

1 **13-506. Liability of a dog owner.**

2 An owner of a dog is liable for damages proximately caused by the dog if the owner knew,  
3 or should have known, that the dog was vicious or had a tendency or natural inclination to be  
4 vicious.

5 [The owner of such a dog is not liable to the person injured, if the injured person had  
6 knowledge of the propensities of the dog and wantonly excited it or voluntarily and unnecessarily  
7 ~~[put himself]~~ got in the way of the dog.]

8 USE NOTES

9 This instruction should be used when the issue and the evidence is that of damages from  
10 attack or bite by a dog.

11 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending  
12 or filed on or after December 31, 2025.]

13 **Committee commentary.** — NMSA 1978, Section 77-1-10 [~~NMSA 1978~~] (1901), states that it  
14 is unlawful for a person to keep an animal known to be vicious and liable to attack and injure  
15 human beings unless the animal is secure.

16 Reference to the case of *Perkins v. Drury*, 1953-NMSC-029, 57 N.M. 269, 258 P.2d 379 [~~(1953)~~],  
17 should be made by the trial lawyers and the court in any case involving a claim of damages as the  
18 result of an attack by a domestic animal. It is apparent that the common law prevails in this area  
19 in New Mexico. Scierter on the part of the defendant is required. The vicious propensity of the  
20 dog must have been previously manifested against a human being. It is insufficient that the dog  
21 exhibited vicious tendencies toward other animals.

22 [~~See also~~] See also the case of *Torres v. Rosenbaum*, 1952-NMSC-089, 56 N.M. 663, 248 P.2d  
23 662 [~~(1952)~~].

- 1 In the first edition, the substance of this instruction was covered by UJI 5.3 NMRA.
- 2 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]
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