



Angus Convention 2016: Angus University

Legal Liability Issues for Farms and Ranches

Ag law expert shares three areas of particular concern for farm, ranch liability.

by **JOANN PIPKIN**

In a day and time when you can sue most anyone for anything, farmers and ranchers should be proactive before a problem occurs.

Brent Haden, a lawyer with the firm Haden and Haden, Columbia, Mo., said producers should perform a thorough walk-through evaluation of potential dangers on their property and take steps to either remedy them or prevent access.



While the United States has historically moved from “fence out” to “fence in” when it comes to landowner obligations, Brent Haden said state laws generally get better for livestock owners moving from east to west. Haden is a lawyer with the firm Haden and Haden, Columbia, Mo.

In an Angus University session Nov. 6 at the 2016 Angus Convention in Indianapolis, Ind., Haden said a yearly walk to check fences and other conditions is also necessary.

When it comes to liability — in the farm or ranch context — three primary ways exist for ranchers to get sued, with premises liability the most common.

In general, to establish the liability of the possessor, the invitee must show one of three instances:

1. A dangerous condition existed on the premises, which involved an unreasonable risk of harm;
2. The possessor of the premises knew or, through the use of ordinary care, should have known the condition; and
3. The possessor failed to use ordinary care to remove, remedy or warn of the danger.

“A landowner owes no duty of care to a trespasser except to refrain from harming the trespasser by an intentional, willful or wanton act,” Haden said.

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Animals and trucking, which is becoming a bigger part of the farm and ranch environment, are two additional instances where producers are liable.

Animal liability is unique in the law, Haden said, and many states have a strict liability standard for injuries caused directly by livestock.

“This means if your animal injures someone at a show or while loose, you are on the hook even if you took reasonable measures to control your animal,” he said.

States that do not impose a strict liability standard are governed by a mere negligence standard, although Haden said this is barely an improvement.

The bottom line is constant supervision of animals and adequate insurance is a must.

“You really need to be insured to some amount of damages,” Haden said. “Get enough insurance to cover what you think you might lose.”

In a negligence standard state, Haden said liability hinges on whether or not your actions and precautions were reasonable or unreasonable, as well as the actions of the injured.

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Still, liability for injuries caused by escaped animals is a mixed bag nationwide.

“Some states have a strict liability standard,” Haden explained. “This means you are on the hook for damages to motorists or crops regardless of your actions or the cause of the escape.”

More livestock-friendly states have maintained a negligence standard, he said. Under this test, liability hinges on whether or not your actions and precautions were reasonable or unreasonable, as well as the actions of the injured.

“In open range areas,” Haden said, “liability generally runs to the motorist for accidents with livestock.”

A major blind spot for many farms and ranches lies in trucking, Haden said. It’s also a major source of liability.

“Unlike premises liability, farms and ranches generally don’t have any special protections for trucking accidents,” he said.

Incorporating the farm might be an option to help shield personal assets from liability incurred on the farm and vice versa, Haden said. “Incorporation separates your business and personal assets.”

Still, the bottom line with farm liability is to be properly insured for potential risks, securing enough to cover whatever amount you would not want to lose.

Haden’s presentation was one of the Angus University Workshops sponsored by Merck Animal Health Nov. 6 at the 2016 Angus Convention. For comprehensive coverage of the Angus Convention, including speaker summaries, links to the full presentations, photos, videos and more, visit www.angus.media/news/Angus-Convention.