

# When Animals Attack Each Other

## Legal Rights and Remedies

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Unfortunately, like the saying goes, it can be a dog eat dog world—or even a dog eat cat world for that matter. Each day numerous animals are injured or killed on their owners' property, in dog parks, on public streets and on other private property. When your pet or other domestic animal has been attacked or killed by one of its "peers," there are several steps you can take to help preserve your legal rights and possibly obtain an economic recovery for any monetary damages you may have suffered.

In the aftermath of an animal attack, the first things an owner should do are to assess the condition of their animal and seek emergency veterinary care if necessary. If the injuries are serious or have proven fatal, the owner should call 911 and report the incident to the police or your county's animal control organization. Throughout Hawaii, each county has a Humane Society which contracts with that county to perform its animal control duties.

Other important actions the owner of a pet wrongfully attacked or killed should take include:

- 1) Identify the attacking animal.
- 2) Get the name and contact information of the owner of the attacking animal.
- 3) Get the name and contact information of any anyone who was in possession or control of the animal when the attack occurred. If the individual in possession or control of the animal at the time of the attack was operating in a professional capacity, such as a dog walker, dog groomer, or veterinarian, they may have profes-



sional liability insurance to cover your claim.

- 4) Get the names and contact information of anyone who may have witnessed the attack.
- 5) Difficult as it may be, take photographs of the injured pet, showing the extent of injuries and, if possible, the scene of the attack.
- 6) Get copies of all veterinary records for the animal both for injuries and illnesses associated with the attack and care provided before the attack which can be used to establish the care you provided for your animal during its lifetime, and, the animal's value to you. If your animal was killed in the attack, you may also want to have a veterinarian perform a necropsy to formally establish the cause of death and extent of injuries.
- 7) Get copies of any sales records you have for your animal, to establish what you paid for the animal.
- 8) If it applies, get medical bills for any physical or mental injuries you suffered as a result of the attack. This may include injuries obtained in attempting to rescue

your animal, or, severe emotional distress you may have suffered by witnessing the attack. Depending on where the attack took place and the specific circumstances of the attack, there are certain criminal and civil penalties that may be available to the owner of an injured pet. Most counties have a dangerous dog ordinance that imposes criminal penalties on the owners of dogs who fail to effectively restrain their dogs such that the dog attacks persons or other animals without

provocation.

In Hawaii, it is the duty of the county Humane Societies to respond to reports of animal attacks and prepare a report as to their opinion of the "dangerousness" of the attacking dog. If, after investigation, a dog is determined to be a dangerous dog, its owner(s) will often be required to appear in court and respond to criminal charges against them, associated with violation of the county's dangerous dog ordinance. Owners found guilty of violating the ordinance will not only be fined, but the court is likely to require them to adhere to specifications regarding the confinement and restraint of their dog in order to prevent future attacks. While requiring the owner of the attacking dog to pay a fine to the county punishes the owner of the attacking dog, it does little to compensate the owner of the deceased or injured pet for the injuries they suffered. If the economic damages suffered by the owner of the injured pet are minor (e.g., a veterinary bill), the owner may want to ask the criminal court to order the owner of the attacking dog to pay restitution

damages covering the amount of the loss.

If the economic damages suffered by the owner of the injured pet are more significant, or, if criminal charges are not pursued, the owner of injured animal may decide to make a civil claim to recover any losses. In matters involving civil liability, where the attack occurred becomes more important.

If the attack occurred on the property belonging to the owner of the injured pet or animal, the owner of the attacking dog will be strictly liable for any resulting damages under Hawaii law. Hawaii Revised Statutes § 142-74 provides:

If any dog, while on private property without the consent of the owner of that property, injures or destroys any sheep, cattle, goat, hog, fowl, or other property belonging to any person other than the owner of the dog, the owner of the dog shall be liable in damages to the person injured...

Because pets are considered property under Hawaii law, this statute applies to them, in addition to the livestock and animals listed. Other civil remedies available to owners of pets killed or injured while on their own property may include negligence, trespass and nuisance claims.

If the attack occurred on public property, or on property belonging to the owner of the attacking dog, the owner of the injured pet may pursue negligence and possibly nuisance claims against the owner of the attacking dog in order to recover any monetary damages they may have suffered.

Lastly, if the attack occurred on private property belonging to a third party who maintained control over that property, or, while the injured pet was in the possession or control of a person or entity operating in a professional capacity, such as a boarding facility, groomer, or veterinarian, this third party may also bear some liability for the injuries and damages suffered by the owner of the injured pet.

It is important to recognize that the above guidelines are only general. Each attack situation will be unique and should be evaluated on an individual basis. If the unfortunate does occur and your animal is injured, consider seeking advice from a legal professional. In addition, do your part to avoid animal attacks in the first place by being a responsible owner—provide adequate socialization and always properly restrain your dog or pet. 🐾

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