

HOW TO MAKE A SUCCESSFUL DOG BITE INJURY CLAIM IN TEXAS



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WHO SHOULD READ THIS BOOK

You will find this book beneficial if you were hurt by a dog in Texas and want to make a claim against the dog's owner for compensation. In Texas, if someone else's dog bites you, it's their (and their insurance's) job to pay you for your medical bills, lost wages, scarring, future expenses, trauma and more. To recover money, you'll need to make a claim.

By the time you've finished reading this book, you will understand:

- Why it's essential that you seek medical treatment right away
- Whether or not you have a good case for compensation
- How to gather strong evidence to support your case
- What your dog bite claim is worth
- Whether or not you need to hire a lawyer

STEP ONE: SEE A DOCTOR RIGHT AWAY (IT WILL AFFECT YOUR CLAIM!)

It's very important to see a doctor if you've been bitten by a dog and:

- The wound won't stop bleeding
- There's signs of infection like redness, swelling, pus or warmth
- The dog was a stray
- The bite is deep
- You suspect a broken bone (even if the skin is intact)
- You're in pain

When in doubt, it's always best to err on the side of caution, especially if you don't know the dog that bit you.

When you visit the doctor, be prepared to answer a few questions, like do you know the dog's owner? If so, was the dog up to date on all vaccinations? Rabies is uncommon but not unheard of in the United States and will be a concern moving forward.

Seeing a Doctor Affects Your Injury Claim

If you've decided to make a claim, you're going to need to collect evidence to submit to the insurance company. Here's a hint: insurance companies don't just look at how big your medical bill was, but also how quickly you saw a doctor.

They think that if you waited to seek medical treatment, you probably weren't really "that hurt." On the flip side, if you rushed to a doctor right away, they'll take your case more seriously.

If you wait too long to see a doctor after you've been bitten by a dog, the insurance company might have grounds to deny your claim.

What To Do At the Doctor

When you see your doctor, ask them to be very detailed in their records. Again, it's your job to show the insurance company how hurt you were by the dog attack, and doctor's notes are a great way to do this.

- If you had to miss work due to your injuries, make sure your doctor notes that in your chart.
- If you were unable to participate in daily activities or you missed out on opportunities due to the injury, tell your doctor.
- Be descriptive when you're discussing your pain level with your doctor. Make sure they understand the full scope of the situation.
- Be honest. Don't exaggerate your injuries under any circumstances.

STEP TWO: DETERMINE IF YOU HAVE A CASE

Before you start a claim, you need to figure out if you have a good case for compensation.

As a Fort Worth dog bite lawyer, I know that Texas dog bite law is notoriously complex. For this reason, many people think that they can't make a dog bite claim unless the aggressive dog has bitten someone before. It's called the "one bite rule," but it doesn't always apply.

If you've been attacked by a dog in Texas, you CAN file a claim against the owner, even if their dog hasn't ever bitten anyone before. In order to do this, you'll need to establish negligence, meaning you'll need to prove that the owner's actions led their dog to attack you.

Negligence in Dog Bite Cases

In legal terms, negligence means the "lack of ordinary care that a reasonably prudent person would have exercised in ordinary circumstances." In other words, the law understands what is and isn't normal human behavior, and it expects people to act reasonably when caring for, crating and handling their dogs.

An example of negligence would be if your neighbors failed to secure their backyard gate and their dog escaped and bit you. Or maybe someone let their dog run free in the park, and their dog attacked your leashed dog, causing you to get hurt in the process. These are things people knowingly do, and those actions put their dog in a position to bite.

If you can prove negligence, then you can usually pursue a claim against the dog owner regardless of whether or not the animal had a prior history of violence.

Establishing Negligence Per Se for a Dog Attack

Negligence "per se" means that not only was the dog's owner acting carelessly, but they were also breaking a law in the process (such as a local leash law). To establish negligence per se, you must prove that the dog owner or handler violated a law, statute or ordinance.

The biggest issue that comes into play when trying to establish negligence per se has to do with the way certain laws are worded. As I mentioned, dog bite law in Texas is notoriously difficult and there are lots of different interpretations. For instance, if the law uses the words "permit" or "allow," as in "a dog owner shall not permit his dog to run at large," does this still apply if the dog dug their way out of the backyard without the owner's knowledge?

Courts disagree about the wording and therefore the outcome of such cases. However, I always hold that it's the dog owner's responsibility to control their dog. If they have a dog that digs, the owner shouldn't leave them outside unattended. If the dog bolts out whenever the front door opens, they should stick the dog quickly in a nearby bedroom or laundry room before answering the door.

Landlord Negligence in Texas Dog Bite Cases

It's worth mentioning that dog owners aren't the only ones who can be held accountable if their dog bites someone. Landlords, too, have a responsibility to keep tenants safe. If a landlord knew a dog was dangerous (like they'd gotten complaints from tenants before) but failed to take action, part of the blame is on them and you may be able to file a claim against them as well.

STEP THREE: GATHER YOUR EVIDENCE

If you want the insurance company to pay your claim, words alone are not enough – you're going to have to prove your injuries and damages were caused from the accident, and you'll also need to prove how much those injuries and damages are going to cost you.

If you approach the insurance company without any witness testimonies, photos, doctor's bills, etc., you've got what we call a "weak case."

A winning case is one that has extensively documented the dog bite and its aftermath. Here are a few examples of evidence you should gather:

Pictures

They say a picture's worth a thousand words, and in the case of personal injury claims this couldn't be truer. You should take photos of the place where the bite occurred, the dog that bit you (if you can), any signs of negligence (like holes in a fence, gates without latches, etc.) and anything else you think might support your case.

Similarly, you should take pictures of your injuries. Photos document what bruises, casts, cuts, strains and other disfigurements looked like right after the dog bite. Take pictures of all of your injuries, and continue

taking pictures as they heal to give the insurance company a really clear idea of what you've been through.

Paper Trail

It's equally important to keep up with all of the paperwork (especially medical bills and notes from missed work days) relating to your claim. The paper trail will help you document how much the dog bite cost you. Keep copies of any notes the doctor gives you regarding missed time from work or work restriction. (There's a chance this information will not be recorded in the doctor's medical chart, so you can always ask them to take extra care to make notes. This kind of thing will be needed to legitimize any lost wages that you incur).

Witness Testimonies

Find someone else who saw the attack and can testify to what happened. Similarly, witnesses who can state that they've seen the dog act aggressively before, or the dog has gotten out of its home before, or the dog had bitten someone else before, is extremely helpful. Witness testimonies go a long way, especially if the person was a third-party bystander.

STEP FOUR: DETERMINE WHAT YOUR CLAIM IS WORTH

Figuring out the value of a dog bite case isn't always cut and dry. However, here are a few questions you can ask yourself to help determine how much your case is worth (and therefore, how much money you should expect the insurance company to pay you).

Whose dog caused the injury?

This is the first question I ask all of my clients. In order to establish a good claim, you're going to need to know whose dog bite you. Once you know this, you can take steps toward proving that the dog owner was negligent (meaning they didn't do their job to keep you safe from their dog).

Did you seek medical attention right away?

As discussed in step one, seeking immediate medical attention is crucial to any good case. If you delay seeking treatment after you were bit by a dog, the insurance company will argue that you "weren't that hurt" – otherwise, why did you not go right to the doctor? Insurance companies (and juries) believe that if you're hurt, you'll see a doctor right away. If you did, your claim will be worth more.

Did you listen to your doctor's orders?

In addition to seeking quick medical attention, you're also expected to be a good patient and listen to your doctor's orders. If you miss a lot of doctor's appointments or have unexplained gaps in your medical treatment, the insurance company will again argue that you must not have been "that hurt." After all, if you were truly injured and in need of medical care, you wouldn't miss appointments, right? If you do what your doctor says, your claim will be worth more.

How serious are your injuries?

The bigger your injuries, the more valuable your case. If a dog nipped you but didn't break the skin, your case won't be worth much because the injury is minor and doesn't take much time or money to treat. However, if you were seriously injured in a dog attack and suffered broken bones, lacerations or similar wounds, your claim will be worth more. This is because big injuries cost more to fix, and they also cause you more suffering (which you deserve compensation for).

Do you have ongoing pain or disfigurement (like scars)?

As we've started to discuss, the value of your claim depends on the seriousness of your injuries. If you have ongoing pain or have suffered a disfigurement or disability due to the dog attack, your claim will be worth more. This is because in Texas, dog bite victims can claim compensation for future medical treatment, loss of enjoyment of life and pain.

Can you prove the dog attack has hurt your day to day life?

If your injuries have hurt your quality of life (and you can prove how), your case will be worth more. For instance, if the dog bite forced you to miss a family trip, you can win compensation for it. Since evidence disappears over time, make sure to take pictures of your injuries and things like cuts, casts and scars and ask your family members to keep a photo-diary of all the events you missed out on due to the dog bite – the stronger your evidence, the more valuable your case will be.

Have your medical bills been paid yet?

There was a terrible law passed in Texas called "paid vs. incurred" that limits the amount of money you can recover for medical bills if they've already been paid by your health insurance. Even so, if you have health insurance, I encourage you to use it – dog bite claims take a long time to settle and you should not wait until you receive your settlement money to get the medical treatment you need (see step one).

Did you miss work as a result of your injuries?

If so, your claim will be worth more. You can recover compensation for the days of work you missed while you were in the hospital or recovering, and also lost earning capacity from your injuries. So for instance, let's say you're employed at a business that requires heavy lifting but the dog bite permanently disables you. Here, you have a strong case to claim for lost earning capacity, meaning the insurance company will pay you for the future wages you're losing as a result of the attack.

Do you have pre-existing medical conditions?

There's a chance pre-existing medical conditions will lower the value of your claim if they're too closely related to the injury you suffered from the dog attack. However, if you think a pre-existing medical condition is going to interfere with your case (even though it has nothing to do with the attack), you should consult a dog bite lawyer. A good lawyer will know how to convince the insurance company (using medical records, doctor's testimonies, etc.) that the injuries are unrelated.

STEP FIVE: FIGURE OUT IF YOU NEED A LAWYER

After you've been in an accident, it's not always clear whether or not you need a lawyer. The key is to figure out which cases you can settle on your own and which ones require an attorney. To help you decide, consider these five questions:

Does the dog owner admit they're at fault?

To explain why this matters, we'll look at an example. Let's say Jim leaves his front door open and his dog runs out and bites you. Jim admits he made a mistake, you file a claim through his homeowners insurance and the case is settled without a lawyer.

But what happens if Jim denies fault? What if Jim says it wasn't even his dog that bit you?

Now there's a dispute, which complicates things. When neither party wants to admit fault, it's up to you to *prove* that Jim's negligence (leaving his front door open) caused the bite. If you can't prove it, you'll recover nothing.

At this point, most people choose to hire an attorney. Proving negligence and providing evidence is tricky business, and there's often a lot at stake - medical bills, missed work days, pain, suffering, long-term disability and the like. Most people realize that it's not worth risking "going it alone." If the other side won't cooperate, you need an attorney's help.

How much money is the accident costing you?

Look at things like your medical bills (past and future), lost income and so forth. How much money will this accident cost you? And how much money are you comfortable handling? Some people feel confident handling claims that are \$500, \$2,000 or even \$5,000 on their own. However, when doctor's bills, hospital fees and other costs continue to mount, lots of people turn to a personal injury attorney for help.

You have to decide at what level your case becomes too big to handle yourself, and how much money you're willing to risk losing should the claim not go in your favor.

How seriously were you hurt?

This is a big one. If you were seriously hurt in a dog attack, especially if you're looking at months or even years of recovery, you should consult with a lawyer to represent you professionally.

As a general rule, the more seriously you're injured, the more money you'll need to cover medical costs. Of course, the more money you need, the more the insurance company will try to fight and deny your claim. Insurance companies do their best to minimize the amount of money they have to pay out in claims - it's the only way they'll remain profitable. And while there's nothing wrong with profits, it comes at your expense.

Sometimes, simply having a lawyer on your side will deter an insurance adjuster from offering you an unfair settlement or denying certain aspects of your claim. Even if the insurance company does try to pull

some of their "tricks," a lawyer will understand how to handle them. Remember, insurance companies do this for a living, but so do lawyers. Having one on your side is your best bet if you've been seriously hurt and want a fair outcome.

Is the insurance company treating you fairly?

One of the most common reasons my clients choose to hire me is because the insurance company was treating them unfairly. Insurance adjusters are in the business of making money, and while there's nothing wrong with that, the more money they pay you the less their company gets to keep. This creates some skewed incentives.

A few of the most common complaints I hear regarding insurance companies include:

- You received an extremely unfair offer to cover your medical bills.
- The insurance company won't accept full responsibility for the attack.
- The adjuster is arguing that because you delayed medical treatment, you "aren't that hurt."
- The insurance company won't advance you money for your medical bills or missed wages.
- No one will return your calls.
- The adjuster is arguing that your injuries were pre-existing.

If you're struggling to get the insurance company to cooperate, it could be time to consult an attorney.

How much time do you have to spare?

Settling a claim takes time - lots and lots of it. There's paperwork to be completed and decisions to be made, not to mention the time you'll spend learning about the claims process and preparing your case.

You can probably learn all you'll need to know about settling a routine claim in a few hours. After that, settling your own claim is doable and typically profitable, assuming you're successful. Lawyers typically charge a legal fee equal to one-third of your recovery, so if you settle your own case for \$1,000, you can keep that \$300 fee.

Of course, the bigger the case, however, the more time and energy you'll need to commit, and the greater chance that the other side will try to fight you. If your case is too serious, turn it over to a lawyer. One-third is a small price to pay when the alternative is nothing!

IS IT TIME TO DISCUSS YOUR CASE WITH THE ANDERSON LAW FIRM?

At my firm, something my clients appreciate the most is the time, energy and stress we were able to take off their shoulders. Though clients hire me to win them compensation for dog bites that weren't their fault, what they appreciate more is the peace of mind I give them. Having an attorney allows my clients to focus on what really matters - recovering.

We offer no win, no fee services.

It costs nothing to hire us upfront. After we win your case, we take a percentage of the money we won from you – you never pay anything out of pocket.

We also offer free consultations. During our consultation, we'll discuss your case in detail talk about your rights, make sure you aren't doing anything that could hurt your case and go over all the ways we plan to help.

We'll help prove negligence.

If the dog's owner was negligent, we know how to prove it. We'll construct a solid case against the other party to ensure you're rightfully compensated for your injuries.

We'll fight hard to win you the money you deserve.

If you were bitten by someone else's dog, you don't deserve to suffer. Let us fight for your rights. Call the Anderson Law Firm located in Fort Worth, Texas at 817-294-1900 for an appointment today.

ABOUT THE AUTHOR



Mark Anderson, Board-Certified Personal Injury Attorney

Anderson Law Firm, Fort Worth, Texas

As the son of two school teachers, Mark was influenced by his parents to make a difference in people's lives. And that is exactly what Mark does every day by helping each of his clients through the difficult period following a personal injury. For more than twenty years, Mark has helped individuals who have been hurt by others get fair and just recoveries from big insurance companies.

His favorite part of his job is meeting a new client and being able to say, “I can help you.”

Mark is board-certified in personal injury law—an achievement that only two percent of all Texas lawyers can claim. He has won millions of dollars for his clients, and he is or has been:

- Recognized annually by *Fort Worth Magazine* as a Top Attorney
- Recognized as a 2014 and 2015 Super Lawyer by Thompson Reuters
- Rated with the prestigious AV Rating by Martindale Hubbard
- Published by the *Texas Bar Journal*
- Rated by AVVO as 10.0 or Superb
- Rated by the Better Business Bureau as A+
- A member of the Esteemed Lawyers of America (ELOA).
- In the top one percent, according to the National Association of Distinguished Counsel (NADC).
- In the Premier 100, according to the American Academy of Trial Attorneys (AATA).
- The author of *Roadmap to Winning Your Texas Motorcycle Accident Case, 15 Mistakes That Will Wreck Your Texas Accident Case, The Injury Victim’s Guide to Credit Repair, and the Texas Property Damage Guide.*
- A frequent speaker at the state bar association and state paralegal association, where he teaches attorneys and paralegals about personal injury law.
- A guest on a numerous TV stations to discuss his cases.

It is through his daily work on behalf of injury victims that Mark has earned these accolades.

IS IT TIME TO DISCUSS YOUR CASE WITH THE ANDERSON LAW FIRM?

Call 817-294-1900 to book your free dog bite consultation with Mark Anderson today.

Visit www.FullJustice.com to learn more.