

gusting; she came in the other night and it was leaking water. Paul will have it checked and said we may need to move it to a different location in the club house.

**State Fair:** Royce Herman needs volunteers to work the Maryland Horse Council booth at the Fair—call Royce. It's a great way to help TEC, advertise for Outlaw Days, and see the fair.

The business portion of the meeting was adjourned at 7:23 p.m.

### July Speaker: Attorney, Anne Ogletree

Immediately following the business meeting, Anne Ogletree was introduced as the evening speaker. Anne was admitted to the bar in 1974 and has a general law practice with a concentration on land issues. Anne has served as general counsel to several equine organizations including Maryland Horse Shows Association, Fair Hill Equestrian Events, Inc., Fair Hill International, the Bill Mills Trail Ride, and Tuckahoe Equestrian Center Foundation. She is a member of the United States Equestrian Federation (USEF), United States Eventing Association (USEA), United States Dressage Association (USDA), Potomac Valley Dressage Association (PVDA), and the Tuckahoe Equestrian Center (TEC).

Anne opened her presentation by alerting us that she would divide this conversation into three areas: the first "boring" part which would be a background on the law and legal requirements; the second portion which would focus on some "case scenarios" (she had seven of them) thus allowing us to test our understanding of the law and the third section would focus on what we should do to protect ourselves.

#### What is the law?

The law is nothing more than rules established to govern the interactions and relationships about people and how they interact with others. She said that with every legal case, the law grows because of decisions made. People's relationships with society are governed by criminal laws; and people's relationships with others are governed by civil laws. Anne was focusing on civil law tonight. She said most laws in the equine areas are judge-made laws or decided by case history. The Maryland law, which pertains to horses and riding on land, is found in the Natural Resources Section 5-1104. It allows the public to use land for recreation (covers more than

horseback riding) where no money changes hands. The bottom line is that if people ride across your land and you collect no money for it, you owe them no duty (or legal obligation) and they are riding at their own risk. Basically, Ann explained that there are three classes of people: business invitees (those you invite onto your property—who, if they get hurt, you *may* be liable), social invitees (those whom you should warn of possible dangers on the property, and for whom you should keep the property safe), and trespassers (those who just ride on or across the property without invitation.)

**Once you accept money, the duty to warn people of dangers, keep the property safe, and take all reasonable actions to ensure the safety of others becomes a higher standard to which you must adhere.**

**If there is no duty, no money changes hands, there is no liability. Do not worry about uninvited riders on your property. In the state of Maryland, you are protected.** To further protect yourself, as a property owner, it is in your best interest to warn people of any known dangers or unsafe conditions, however. It is also a good idea to post No Trespassing signs, and /or get signed releases from riders.

Anne stressed that boarding is the highest duty of care situation. Once you accept money to care for a person's horse, you owe that owner and horse the highest level of care. This is what the law considers a bailment situation where you have an absolute duty to care for the horse.

In the event of an injury or issue, there are four elements of negligence which the law considers (and you must have all four to have liability):

1. Duty---this is your obligation to care for the horse/rider
2. Breach---this is the failure to perform the duty adequately
3. Causation---what you did or failed to do that "caused" the injury
4. Injury---quantity of the injury (value)

Anne stressed that these elements are the basic components of all court cases as none of them are as clear cut and obvious as one might assume.

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There are contributing factions and proximate causes and secondary causes to most elements. There is also a question of "last clear chance" and then the question will become - did you take every effort to avoid the situation and utilize your "last clear chance" to escape injury?

#### Case scenarios

After the law discussion, Anne moved on to a more lively discussion of case scenarios where she read several scenarios and asked the membership what they thought should or could happen legally in each situation. After each scenario, she changed just a fact or two in each case, and then asked us how we thought it would change the outcome of the case. It was surprising how just a subtle change in the facts could produce a different legal decision.

Following the scenario discussion, Anne moved on to section three of her presentation.

#### What can you do to protect yourself as a land/horse/property owner?

In the event something happens and you find yourself in a situation which may require legal involvement:

- Write down the facts (what you saw, heard or discovered) as they **actually happened**.
- Do not talk to anyone about anything.
- Call your insurance agent and your attorney and talk **only** to them.
- Render assistance to anyone who needs it, but do not admit guilt or knowledge, and do not apologize.
- Take very good notes.

#### Before something happens:

- Call your insurance agent and find out what kind of coverage you have and *exactly* what that means? Ask specific questions such as: If your horse gets out on the road and is struck, are you covered? If the motorist sues, are you covered, etc. Does your policy cover your legal defense costs?
- If you board horses, (or if you are a boarder) find out what your coverage includes.
- Keep a disposable camera in your car or saddle bag. Pictures are worth a great deal in the event of an accident.
- Consider an umbrella policy (covers more than Home Owner's) or special added rider for coverage

for certain unique events.

- Posting your property is a good idea.

#### Releases:

While signed releases will not stop you from being sued, it is always a good idea to have one. Basically, a release shifts the burden to prove negligence. All a release does is acknowledge, in writing, that the activity of horseback riding and its associated components is risky and the participant willingly accepts that risk.

Anne concluded by reiterating the differences between contributory negligence and comparative negligence. Fortunately, for horse owners, Maryland is a contributory negligence state; this means that there is an assumption (when one acknowledges risk) that a person may have contributed to their own injury, and even if the property owner was negligent in some way, he or she is not liable.

In a comparative negligence state, the assumption is that the law will apportion the fault and payment. (It basically becomes a percentage breakdown of liability.)

For this reason, it is vitally important that every year, as this issue comes up before the state legislature, that land owners and horse owners make their wishes known to retain the current contributory negligence status of the state.

T.E.C. once again thanks Anne for being so generous with her time and knowledge to educate (and entertain) our members. "The devil is in the details," and with Anne's helpful legal updates, we can better protect ourselves against possible legal action and insurance claims.

"Words are as beautiful as wild horses, and sometimes as difficult to corral." - Ted Berkman, *Christian Science Monitor*

"If you wouldn't write it and sign it, don't say it." - Earl Wilson

"Everything becomes a little different as soon as it is spoken out loud."  
- Hermann Hesse

