

ANIMALS--LIABILITY OF OWNER WHO FAILS TO DESTROY DOG BITTEN  
BY MAD DOG. N.C.G.S. § 67-4.

The (state number) issue reads:

"Was the plaintiff [injured] [damaged] by the defendant's [neglect] [refusal] to kill a dog as required by law?"

On this issue the burden of proof is on the plaintiff. This means that the plaintiff must prove, by the greater weight of the evidence, five things:

First, that the defendant [owned] [was responsible for] (identify dog). (The defendant would be responsible for (identify dog) if it belonged to a person under *his* control.)

Second, that the defendant knew or had good reason to believe that (identify dog) had been bitten by a mad dog. (A person "knows" something when he has actual knowledge of it.) (A person has "good reason to believe" something when, in the exercise of ordinary care, he should have acquired knowledge of it under the same or similar circumstances.)<sup>1</sup>

Third, that the defendant [neglected] [refused] immediately to kill the (identify dog).

Fourth, that the (identify dog) bit the [plaintiff] [plaintiff's (here identify the plaintiff's livestock, pets or family members)].

Fifth, that the plaintiff sustained damage as a result

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<sup>1</sup>Wallace v. Douglas, 32 N.C. 79, 80-81 (1849).

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of such bite.

Finally, as to this issue on which the plaintiff has the burden of proof, if you find by the greater weight of the evidence that the plaintiff was [injured] [damaged] by the defendant's [neglect] [refusal] to kill a dog as required by law, then it would be your duty to answer this issue "Yes" in favor of the plaintiff.

If, on the other hand, you fail to so find, then it would be your duty to answer this issue "No" in favor of the defendant.