

812.00 PREFACE ANIMALS—LIABILITY OF OWNERS AND KEEPERS.

Preface.

Owners and keepers of domestic animals are liable for injury or damage proximately caused by their negligence in keeping or handling them.¹ Thus, the common law negligence instructions set out at N.C.P.I.—Civil 102.10 (“Negligence Issue—Burden of Proof”) et seq. are sufficient to cover causes of action predicated directly on the negligence of an owner or a keeper of a domestic animal.²

In addition to common law negligence, six additional grounds for liability have been identified. One of these comes from common law and five are predicated upon (or derived from) statutes or ordinances. Accordingly, the "Animals" series consists of six instructions covering various liability situations other than common law negligence, including:

- The wrongful keeping of vicious domestic animals (N.C.P.I.—Civil 812.00 (“Animals—Common Law (Strict) Liability of Owner for Wrongfully Keeping Vicious Domestic Animals”));
- Wrongfully allowing a dog to run at large at night (N.C.P.I.—Civil 812.01 (“Animals—Liability of Owner Who Allows Dog to Run at Large at Night”));
- Allowing domestic livestock to run at large with the owner's knowledge and consent (N.C.P.I.—Civil 812.02 (“Animals—Common Law Liability of Owner Whose Domestic Livestock Run at Large with Owner’s Knowledge and Consent”));
- Violation of a leash law or ordinance (N.C.P.I.—Civil 812.04 (“Animals—Owner’s Negligence in Violation of Animal Control Ordinance”));

N.C.P.I.—CIVIL 812.00
PREFACE ANIMALS—LIABILITY OF OWNERS AND KEEPERS.
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- Owning a dog which injures, kills or maims livestock or fowl (N.C.P.I.—Civil 812.05 (“Animals—Liability of Owner of Dog Which Injures, Kills or Maims Livestock or Fowl”));
- Failing to destroy immediately a dog bitten by a rabid dog (N.C.P.I.—Civil 812.06 (“Animals—Liability of Owner Who Fails to Destroy Dog Bitten by Mad Dog”)); and
- Strict Liability for injury or damage caused by a “dangerous dog” (N.C.P.I.—Civil 812.07 (“Animals—Statutory (Strict) Liability of Owner of a Dangerous Dog”)).

1. *Williams v. Tysinger*, 328 N.C. 55, 59, 399 S.E.2d 108, 111 (1991); *Lloyd v. Bowen*, 170 N.C. 216, 221, 86 S.E. 797, 799 (1915); *Griner v. Smith*, 43 N.C. App. 400, 407, 259 S.E.2d 383, 388 (1979).

2. The common law negligence instructions likewise apply to a cause of action against a landlord for injuries caused by a tenant’s dog; however, the general rule is that no such cause of action will lie as a “landlord has no duty to protect third parties from harm caused by a tenant’s animal.” *Curlee v. Johnson*, 377 N.C. 97, 102, 856 S.E.2d 478, 481 (2021) (citing *Stephens v. Covington*, 232 N.C. App. 497, 500, 754 S.E.2d 253, 255 (2014)). An exception to the general rule is found when, “prior to the harm, the landlord (1) ‘had knowledge that a tenant’s dog posed a danger,’ and (2) ‘had control over the dangerous dog’s presence on the property.” *Curlee*, 377 N.C. at 102, 856 S.E.2d at 481. If both of these elements are met, the property owner owes a duty of care, so the jury next should determine if the property owner is negligent by breaching that duty.