



EQUINE LAW

Equine Education Conference
Horse Counsel BC
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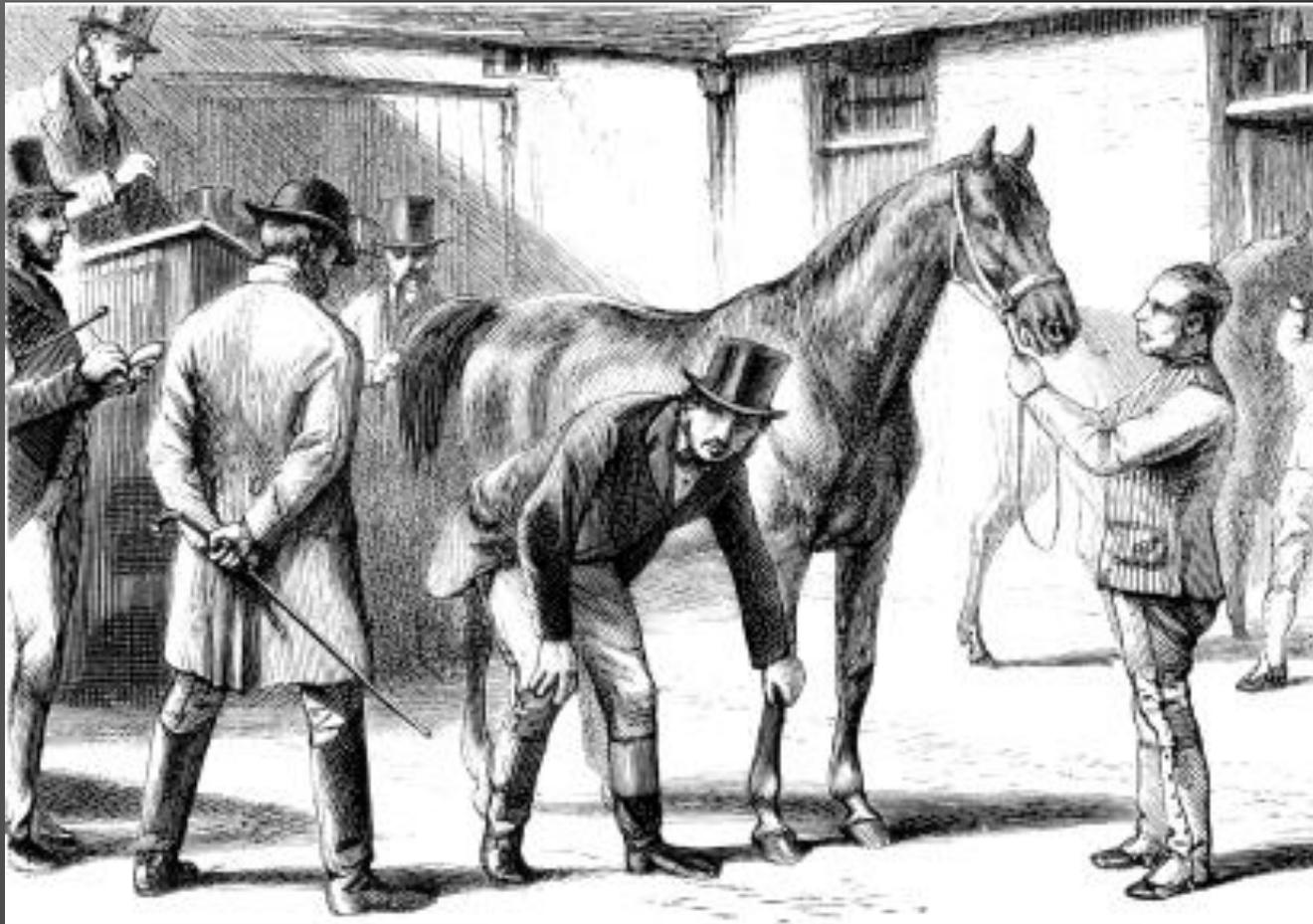
Equine Law

Equine Law covers an array of legal issues relating to horses, riders, trainers and owners, equestrian properties and equestrian businesses.

Discussion Topics:

- Purchase and Sale of Horses / Remedies
- Co-ownership / Lease Agreements
- Horse Boarding Agreements
- Rights of Stable Keepers
- Releases & Waivers

Agreement of Purchase and Sale



DRAFT AGREEMENT FOR DISCUSSION PURPOSES ONLY

This form is provided by way of example only, and is not intended to replace or supplant advice from a lawyer, and does not create any relationship between Shelley Henshaw, Waterstone Law Group, and any individual or entity using the form.

HORSE PURCHASE CONTRACT

This agreement is made the _____ day of _____ 20__

Between:

(the "Seller")

Whose address is: _____

And:

(the "Purchaser")

Whose address is: _____

WHEREAS:

(A) The Seller is the registered owner of the horse known as _____ (the "Horse")
by _____ (sire) out of _____ (dam) with the following particulars;

Horse's Registered Name: _____ Reg#: _____

Horse's Barn Name: _____ Sex: _____

Registered with: _____

Breed: _____

Color and Markings: _____

(B) The Seller has agreed to sell the Horse to the Purchaser pursuant to the terms and conditions herein provided (the "Purchase").

THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the representations, warranties, covenants and agreements hereinafter set forth and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each of the parties), the parties represent, warrant, covenant and agree as follows:

A. PURCHASE PRICE

1. For the sale price of _____ (the "Price")

B. SELLERS REPRESENTATIONS

2. The Seller hereby warrants that they are the legal owner of the Horse and has the right to sell the Horse.
3. The Seller declares that the Horse's details above are accurate and true.
4. The Seller declares that the details given in the sale advert (see below) are accurate and true;

(Insert the advert published of the horse for sale here.)

5. The Seller declares that the following oral statements made to the Purchaser are accurate and true:

(Insert any oral statements or claims made by the Seller affecting the decision of the Purchaser to purchase the Horse.)

6. The Seller declares that the Horse has exhibited no stable vices or behavioural problems whilst in their care, except as detailed below.

(Insert any known stable vices or behavioural problems here.)

7. The Seller declares that the Horse's vaccinations for flu and tetanus are up-to-date.
8. The Seller declares that the following additional items are the legal property of the Seller and are included within the Price.

(Insert any tack and equipment included in the sale price here)

9. The Seller declares that to the best of their knowledge the Horse has no unsoundness or health problems that would make the Horse unfit for general riding work.
10. The Seller makes no warranties or representations whatsoever regarding future fitness and performance of the Horse.

C. DEPOSIT

11. Upon receipt of a deposit of \$ _____ the Seller shall issue a dated receipt to the Purchaser and agrees not sell the Horse to another party for a period of one week.

D. PRE-PURCHASE VET EXAM

12. The Purchaser has the right to arrange at their own cost a pre-purchase veterinary examination and the Seller agrees to make the Horse available for such. Such pre-purchase veterinary examination shall be carried out within one week of payment of the deposit.
13. Should the Horse fail the pre-purchase examination the Purchaser has the right to terminate this Agreement with immediate effect and upon such termination the deposit shall be repaid to the Purchaser.
14. Upon acceptance of any pre-purchase veterinary examination, or where the Purchaser has waived the right to a pre-purchase veterinary examination, the Purchaser agrees to pay to the Seller the balance \$ _____ for the Horse within one week of the deposit being paid.
15. Should the Purchaser fail to pay the balance within one week of the date of deposit, the Seller has the right to terminate this Agreement whereupon the Purchaser shall forfeit the deposit paid.

E. TRANSFER

16. Upon payment of the balance, the Seller shall provide the Purchaser with a dated receipt for payment and hand over the Horse's passport and registration documents to the Purchaser.
17. Upon payment of the Price in full the Horse shall become the property of the Purchaser.
18. The Purchaser agrees that they will arrange for removal of the horse from the Seller's premises at their own cost within 2 days of payment of the Price in full.

F. JURISDICTION

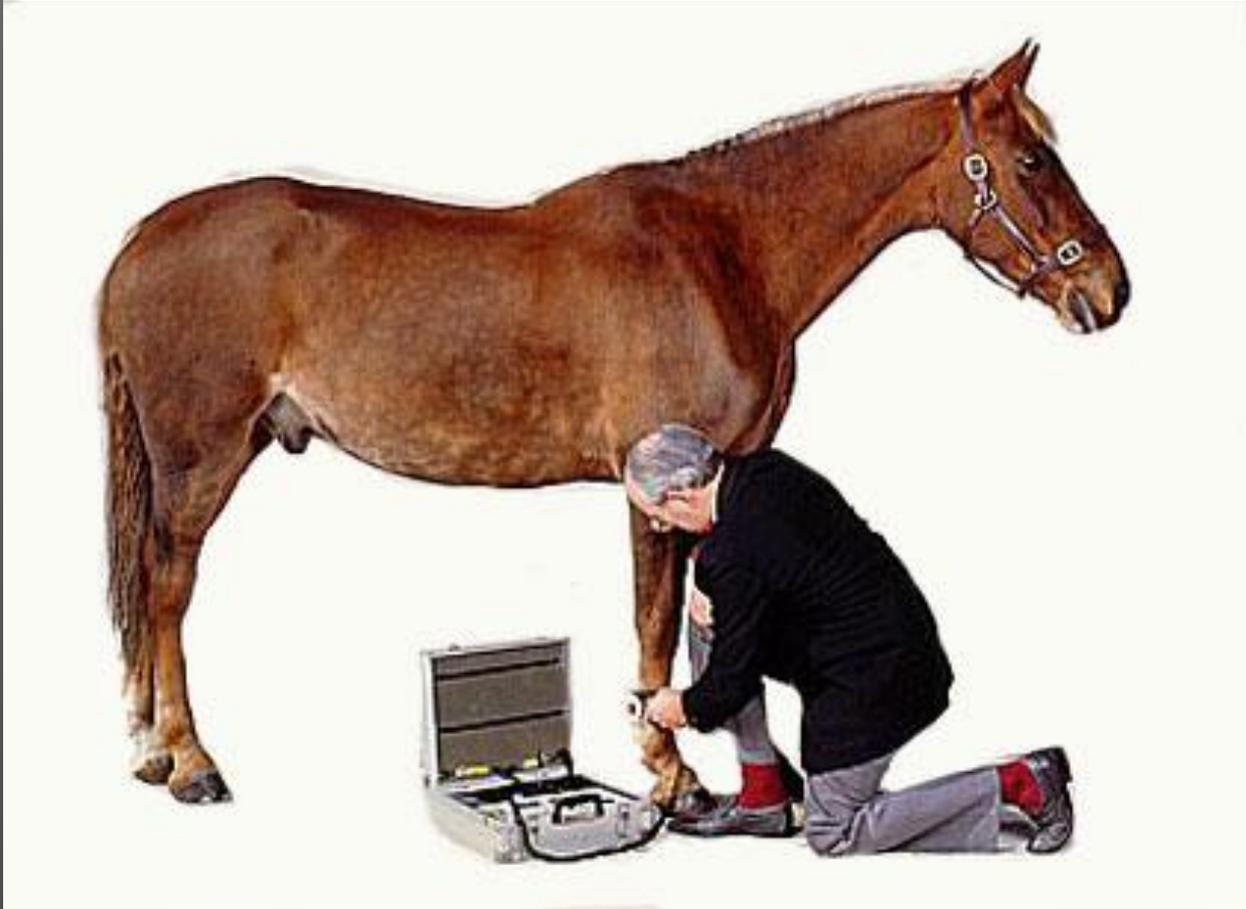
19. This Agreement shall be governed by the law of British Columbia.

WAIVER

---to be discussed later

* Delete as appropriate.

Pre-Vet Exam



Is it necessary?

Misrepresentations



Misrepresentation

A misrepresentation is a misstatement of a fact which is material or important to the making or inducement of a Contract

Types:

1. Innocent
2. Negligent
3. Fraudulent

Coates v Stephens (1838) 2 Mood. & R. 157, 174 E.R. 247

Parke B., said:

The rule as to unsoundness is, that if at the time of the sale the horse has any disease, which actually does diminish the natural usefulness of the animal, so as to make him less capable of work of any description; or which in its ordinary progress will diminish the natural usefulness of the animal; or if the horse has, either from disease or accident undergone any alteration of structure, that either does at the time, or in its ordinary effects will, diminish the natural usefulness of the horse, such a horse is unsound.

Lavis v. Mels [1982] O.J. No. 393

Gloves on the Ground

1. Can the Seller and Purchaser mediate an agreement outside of the Court?

2. Commencing a Court Action

Small Claims Court (\$25,000)

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/168_2009_04

Supreme Court Forms

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/168_2009_04

3. Relief

Horse Lease Agreement



***** REALLY?? **THIS** IS YOUR AGREEMENT?? *****

Re: "Trigger"
Between: Roy Rogers & Dale Evans

Roy Rogers of Langley, B.C. agrees to Lease to Dale Evans of Kamloops, B. C. the horse "Trigger" for an undetermined length of time. Dale Evans will be responsible for some expenses and decision making for the care of "Trigger", and will inform Roy Rogers of any health conditions which may endanger the life "Trigger". Any life and death decisions whenever possible will be made jointly between the parties. Dale Evans may return "Trigger" to Roy Rogers, thereby terminating the lease, giving one month minimum notice for this transaction. Roy Rogers has full visitation privileges throughout the period of the lease. The horse will be kept at my farm.

Hitchin' Post, B.C.

Signed:

Co-Ownership/Lease Agreement

Terms of an Agreement

Identify the Parties

Identify the Horse

Identify Purpose and Goals

Term

Stabling/ Feed Arrangements

Limitations of Horse Use

Routine & Extraordinary Vet Expenses

Terms of an Agreement (continued)

Trainer

Transportation

Risk of Loss & Insurance

Assignment or Transfer

Jurisdiction

Dispute Resolution and Remedies on Breach

Terms of an Agreement (continued)

Specific to Leasing

Default

Option to Renew

Lessor's Rights

Specific to Co-ownership

Ownership Shares/ Registration

Covenant Not to Encumber

Division of Proceeds

Shotgun Clause

Boarding Agreements



Essential Terms

Emergency Care

If medical treatment is needed, the Stable will attempt to contact the Owner, but in the event the Owner is not reached, the Stable has the authority to secure emergency veterinary and /or blacksmith care. The Owner is responsible to pay all costs relating to this care. The Stable is authorized as the Owner's agent to arrange billing to the Owner.

Essential Terms

Health

The Owner warrants that the horse(s) shall be free from infectious, contagious or transmissible disease at the time the horse is first boarded. The Owner shall immediately advise the Stable in person if the Owner is advised, or has reason to believe, the horse(s) is infectious, contagious, or has a transmissible disease at any time during the period of this agreement.

Right of Lien

The Stable has the right of lien as set forth in the law of the Province of Nova Scotia for the amount due for board and additional agreed upon services and shall have the right, without process of law, to retain said horse(s) until the indebtedness is satisfactorily paid in full

Essential Terms

Liability Clause

While the horse is boarded at the Stable, the Stable shall not be liable for any sickness, disease, theft, death or injury suffered by the horse(s) or any other cause of action arising from or connection to the boarding of (these) horse(s). All risks are assumed by the Owner. All costs, no matter how catastrophic, connected with boarding are borne by the Owner. The Owner agrees to hold the Stable, its employees and agents harmless from any claim resulting from damage or injury caused by the Owner, the Owner's horse, or the Owner's licensees or invitees.

Essential Terms

Liability Clause (continued)

It is recommended by the Stable, that the Owner obtains an insurance policy for horse(s) or personal tack. The horse(s) and all tack and equipment of the Owner and lodged on the Stable premises shall be at the sole risk of the Owner, who assumes all responsibility for the insuring of the horse(s), tack and equipment Owned by him/her, while on the Stable premises. The Owner will be held responsible for any damages caused by horse or Owner and will be required to pay for damages at the discretion of the Stable.

Indemnity

The owner agrees to carry personal liability insurance coverage on said horse(s).

Waiver



You Just Never Know....

DRAFT WAIVER FOR DISCUSSION PURPOSES ONLY

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In consideration of being allowed to participate in _____ (the "Activity") the undersigned agrees that:

1. there is a serious risk of injury in this Activity; and
2. I KNOWLINGLY ASSUME ALL SUCH RISKS, both known and unknown, EVEN IF ARISING FROM THE NEGLIGENCE OF _____; and
3. I, for myself and on behalf of my heirs, assigns, personal representatives and next of kin, HEREBY RELEASE AND HOLD HARMLESS _____, their officials, agents and/or employees ... (the "Releasees") with respect to any and all injury, disability, death, or loss or damage to person or property, whether caused by the negligence of the Releasees or otherwise.]

I HAVE READ THIS RELEASE OF LIABILITY AND FULLY UNDERSTAND ITS TERMS. I FREELY ACCEPT AND ASSUME ALL SUCH RISKS, DANGERS AND HAZARDS AND THE POSSIBILITY OF PERSONAL INJURY, DEATH, PROPERTY DAMAGE OR LOSS RESULTING THEREFROM, AND HEREBY ABANDON ANY ENTITLEMENT OR RIGHT TO PURSUE RELIEF OTHERWISE AVAILABLE PURSUANT TO STATUTE OR COMMON LAW.

Livestock Lien Act



Anyone who feeds and cares for livestock for payment, by agreement with the livestock owner, has the right to claim a debt against the livestock owner under the Livestock Lien Act (the “Act”).

The Act gives the feeder a right to look to the livestock for payment of the costs of their care and feeding. It allows the feeder to use the livestock as security for the costs of care and feed, in accordance with the statute.

Livestock Lien Act

[RSBC 1996] CHAPTER 272

Definitions

1 In this Act:

"cattle" includes any horse, mule, ass, swine, sheep or goat, or animal of the bovine species, by whatever technical or familiar name it is known;

"livestock" means cattle.

Lien on cattle

2 Keepers of livery, boarding or sale stables and persons who feed and care for cattle for compensation have a lien on any cattle and any effects left with them by the owner of the cattle for the value or price of food, care, attendance or accommodation furnished for the cattle.

Cattle or effects of debtor may be detained

3 A keeper of a livery, boarding or sale stables and a person who feeds and cares for cattle for compensation may detain in the keeper's custody and possession, before they have been removed out of his or her custody and possession, but not afterwards, any cattle, vehicle, harness, furnishings or other gear, or personal effects of another person who is indebted to him or her for stabling, boarding or caring for the cattle.

Responsibility for detained cattle and effects and power to sell

4 (1) Keepers of livery, boarding or sale stables and persons who feed and care for cattle for compensation must keep in their possession and are responsible for any cattle and effects detained by them for the full period of the detention, unless they are released sooner.

(2) If the owner does not reclaim and release the cattle and effects within 3 months from the start of the period of detention, the person detaining them

(a) may sell them by public auction, and

(b) after retaining payment for stabling, boarding or caring for the cattle and the costs of sale, must pay to the owner of the cattle and effects any balance of the price.

Disposition of balance of proceeds if owner not found

5 (1) If the owner cannot be found, the balance must be paid to a registrar of the Supreme Court within the judicial district in which the sale takes place, to be kept for the owner for one year.

(2) If the owner does not appear or claim the amount by the end of the one year period, the amount must be paid into the consolidated revenue fund.

Copy of lien, detention and sale provisions to be posted in office and stable

6 **It is the duty of keepers of livery, boarding or sale stables to have a copy of sections 2, 3 and 4 conspicuously posted up in their offices and in at least 2 other conspicuous places in their stables.**

LIVESTOCK LIEN DECLARATION

I _____ OF _____
(Full Name) (Address)

AM PRESENTING FOR SALE THE LIVESTOCK DESCRIBED ON MANIFEST

_____, THE LIVESTOCK ARE TO BE SOLD AT THE

_____ PUBLIC LIVESTOCK AUCTION.

THE LIVESTOCK DESCRIBED ON THE ABOVE MENTIONED MANIFEST

WERE LEFT WITH ME FOR BOARDING ON _____
(Date)

_____ OF _____
(Name) (Address)

DECLARED TO ME THAT THEY WERE THE OWNER OF THE LIVESTOCK

LEFT IN MY CARE.

I DECLARE THAT I AM EMPOWERED BY THE LIVESTOCK LIEN ACT TO

SELL THE LIVESTOCK.

DECLARER

DATE

WITNESS

DATE



Questions?