

**LIABILITY FOR DOMESTIC ANIMALS—
STRICT LIABILITY**

The plaintiff alleges that the defendant is strictly liable for [his / her] injuries. This requires the plaintiff to prove the following by a preponderance of the evidence:

- (1) The defendant was the possessor of the [*animal*];
- (2) The [*animal*] had dangerous propensities abnormal to its class;
- (3) The defendant knew or had reason to know of those abnormally dangerous propensities; and
- (4) Plaintiff's injuries, if any, were caused by those abnormally dangerous propensities.

If you find each of these elements, the defendant is liable even if [he / she] exercised the utmost care to prevent the animal from doing the harm.

COMMENT: *Westberry v. Blackwell*, 282 Or 129, 131–132, 577 P2d 75 (1978); *Kathren v. Olenik*, 46 Or App 713, 717, 613 P2d 69 (1980). See ORS 609.115 for statutory claim.