



Dog Owner's Guide to Small Claims Court

(Prepared by Tompkins Square Dog Run, 2006)

DOG OWNER'S GUIDE TO SMALL CLAIMS COURT

(1) What to do if your dog gets in a fight or is injured by another dog at the run

ASK FOR HELP IMMEDIATELY

Your first concern will naturally be to find out if your pooch is okay. Even if you don't think they are hurt, ask one of the other dog owners to help you get the contact information from the other party. You'll probably be too shaken up to do this yourself.

Ask to see I.D. -- you'll need the other party's address if you have to go to court. Also get the name and contact information of close witnesses.

Next, all dogs who were involved in the incident should leave the run. They are likely to be upset which will lead to another fight. When you get your dog home (or to the veterinarian's office) take a picture of the injury.

(2) If Your Dog Requires Veterinary Care

CONTACT THE OTHER OWNER

If there are significant veterinary bills as a result of the dog fight, contact the owner of the other dog and offer them the opportunity to help out with the bills. If they refuse, let them know that you will give them a few days to think about it and then you will be filing an action in Small Claims Court. They will receive a summons in the mail soon. Leave your contact information with them in case they reconsider.

(3) If the Vet Bills are \$5,000 or Less

FILE A SMALL CLAIM

Almost everything you'll need to know about where to go and how to file is on this website:

<http://www.courts.state.ny.us/courts/nyc/smallclaims/generalcivil.shtml>

At this point, you don't have to contact the other owner any more. The court mails them a summons and they have to show up or automatically lose the case. The date of the hearing is assigned based on when you file -- about 4-6 weeks later. Both parties must appear at the hearing or a default judgment is made in favor of the person who is there. The time is always 6:30 p.m., and you are advised to show up 30 minutes early. The court can accommodate you with an alternate daytime hearing if you work at night.

The things the website doesn't tell you:

One thing they don't tell you is that the \$15 fee for filing the small claim (\$20 for claims over \$1,000) must be paid in cash and in exact change! Bring your own pen to fill out the form and, most important, you'll need the address of the person you are filing against.

Another thing is that you will almost certainly not have the option to have your case heard by the judge on your assigned court date. What will happen when you arrive at court is that you (and the other owner) will be among a large group of people that go into the courtroom. When they call your name, you have the choice of whether to go before an arbitrator, whose decision is binding, or to take it before the judge. There is a huge backlog of these types of cases, so if you elect to see a judge, you'll be assigned a new date on which you'll have to appear (or automatically lose the case). There is no guarantee that you will be heard on the second date either.

For the choice of arbitration, both parties have to agree and you get to do it that day.

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4)) YOUR COURT DATE

WHAT TO BRING WITH YOU

Bring as much documentation and proof of expenses with you as possible -- all the vet bills, and if you have a picture of the injury, bring that. If you don't have a picture of your injured pooch, you should still bring any picture of him/her that you have. You may bring witnesses and a friend or spouse to support you. The presence of a witness will add weight to your presentation in court. But if they cannot attend, you might try having them notarized their statement with a notary public and bring that with you.

WHAT WILL HAPPEN

The arbitrator will want to move things along as quickly and smoothly as possible. He/she will give both of you a chance to tell what happened and to show your documentation. After they hear both sides, the arbitrator may make a decision at that time or mail one within a week.

(5) THE DECISION OF THE COURT

The decision of the court is final and binding for collection by city marshalls.

(6) OTHER POINTS TO CONSIDER

Where any of the posted dog run rules broken?

Every New York City dog run has a list of posted rules however they vary from run to run. Some ban intact dogs, others ban the wearing of choke or spike collars, while other post rules that an owner must assume financial responsibility for any injury caused by their dog. Bring photographs of these rules with you to court if you feel your dog's injuries were a direct result (or exacerbated) by noncompliance with park rules. Also, look to see if there are copies of the posted rules on the dog run website. Bring that as well.

Contact the dog run manager

Every New York City dog run maintains an official manager listed with the Parks Department. Please let them know if your dog was injured at the run and whether you plan to pursue the matter in court. They may be able to provide you with further information and assistance.

Does the dog run have a website or newsgroup?

Many dog runs maintain official websites or newsgroups. These can be a good place to reach out for the identity and address of the owner whose dog injured yours. However if you plan to pursue the matter in court, refrain from partaking in a lengthy discussion about the incident online or using the other dog owner's name. This may appear as harassing to the other party and can detract your case. But you can certainly mention the name of the other dog or their owner in the context of reporting the incident or asking for help locating them.

Photograph your dogs injuries

Bring these with you to court. They provide clear evidence of injury and bring emotional impact to your case.

Will your dog require future surgeries, medication or vet visits as a result of this incident?

If so, get a signed estimate from your vet and bring that with you to court along with receipts for all prior expenses related to this injury.

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(6) OTHER POINTS TO CONSIDER (cont'd)

Have you tried to settle the matter amicably?

New York law states that the owner is financially responsible for any injury caused by their dog. It is your right to ask the owner to reimburse you for 100% of the veterinary bills if their dog injures yours. It is also your option to settle for less than that if you feel both dogs had a part to play in this matter. Some refer to this as “dog run etiquette,” however it is your right to choose how much you’d like to be reimbursed.

The courts will always carefully consider cases in which dog owners present veterinary bills directly associated (and dated) with respect to the incident. The courts have very little patience for personal arguments, grievances, long explanations or excuses. They also have little patience for owners tacking on frivolous charges or claims for punitive damages and emotional distress. They are going to decide the case based on law. In small claims court that means facts, photographs, witnesses, and most importantly, records of your expenses.

What if the owner will not cooperate?

If you’ve come this far, apparently the dog owner is not willing to work out an amicable settlement with you. Ask yourself if you’ve played any part in that failure? Dog fights are an emotional event. One or both parties may have behaved inappropriately at the time of the injury. Have you held out your hand to make peace? Owners can often reach out to one another a day, or even a week, after the incident and forgive one another for anything they said in the heat of the moment.

When should I file a claim?

If you feel the owner is not going to reimburse you, file the claim immediately. You can drop the suit AT ANY TIME if you reach an agreement.

How should you conduct yourself around the owner as well as present your case in court?

Dogfights can elicit tremendous emotions from both parties, however the court is based solely on law. One thing that will work against you in court is if one of the parties feels the other has treated them in a threatening or harassing manner. It is your right to try to settle this matter as individuals but it is against the law for you to try to force the matter.

Distance yourself from the other owner if it looks like the two of you are not going to reach an agreement. Do not discuss the incident and be prepared to present a rational case in court. Courts are likely to side in favor of plaintiffs presenting testimony with substantiated expenses and documentation. Look forward to your day in court. It not only makes economic sense, it goes a long way towards promoting responsible pet ownership and a safer dog run.

Prepared March 6, 2006 by Tompkins Square First Run.