

812.06 ANIMALS - LIABILITY OF OWNER WHO FAILS TO DESTROY DOG
BITTEN BY MAD DOG.

The (*state number*) issue reads:

"Was the plaintiff [injured] [damaged] by the defendant's [neglect]
[refusal] to kill a dog as required by law?"

On this issue the burden of proof is on the plaintiff. This means
that the plaintiff must prove, by the greater weight of the evidence, five
things:

First, that the defendant [owned] [was responsible for] (*identify
dog*). (The defendant would be responsible for (*identify dog*) if it
belonged to a person under *his* control.)

Second, that the defendant knew or had good reason to believe
that (*identify dog*) had been bitten by a mad dog. (A person "knows"
something when *he* has actual knowledge of it.) (A person has "good
reason to believe" something when, in the exercise of ordinary care, *he*
should have acquired knowledge of it under the same or similar
circumstances.)¹

Third, that the defendant [neglected] [refused] immediately to kill
the (*identify dog*).

Fourth, that the (*identify dog*) bit the [plaintiff] [plaintiff's (*here
identify the plaintiff's livestock, pets or family members*)].

Fifth, that the plaintiff sustained damage as a result of such bite.

Finally, as to this issue on which the plaintiff has the burden of

N.C.P.I.-Civil. 812.06
ANIMALS - LIABILITY OF OWNER WHO FAILS TO DESTROY DOG BITTEN
BY MAD DOG.
GENERAL CIVIL VOLUME
MAY 1996
N.C. Gen. Stat. § 67-4

proof, if you find by the greater weight of the evidence that the plaintiff was [injured] [damaged] by the defendant's [neglect] [refusal] to kill a dog as required by law, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.

1. *Wallace v. Douglas*, 32 N.C. 79, 80-81 (1849).