

Tort Law: Strict Liability

Case 11:  
Where is  
My Horse?

# Johnston v. Poulin

## Strict Liability for Roaming Animals

### OBJECTIVE

To understand the concept of strict liability as it applies to roaming or “at large” animals.

### TOPICS COVERED

- ☐ Strict Liability for Roaming Animals
- ☐ Roaming or “At Large” Animals

# Johnston v. Poulin

## Strict Liability for Roaming Animals

### BACKGROUND

- Defendants, 16-year-old Jon Poulin and his mother, Barbara Poulin, owned a horse named Twig. The Poulins kept Twig in a fenced-in area of their property in Foster, Rhode Island.
- Twig escaped from the property and roamed "at large." With the help of a policeman, who had experience with horses, Twig was found, but she refused to be led into a horse trailer.
- Since Twig refused to get into a horse trailer, the policeman walked Twig to Plaintiff Phillip Johnston's farm house to board her for the night. While Mr. Johnston attempted to secure Twig in a stall, the horse kicked him in the head resulting in severe personal injuries.
- Mr. Johnston alleged that the Poulins were liable for his injuries under a theory of strict liability because, as the horse was a roaming animal, an owner is liable for all damages resulting while the animal is "at large."

### BEFORE YOU BEGIN

☐ **What is a roaming or "at large" animal?**

A roaming animal is one that breaks free from its enclosure and is roaming and wandering under its own free will. To determine whether an animal is "at large," the court must determine at what point there is control and restraint exercised over the animal while it is off its owner's premises.

☐ **What is strict liability for roaming animals?**

Under the applicable Rhode Island law, an owner of certain defined animals is strictly liable for the damage caused by the owner's animal if it breaks free from its enclosure—regardless of the owner's care to ensure that the animal does not break free.

☐ **What types of animals are defined in the Rhode Island law as roaming animals?**

The types of animals that are roaming animals are a horse, a bull, a boar, a ram, or a goat.

## ISSUE BEFORE THE COURT

Whether, given the facts of the case, the horse Twig was "at large" for purposes of strict liability at the time of the Plaintiff's injury.

## THE FACTS

Barbara Poulin and her 16-year-old son, Jon, were the owners of a horse named Twig. The Poulins kept Twig fenced in on Mrs. Poulin's property in Foster, Rhode Island. On the night of November 10, 1997, a strong wind caused a tree branch to fall on the electric fence that corralled the horse. Twig escaped from her enclosure, and around 11 pm, the Foster Police Department received a report that Twig was running wild on a local road approximately two miles from home.

Shortly before midnight, Foster Police Lieutenant Chapman arrived at the Poulin home and spoke to Jon. Barbara Poulin was at work. Jon went with Lt. Chapman to attempt to restrain Twig in a horse trailer, but they were unsuccessful. After 45 minutes, they walked Twig to Plaintiff Phillip Johnston's farm house to board her for the night. Lt. Chapman recommended Mr. Johnston, an experienced horseman with facilities capable of maintaining Twig for the night.

By the time the group arrived at Mr. Johnston's farm 30 minutes later, Twig had calmed down. Upon entering the barn, Twig became nervous and reared, but she eventually calmed and was led by the halter into the barn.

Once inside, Lt. Chapman requested Mr. Johnston's assistance in placing the horse into the barn stall. Lt. Chapman handed the lead rope to Mr. Johnston, who walked the horse into the stall and clipped a wall rope to the halter without difficulty. Mr. Johnston then walked past the horse and left the stall to get some hay.

Upon his return, Mr. Johnston walked along Twig's left side and deposited the hay in a trough in front of her head. As he attempted to leave the stall, Mr. Johnston brushed against Twig causing the horse to pull back and rear up, and the wall rope broke. Twig lost her footing and fell down, knocking Mr. Johnston to the ground. While Twig was attempting to get back on her feet, she struck Mr. Johnston in the head with her hind hoof. Twig then ran out of the stall to an open

An animal is considered  
"at large" if it is not  
confined or somehow  
controlled.

field behind the barn.

Although Mr. Johnston indicated to the police that he was okay, the next day he woke up in pain and went to the hospital. Subsequent medical reports showed that Mr. Johnston suffered a concussion and injured his neck, jaw, and head. Mr. Johnston received stitches to his head.

There was evidence presented at trial that Twig was in a state of excitability when she entered the barn and was never fully brought under control. There was also contradicting evidence that Twig had been restrained and was indeed brought under control.

Jon Poulin testified that Mr. Johnston antagonized the horse by slapping her on the rear when she stood up abruptly as he slid past her left side.

By 1900, North America had an estimated two million free-roaming horses. Most of the horses were mustangs which began to decrease in number due to human abuse. U.S. Congress passed the Wild Free-Roaming Horse and Burro Act of 1971 which provided for protection of mustangs and other animals.

### Sources

The case briefing above contains excerpts and direct extractions from the sources noted below that have been combined with the author's own expert legal input. The case has been condensed and formatted from its original content for purposes of this workbook.

Johnston v. Poulin, 844 A.2d 707 (R.I. 2004).

Rhode Island Supreme Court

March 29, 2004. Opinion written by the Honorable Justice Paul A. Suttell.

### You Be the Judge!

NAME \_\_\_\_\_

DATE \_\_\_\_\_

## Review the Case

After reading Johnston v. Poulin, answer the following:

1. Identify the Plaintiff(s) in the case.

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2. Identify the Defendant(s) in the case.

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3. Is the Plaintiff seeking money as compensation for his injuries?

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4. Who is "Twig"?

\_\_\_\_\_

5. Did the Poulin's yard have a fence? If so what kind?

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6. How did Twig escape from the Poulin's yard?

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7. Where did Lt. Chapman find Twig?

\_\_\_\_\_

\_\_\_\_\_

8. How long did Lt. Chapman attempt to get Twig into a trailer?

\_\_\_\_\_

NAME \_\_\_\_\_

DATE \_\_\_\_\_

**Review the Case (continued)**

9. Why did Lt. Chapman decide to bring Twig to Mr. Johnston's barn?

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10. How did Twig initially react to Mr. Johnston's barn?

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11. Did Lt. Chapman request Mr. Johnston help him bring Twig into his barn?

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12. What caused Twig to kick Mr. Johnston?

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13. What did Twig do immediately after kicking Mr. Johnston in the head?

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14. When did Mr. Johnston realize that he was injured by Twig?

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NAME \_\_\_\_\_

DATE \_\_\_\_\_

## Make the Argument

In order for the judge or jury to render a decision, the following are some of the questions that must be considered:

1. Is Twig considered a roaming animal? Explain.

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2. Did the Defendants own Twig at the time of the accident?

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3. Did Twig break free from the Defendant's property?

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4. How was the Plaintiff injured by Twig?

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5. Was Twig "at large" at the time that she kicked the Plaintiff? To make this determination, you must decide whether the Plaintiff exercised control and restraint over Twig at the time he was injured.

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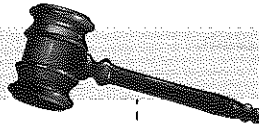
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## You Be the Judge

Having reviewed the case and considered the questions involved, decide the case for either the **Plaintiff** or the **Defendant**:



### Decision for the Plaintiff

## Decision for the Defendant

**Phillip Johnston**

## Barbara and Jon Poulin