the injury upon himself.¹

I know many would say just because a horse rears, it is not a dangerous or vicious animal. However, the court in California has determined that *any trait* of a domestic animal that may cause injury to a person may deem the animal dangerous even if it has no propensity to attack people.² It is important to keep in mind vicious or dangerous does not simply refer to a biting dog. Dangerous propensities in a horse can be seen by bolting, kicking, rearing, biting and striking to name a few. While these may all be general traits exhibited by horses from time to time, if you have knowledge that your horse is prone to exhibit a particular dangerous behavior it is always in your best interest as the horse owner to disclose the danger and give the rider the option to opt out.

If someone rode your horse and it reared thereby injuring them, you would most likely be sued. It would be a matter of fact for a jury to determine whether the horse was in fact dangerous, whether you knew of the dangerous trait and whether you were negligent in failing to disclose the dangerous trait. In your situation, you clearly have knowledge that the horse has reared in the past. Further, many professionals in the equine industry would agree that rearing is one of the most undesirable and dangerous traits a horse can possess. Finally, any failure to warn of the horse's tendency to rear (dangerous trait) would most likely be determined negligence on your part.

California courts have long held that one in control of a domestic animal having a dangerous or vicious propensity is liable for injuries caused by the animal through its exercise of that propensity, if the person in control knew or should have known that the animal had such a propensity. In such a case, the liability is said to be absolute; that is, the defendant will be liable even though not negligent.³

In an attempt to limit your exposure to litigation, always disclose your horse's dangerous tendencies and ask the rider to sign a properly drafted liability release.

If you would like more information on this or other topics, please feel free to visit our website at www.legalequestrian.com or contact our office at 949-264-1464.

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¹ Heath v. Fruzia (1942) 50 Cal.App.2d 598; 123 P.2d 560

² Bocker v. Miller (1963) 213 CA 2d 345, 349

³ Hillman v. Garcia-Ruby, 44 Cal.2d 625, 283 P.2d 1033