

Equine INSURANCE Policies: READ THEM CAREFULLY

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Horse owners, stable managers, and trainers often have insured horses in their care. What people sometimes forget is that insured horses are the subject of a contract that requires special attention and action, such as notifying the insurer if the horse becomes injured or ill. Representing an insurance company, this author recently won an equine insurance lawsuit in an Illinois federal court where the court denied the horse owner any benefits under an equine insurance policy because he waited too long before notifying his insurance company that his horse had become seriously lame.

This article briefly discusses the case and concludes with some examples of how you can avoid disputes with your insurer.

THE INSURANCE CASE

The case, decided in 2013, involved a show horse that was insured under a policy of equine mortality insurance. The horse sustained an injury while under a lease arrangement, but 15 days passed before anybody notified the insurer. By then, the horse's condition had worsened to the point where the owner's veterinarian recommended euthanasia. The owner had the horse euthanized and then submitted a claim for insurance benefits.

In response to the claim, and after an investigation, the insurer denied coverage. It believed that the owner, among other things, failed to satisfy a condition in the policy that required the owner to give the insurer "immediate notice" of the horse's illness, injury, or lameness. The horse owner, arguing in favor of coverage, suggested that he should be excused from the policy's "immediate notice" requirement because his horse was under a lease and he was unaware of the lameness problem. Rejecting that argument, however, the Court cited policy language that the notice condition applied "whether you have personal knowledge of such circumstances or events or such knowledge is confined to your family members, representatives, agents, veterinarians, employees, bailees, co-owners or other persons who have care, custody or control of [the insured horse] at any time." As a result, the court sided for the equine insurer and dismissed the case. It found that the owner's 15-day delay before notifying the insurer of the horse's lameness was not "immediate notice" as the policy required, and the horse owner could not recover under the policy.

AVOIDING DISPUTES

Equine mortality insurance policies typically require "immediate" or "prompt" notice of an insured horse's injury, lameness, or illness. Failing to comply with this requirement brings the risk that the insurer will deny a claim. Here are a few suggestions for avoiding disputes:

READ YOUR POLICY

Since notice requirements can vary from company to company,

read your equine insurance policy carefully so that you know when the insurer expects you to give notice of your horse's illness, lameness, or injury, and to whom notice should be directed.

DIRECT YOUR NOTICE TO THE CORRECT PERSON OR NUMBER

Your equine insurance policy, or information attached to it, will provide the name and phone number of the person or company that your insurer designates to receive notice. The agent who sold you the policy, you might be surprised to learn, may not be the right one to call. Giving notice to the wrong person could potentially be treated as giving *no* notice at all.

KEEP - AND SHARE - YOUR INSURER'S NOTICE CONTACT INFORMATION

Insurers often send, along with their insurance policies, handy cards that provide the designated (800) number to call to notify the insurer that the insured horse is not well. Keep the information in your purse or wallet and share the information with others who are caring for your horse such as the trainer and boarding stable.

ENCOURAGE YOUR CLIENTS TO SHARE AND UPDATE INSURANCE INFORMATION

If an insured horse's condition takes a turn for the worse, and if the owner cannot be reached, horse trainers and boarding stable management might need to contact the insurer on the owner's behalf. With that in mind, equine businesses can keep their clients' (800) numbers for each horse's equine insurer in a few places such as the smart phone, stall card, barn office, truck, and trailer. Encourage your clients to provide the most updated information. Include it in boarding and training contracts.

This article does not constitute legal advice. Where questions arise based on specific situations, consult with a knowledgeable attorney.

ABOUT THE AUTHOR

Julie Fershtman, one of the nation's most experienced Equine Law practitioners, is a shareholder with Foster Swift Collins & Smith, PC. An attorney and legal consultant for more than 27 years, she has successfully tried equine cases in 4 states and has drafted hundreds of contracts. She is a Fellow and officer of the American College of Equine Attorneys and has lectured in 28 states. She is listed in *The Best Lawyers in America* for Business Litigation and Insurance Law. For more information, please visit www.fershtman-law.com, www.equinelaw.net, or www.equinelawblog.com. And please "LIKE" our Facebook Page: "Foster Swift: Equine Law."

