

Torts Center | Episode 10

"Law in the Arena: Exploring Equine Legal Matters with Kimbrel Hines"

Courtney Dunn: [00:00:00] A quick note before we get into our episode. The content provided in the Tort Center podcast is for informational purposes only and should not be construed as legal advice. The information presented in each episode is based on general principles of law and may not apply to your specific legal situation.

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By accessing and [00:01:00] listening to the Tort Center podcast, you agree to these terms and conditions. Welcome back everyone to our latest episode of Tort Center with Courtney Dunn and Carla Varely Barker. We have a very special guest today from our own Segal McCambridge offices. Carla, why don't you introduce Kimbrell Hines?

Carla Varriale-Barker: Hi everyone. I want to introduce you to our senior associate practicing in Florida, Kimbrell Hines. Kimbrell's practice focuses on equine law, a very unique niche area of the law that she will talk to us a bit more about today. No surprise, Kimbrell is also an experienced equestrian. In her practice Kimbrell assists clients navigate legal matters in the equine industry.

So she represents clients in an array of equine related legal issues, including sale disputes, waivers. [00:02:00] Purchase documents, breeding, and lease agreements. Prior to joining the firm, Kimbrell worked doing equine legal matters for a firm serving Southwest Florida. No surprise that she is an equestrian herself, although she lives in the greater Tampa area with her two Australian shepherds.

You can find her at a barn or a local horse competition in Florida. Welcome, Kimbrell. It's so nice to get together with you today. Thank you. It's good to be here.

Courtney Dunn: Kimbrell, I want to start with just hearing a little bit about what equine law is.

Kimbrell Hines: Sure. So equine law is kind of a big category. I know that my practice of equine law might look a little bit different than someone else's practice.

Equine law is exactly what it sounds like. So any legal issue, business [00:03:00] legal issue, or litigation type issue that deals with horses or the horse industry is what I would consider to be equine law. I definitely see many things that don't really relate to horses that sometimes come across my desk, but the heart or substance of what I would consider equine law to be is sale disputes.

So litigation over horses, personal injury type claims where somebody is injured by a horse and then veterinary malpractice.

Courtney Dunn: So it's a pretty wide array of torts, contracts, everything in between.

Kimbrell Hines: Right. It can be a little bit of everything and it's always evolving as the sport is evolving. New challenges create new legal issues and as we've seen in the past years, horses are only getting more expensive so it's becoming more litigious of an industry.

Courtney Dunn: So [00:04:00] do you represent horse owners, horse businesses? Where do you fall in this spectrum?

Kimbrell Hines: I do represent a lot of horse owners, horse businesses, people who are just equestrians who are competing in Florida. For example, we have really strict laws when it comes to selling horses because horses are such a huge part of the Florida economy.

So sometimes I'm representing people who are buying and selling and competing and using horses professionally, but a lot of my clients are. Horse enthusiasts who want to protect their businesses and their assets.

Courtney Dunn: What is a horse business? Like a ranch, somewhere where people keep their horses, what does that include?

Kimbrell Hines: Well, kind of like equine law, there are many, many different jobs out there in the horse industry. And I don't know about your horse experience, but it's probably not difficult to believe [00:05:00] that they require

a lot of work for a lot of our show horses. It seems like they get much better care than we do.

They see chiropractors, they see massage therapists and acupuncturists. You name it, there's somebody who does it. There's people who do the grooming, the braiding, all sorts of jobs within the industry. And then there's also people who specialize in breeding or training or showing.

Courtney Dunn: I did not know that there were horse acupuncturists and massage therapists.

I love that. You know, as someone who specializes in this practice, if you're representing a horse owner or a horse business, what unique considerations are there as opposed to, you know, a non horse.

Kimbrell Hines: Well, I think the easiest one to think of is somebody getting hurt and 48 states in the U. S.

actually have some sort of equine activity statute, which basically says that if you're injured in a horse [00:06:00] related activity, the horse owner Or the person that you're suing, they cannot be held responsible for the activities of the horse because horses are inherently dangerous and they, like any animal can act unpredictably.

They can get scared and of course cause a lot of harm when doing so. So I think that's really the, the first thing that a lot of people are concerned with is how they can make sure that they themselves are protected and also. Other people around them because something could happen and there is a danger and a risk element there.

Courtney Dunn: So do you rely on for these cases the doctrine of assumption of risk? Is that where this goes in terms of say a litigation?

Kimbrell Hines: So there is an assumption of risk. The statutes are typically very helpful for horse owners and every state is a little bit different. So horse owners and horse professionals really need to get specific in their state and see what the [00:07:00] statute requires.

Some of the laws actually require the participant to sign a waiver in order for you to be protected. Other states require you to post a sign. Some states require both. So it is somewhat based on the assumption of the risk. And it even goes a step further to say that by being around forces, you are assuming the risk.

However, there are some carve outs with these statutes. Like in Florida, we have exceptions to the statute, so you really, really have to read the language carefully.

Courtney Dunn: You have an example of one of the exceptions in Florida?

Kimbrell Hines: Yeah, in Florida and a lot of other states, a common exception that will get people into trouble is faulty equipment or faulty tech.

So let's say you're a riding Instructor and you are giving lessons, well, you could have an issue if somebody gets hurt because the girth or the center on their saddle breaks and they fall [00:08:00] off. That could be an example of faulty equipment.

Courtney Dunn: It makes sense though, right? It's not really that was the proximate cause, say, of the injury was something else.

So you're not really So my question then is, if we're talking injury, is there a different standard, like, where does it fall if it's an experienced jockey who knows horses, is around horses, as compared to, like, a kid at a birthday party where there is a pony?

Kimbrell Hines: That's an interesting question because as you mentioned, those are different situations and have an entirely different set of facts.

And I think that's where our job as lawyers comes in, because we have to figure out what would have been reasonable for that horse professional. And that particular situation in some states, that's part of the statute is that you do have an obligation to kind of match the horse to a rider or participants abilities.

Courtney Dunn: Kimbrough, why don't you tell us [00:09:00] what national governing bodies you interact with, stay up to date with in your equine practice?

Kimbrell Hines: There are several governing bodies that I see clients have challenges with that we will get involved and help our clients in some representation or navigating that particular governing body.

The main one that I see the most often is the United States Equestrian Federation, which is called USEF. And that is our governing body here in the U. S. that handles all of our Olympic equestrian sports. So, hunter jumper, dressage, eventing, driving, all of those disciplines fall under the United States Equestrian Federation.

And the Federation is really focused on protecting horse welfare. And last year, being an Olympic year, we saw [00:10:00] just how hard these horses are working. So USF handles everything from small shows all the way up to the Olympics, and they set all sorts of rules. That our clients need to be paying attention to.

And it is our client's responsibility to keep up with the rules and make sure that they are in compliance when they're at horse shows and other events. Other agencies that we see are the FEI, which is the International Equestrian Governing Body. We have so many international competitions here in the U. S., and especially in Florida, that Super C USEF, although USEF does take a lot of rules that the FEI has, of course, those are really important. Governing bodies that are our clients need to be familiar with, as you can imagine when you're competing at that level, those are serious investment horses and people are spending a lot [00:11:00] of money to compete internationally.

The stakes are high. These are the opportunities to qualify for World Cups, Olympics, all sorts of prize money. Those horses and riders have been getting ready for years. So to be hit with some sort of rule violation is It's incredibly scary, and we help our clients navigate the potential rule dilation, figure out what's going on, and how we can represent them best in handling that dispute.

Courtney Dunn: Yeah, that's very interesting. So in terms of you keeping up with kind of these changes, is that something that's constantly evolving?

Kimbrell Hines: Yes, I do try to keep up with the changes. Recently, the United States Equestrian Federation had its annual meeting in January. That was great to go to because you can sit and hear the discussion about these rules.

And at that meeting, The rules [00:12:00] committee actually goes in and they decide what rules they're going to take from what's been proposed. And you can hear the conversation about why somebody is proposing a rule. What are the potential implications like laws? A lot of rules are passed with the best of intentions and then things happen and we determine that we need to reevaluate.

And that's a really fun part of the job is figuring out as this sport evolves. What we need to be doing in order to best protect our horses and riders. The other agencies that we sometimes see are AQHA and SBA. If there's a horse show, there's a governing body for it. So definitely a lot of things for clients to consider, but most people are concentrated on one sort of organization.

Carla Varriale-Barker: I have a question for you that maybe dovetails with what you're talking about now. A few years ago, there was a horse doping scandal. I thought that [00:13:00] that was very interesting, because how does a horse But I know that many years ago, there was a federal prosecution and racehorse trainers, veterinarians, and drug dealers all got caught in a net involving a criminal scheme to dope horses, to push them beyond their limits.

Obviously we're familiar with doping scandals with human beings. What does this look like in the equine world?

Kimbrell Hines: Well, funny you should ask because I would say that drug related violations are my most common rule violation that I see clients have issues with. Our rules are very strict and there's a lot of them.

And horses are just like normal athletes where they get sore, they get stiff. I mean, they, they are athletes. So. A common rule violation that [00:14:00] I see sometimes is the administration of certain medications that are very normal, but they act like Tylenol. And there are certain time prohibitions on when you can administer these drugs.

While that might not sound that serious, it is technically a rule violation and it can have very, very severe penalties. Some other issues that come up with drugs and doping besides just the timing issue is clients not knowing what could be a prohibited substance. So like you said, for example, they publish what's called a list of commonly prohibited substances commonly.

So a lot of times I hear clients say, Oh my gosh, I had no idea. It's not on the list. Well, if you actually go and look at the rule book, the prohibited substances are not. what it are exclusively on that [00:15:00] list. The brand and substances are incredibly broad and you have to read the description in the rule book and then actually figure out whether your drug meet that description.

There's like five or six different categories of drugs. So drug violations. can be easy to get if you're not incredibly careful about even what you think is a really simple medication, making sure that it is in compliance. Like recently I had somebody administer their horse the equivalent of Zyrtec for some allergies.

Okay, well, that did not make the list of commonly prohibited substances, but it was in fact a prohibited substance. So my job was to figure out, oh my gosh, how did this happen? Did we intentionally give this substance? Why did we do it? Start asking those questions and I do my own investigation to figure out what

went wrong and explaining that to USAF or the other [00:16:00] administrative body and saying, Hey, this is what happened.

This is why it happened. This is how we're working to correct it. And hopefully we're going to be granted some sort of leniency when we can show the administrative body that we truly do have the horses welfare at heart and whatever issue that created this rule violation will not be repeated in the future.

Carla Varriale-Barker: What is the standard I think with humans and doping, it's like a strict liability. It is liability without regard for fault or I didn't realize just doesn't work. Is it the same in your practice since you deal with four footed beings, not two footed beings?

Kimbrell Hines: Yes, it is similar. So I hear some complaints sometimes about USEF and other agencies that people don't have process, like due [00:17:00] process, like they can't prove it, sentiments like that.

And what I often have to explain is you don't get due process with these administrative agencies. You just. Tested positive for a substance. Therefore you tested positive for a substance and you broke a rule. Somewhere in USAF specifically, there are opportunities to contest the potential rule violation.

So what happens first is that they send you a notice and this notice explains, you know, you tested positive for X substance, you know, you have this many days to provide a response. So. There is a strict liability. However, there is an opportunity for explanation.

Courtney Dunn: Well, I have a question. It might be silly, but when are the horses drug tested?

Like before an event on a surprise basis, if they're performing too well.

Kimbrell Hines: Sometimes it's a little bit different for different [00:18:00] agencies. Sometimes winners, a certain classes are drug tested. A lot of these random drug tests are. Computerized and not all this information is really available to us about how each entity decides who they're going to drug test, but if you're on the showgrounds, any of these places, that entity can drug test your horse.

Courtney Dunn: Well, I did not know that, you know, I just never thought about horses being drug tested, I guess.

Carla Varriale-Barker: It almost sounds like an animal welfare issue to me because human beings who dope, by and large, do so voluntarily with full knowledge of what they're doing. This is something that is being passed on to a sentient being without its knowledge or consent, obviously.

that has a physical effect on it. It's deeply disturbing to me.

Kimbrell Hines: It is very scary and there is a [00:19:00] common thread when it comes to drug violations over the years is that For each and every drug that has been banned or prohibited, there's always a new one. There's always new concoctions. There's new things coming out on the market.

A lot of human drugs are adopted and it is a heavy responsibility for competitors to make sure that they are in compliance and are not inadvertently breaking a drug related rule thinking that they're caring for their horse. And I, I think that that prohibition has been so harsh because of what you said, that we are facing an animal welfare issue because even though in the short term, maybe we're not seeing serious benefits in competition, people will sometimes wonder like, This has such a low effect on my performance.

Why [00:20:00] can't I use it? Well, a lot of these drugs use effort and other agencies are looking at them from the perspective of their long term arm. And that's where some of the consideration is coming from is, is we have to look at the horse's welfare beyond just entering and exiting. What are the long term consequences of this in three years or in 10 years when you've been on the road showing horses and you've given the same medication to your horse for years and years and years, it's kind of like putting a band aid on something and

Courtney Dunn: Yeah.

I mean, that's a, that's a good way to look at it. And I think it, when we first started talking about it and the example with Zyrtec, which, you know, maybe a lesser example, I'm like, Oh my God, well, the worst is allergies. Let them have it. But if you think about it in a vacuum like that and the long term effects and potentially over performance would make sense.

Kimbrell Hines: Yeah, it's definitely a lot to consider. And in the hunter jumper world and the dressage world a [00:21:00] little bit too, that's the bulk of our USAF related cases. There's two types of performance enhancing. ways you can look at drugging. So the hunters, they are asked to jump fences and jump obstacles in a very calm, collected manner.

And they are being scored on how beautifully they complete a course. So you want your horse to be very relaxed. So None of my clients, but you can imagine that some people are tempted to use substances that might speed up the relaxation process and kind of create a sense of fatigue to help that horse relax a little bit.

And then on the opposite side, we have the jumpers where they're asked to go as fast as possible. So Not only is there a huge physical component, but there's also the mental component that these horses need to be pretty amped up to not say no when they are [00:22:00] approaching fences at a pretty high Speed.

They need to want to do it. Yeah. Lots of different drugs for different reasons, sometimes to alleviate an issue, but also many prohibitions because if you think about it in that way, a lot of substances could cause some sort of advantage. Who knew? I guess Kimbrell knew. Yeah. Well, it's a little scary to think about, but I think things are improving and that we do have agencies that are very concerned at protecting us and our horses.

Courtney Dunn: How did you get involved in this area?

Kimbrell Hines: I grew up on a horse lobby farm in Tennessee, so my parents actually moved from Florida to Tennessee when I was about nine, and they were not horse people, so they didn't know any better, and they thought it was a good idea to buy a little farm with three horses as a package.

They [00:23:00] bought three horses as a package. The guy said, I'll give you the third one for free, if you take it, as you can imagine, like, that's probably not the best way to be selecting horses for your nine year old daughter. So we kind of learned everything the hard way, which was a great way to learn. Not didn't always feel that way at the time, but.

I grew up learning how to take care of my horses and I had to learn because it's not like my parents could teach me. So I took care of my own horses and one thing led to another where I couldn't ride the horse that they bought me because he kept throwing me off. So then I had to get some riding lessons and then riding lessons turned into a little 4 H horse show and then that turned into another horse show.

And then I rode in college and my parents are still asking me when I'm going to grow out of it. But they ask with a lot less frequency these days.

Courtney Dunn: It sounds to me like there is so much to consider in the [00:24:00] equine law world and a lot to stay up to date on. Are there any current developing areas for horse owners, horse businesses that you have your eye on and you're cautioning your clients to keep their eyes on?

There are so many,

Kimbrell Hines: I feel like clients really have to stay plugged in and to be paying attention. As I mentioned earlier, with sale disputes, horses are getting more expensive. They've never sold for more money. They've never been more expensive to keep the prize money that we're seeing in these competitions. Is higher than it's ever been before so I think collectively we can say that the states are higher. They feel higher and then since 2020 we've had a lot of new people come into the industry a lot more people wanted to be outside. During or after the pandemic also. So it's like Yellowstone became popular.

So everybody wants to be a [00:25:00] cowboy. Everybody wants to do something with horses. And while I love that, I do caution my clients to really be dotting their I's and crossing their T's when it comes to planning their horse related business. And I don't mean just a for profit business, but they're horse related activities.

If you're a horse owner and you're letting someone lease your horse, and horses lease all the time, kind of like a car, you need to be having really thoughtful agreements in place. If you sell a horse versus just selling horses professionally, you still need to have agreements in place. Certain states like Florida do require that horses have a bill of sale when they're sold.

So if I could caution my clients to do anything, it's to start putting more things in writing, get a bill of sale, get lease agreements, consult with an attorney if [00:26:00] needed, but be thoughtful and be proactive before something happens.

Courtney Dunn: In your practice, Kimbrell, do you prepare leases? Do you prepare those documents and then, you know, take care of those transactions up until God forbid there's litigation in any of these areas.

Kimbrell Hines: I do. I prepare a lot of lease agreements, purchase agreements, breeding rights agreements, really anything that you can think of, you know, I said, horses are getting more expensive. So I've seen a lot more requests for joint ownership agreements. I'm seeing more people own horses with either another person or creating separate entities like a syndicate.

So I do prepare all of those agreements. And fortunately, knock on wood, none of the agreements that I've prepared have resulted in litigation because they're so thoughtful. And my clients have already considered worst case scenario.

[00:27:00] What do we need to put in here? So this way there's no miscommunication between my client and someone else.

Cause it's usually not that something Terrible happened and we're going back to the contract and the contract provides one things. Most of the time, these things are just things that you thought couldn't happen. And a lot of people are friends with their horse trainers or their friends with their clients.

And it's always your friends that you never think. Anything could ever occur where you wouldn't be on the same page, but it happens all the time.

Courtney Dunn: I think that's typical of litigation and think, you know, there are so many occasions where who would have bought these, this would end up in court, but it is very interesting to hear about the different ways that horses find themselves at the center of cases like this at the center of agreements.

So thank you so much for explaining that to us.

Kimbrell Hines: You're welcome. Happy to talk all [00:28:00] things horses all the time.

Courtney Dunn: Well, we really appreciate you joining us today. I learned more about equine law in this short time than I've ever known. And we appreciate having you on with us and here at Segal McCambridge.

Carla Varriale-Barker: Of course.

Thanks for having me. Thank you. I really enjoyed learning about your practice and you've sort of motivated me to get back into riding. Do it. That's right. Thank you.

Courtney Dunn: Thanks for joining us here on Tort Center. You can listen to us on Apple Podcasts or Podbean, and for early access, you can follow us there.

Don't forget to rate, review, and subscribe, and we'll see you next month.

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You can find her at a barn or a local horse competition in Florida. Welcome, Kimbrell. It's so nice to get together with you today. Thank you. It's good to be here. Kimbrell, I want to start with just hearing a little bit about what equine law is. Sure. So equine law is kind of a big category. I know that my practice of equine law might look a little bit different than someone else's practice.

Equine law is exactly what it sounds like. So any legal issue, business legal issue, or litigation type issue that [00:32:00] deals with horses or the horse industry is what I would consider to be equine law. I definitely see many things

that don't really relate to horses that sometimes come across my desk, but the heart or substance of what I would consider equine law to be is sale disputes.

So litigation over horses, personal injury type claims where somebody is injured by a horse and then veterinary malpractice. So it's a pretty wide array of torts, contracts, everything in between. Right. It can be a little bit of everything and it's always evolving as the sport is evolving. New challenges create new legal issues and as we've seen in the past years, horses are only getting more expensive so it's becoming more litigious of an industry.

So do you represent horse owners, horse [00:33:00] businesses? Where do you fall in this spectrum? I do represent a lot of horse owners, horse businesses, people who are just equestrians who are competing in Florida. For example, we have really strict laws when it comes to selling horses because horses are such a huge part of the Florida economy.

So sometimes I'm representing people who are buying and selling and competing and using horses professionally, but a lot of my clients are. Horse enthusiasts who want to protect their businesses and their assets. What is a horse business? Like a ranch, somewhere where people keep their horses, what does that include?

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I love that. You know, as someone who specializes in this practice, if you're representing a horse owner or a horse business, what unique considerations are there as opposed to, you know, a non horse. Well, I think the easiest one to think of is somebody getting hurt and 48 states in the U. S. actually have some sort of equine activity statute, which basically says that if you're injured in a horse related activity, the horse owner [00:35:00] Or the person that you're suing, they cannot be held responsible for the activities of the horse because horses are inherently dangerous and they, like any animal can act unpredictably.

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Some of the laws [00:36:00] actually require the participant to sign a waiver in order for you to be protected. Other states require you to post a sign. Some states require both. So it is somewhat based on the assumption of the risk. And it even goes a step further to say that by being around forces, you are assuming the risk.

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Kimbrough, why don't you tell us what national governing bodies you [00:38:00] interact with, stay up to date with in your equine practice? There are several governing bodies that I see clients have challenges with that we will get involved and help our clients in some representation or navigating that particular governing body.

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And at that meeting, The rules committee actually goes in and they decide what rules they're going [00:41:00] to take from what's been proposed. And you can hear the conversation about why somebody is proposing a rule. What are the potential implications like laws? A lot of rules are passed with the best of intentions and then things happen and we determine that we need to reevaluate.

And that's a really fun part of the job is figuring out as this sport evolves. What we need to be doing in order to best protect our horses and riders. The other agencies that we sometimes see are AQHA and SBA. If there's a horse show, there's a governing body for it. So definitely a lot of things for clients to consider, but most people are concentrated on one sort of organization.

I have a question for you that maybe dovetails with what you're talking about now. A few years ago, there was a horse doping scandal. I thought that that was very interesting, because how [00:42:00] does a horse But I know that many years ago, there was a federal prosecution and racehorse trainers, veterinarians, and drug dealers all got caught in a net involving a criminal scheme to dope horses, to push them beyond their limits.

Obviously we're familiar with doping scandals with human beings. What does this look like in the equine world? Well, funny you should ask because I would say that drug related violations are my most common rule violation that I see clients have issues with. Our rules are very strict and there's a lot of them.

And horses are just like normal athletes where they get sore, they get stiff. I mean, they, they are athletes. So. A common rule violation that I see sometimes is the [00:43:00] administration of certain medications that are very normal, but they act like Tylenol. And there are certain time prohibitions on when you can administer these drugs.

While that might not sound that serious, it is technically a rule violation and it can have very, very severe penalties. Some other issues that come up with drugs and doping besides just the timing issue is clients not knowing what could be a prohibited substance. So like you said, for example, they publish what's called a list of commonly prohibited substances commonly.

So a lot of times I hear clients say, Oh my gosh, I had no idea. It's not on the list. Well, if you actually go and look at the rule book, the prohibited substances are not. what it are exclusively on that list. The brand and substances are [00:44:00] incredibly broad and you have to read the description in the rule book and then actually figure out whether your drug meet that description.

There's like five or six different categories of drugs. So drug violations. can be easy to get if you're not incredibly careful about even what you think is a really simple medication, making sure that it is in compliance. Like recently I had somebody administer their horse the equivalent of Zyrtec for some allergies.

Okay, well, that did not make the list of commonly prohibited substances, but it was in fact a prohibited substance. So my job was to figure out, oh my gosh, how did this happen? Did we intentionally give this substance? Why did we do it? Start asking those questions and I do my own investigation to figure out what went wrong and explaining that to USAF or the other administrative body and saying, Hey, [00:45:00] this is what happened.

This is why it happened. This is how we're working to correct it. And hopefully we're going to be granted some sort of leniency when we can show the administrative body that we truly do have the horses welfare at heart and whatever issue that created this rule violation will not be repeated in the future.

What is the standard I think with humans and doping, it's like a strict liability. It is liability without regard for fault or I didn't realize just doesn't work. Is it the same in your practice since you deal with four footed beings, not two footed beings? Yes, it is similar. So I hear some complaints sometimes about USEF and other agencies that people don't have process, like due process, like they can't prove it, sentiments like that.[00:46:00]

And what I often have to explain is you don't get due process with these administrative agencies. You just. Tested positive for a substance. Therefore you tested positive for a substance and you broke a rule. Somewhere in USAF specifically, there are opportunities to contest the potential rule violation.

So what happens first is that they send you a notice and this notice explains, you know, you tested positive for X substance, you know, you have this many days to provide a response. So. There is a strict liability. However, there is an opportunity for explanation. Well, I have a question. It might be silly, but when are the horses drug tested?

Like before an event on a surprise basis, if they're performing too well. Sometimes it's a little bit different for different agencies. Sometimes winners, a [00:47:00] certain classes are drug tested. A lot of these read and drug tests are. Computerized and not all this information is really available to us about how each entity decides who they're going to drug test, but if you're on the showgrounds, any of these places, that entity can drug test your horse.

Well, I did not know that, you know, I just never thought about horses being drug tested, I guess. It almost sounds like an animal welfare issue to me because human beings who dope, by and large, do so voluntarily with full knowledge of what they're doing. This is something that is being passed on to a sentient being without its knowledge or consent, obviously.

that has a physical effect on it. It's deeply disturbing to me. It is very scary and there is a common thread when it comes to [00:48:00] drug violations over the years is that For each and every drug that has been banned or prohibited, there's always a new one. There's always new concoctions. There's new things coming out on the market.

A lot of human drugs are adopted and it is a heavy responsibility for competitors to make sure that they are in compliance and are not inadvertently breaking a drug related rule thinking that they're caring for their horse. And I, I think that that prohibition has been so harsh because of what you said, that we are facing an animal welfare issue because even though in the short term, maybe we're not seeing serious benefits in competition, people will sometimes wonder like, This has such a low effect on my performance.

Why can't I use it? Well, a lot of these [00:49:00] drugs use effort and other agencies are looking at them from the perspective of their long term arm. And that's where some of the consideration is coming from is, is we have to look at the horse's welfare beyond just entering and exiting. What are the long term consequences of this in three years or in 10 years when you've been on the road showing horses and you've given the same medication to your horse for years and years and years, it's kind of like putting a band aid on something and Yeah.

I mean, that's a, that's a good way to look at it. And I think it, when we first started talking about it and the example with Zyrtec, which, you know, maybe a lesser example, I'm like, Oh my God, well, the worst is allergies. Let them have it. But if you think about it in a vacuum like that and the long term effects and potentially over performance would make sense.

Yeah, it's definitely a lot to consider. And in the hunter jumper world and the dressage world a little bit too, that's the bulk of our [00:50:00] USAF related cases. There's two types of performance enhancing. ways you can look at drugging. So the hunters, they are asked to jump fences and jump obstacles in a very calm, collected manner.

And they are being scored on how beautifully they complete a course. So you want your horse to be very relaxed. So None of my clients, but you can imagine

that some people are tempted to use substances that might speed up the relaxation process and kind of create a sense of fatigue to help that horse relax a little bit.

And then on the opposite side, we have the jumpers where they're asked to go as fast as possible. So Not only is there a huge physical component, but there's also the mental component that these horses need to be pretty amped up to not say no when they are approaching fences at a pretty high Speed.

[00:51:00] They need to want to do it. Yeah. Lots of different drugs for different reasons, sometimes to alleviate an issue, but also many prohibitions because if you think about it in that way, a lot of substances could cause some sort of advantage. Who knew? I guess Kimbrell knew. Yeah. Well, it's a little scary to think about, but I think things are improving and that we do have agencies that are very concerned at protecting us and our horses.

How did you get involved in this area? I grew up on a horse lobby farm in Tennessee, so my parents actually moved from Florida to Tennessee when I was about nine, and they were not horse people, so they didn't know any better, and they thought it was a good idea to buy a little farm with three horses as a package.

They bought three horses as a package. [00:52:00] The guy said, I'll give you the third one for free, if you take it, as you can imagine, like, that's probably not the best way to be selecting horses for your nine year old daughter. So we kind of learned everything the hard way, which was a great way to learn. Not didn't always feel that way at the time, but.

I grew up learning how to take care of my horses and I had to learn because it's not like my parents could teach me. So I took care of my own horses and one thing led to another where I couldn't ride the horse that they bought me because he kept throwing me off. So then I had to get some riding lessons and then riding lessons turned into a little 4 H horse show and then that turned into another horse show.

And then I rode in college and my parents are still asking me when I'm going to grow out of it. But they ask with a lot less frequency these days. It sounds to me like there is so much to consider in the equine law world and a lot to stay up [00:53:00] to date on. Are there any current developing areas for horse owners, horse businesses that you have your eye on and you're cautioning your clients to keep their eyes on?

There are so many, I feel like clients really have to stay plugged in and to be paying attention. As I mentioned earlier, with sale disputes, horses are getting more expensive. They've never sold for more money. They've never been more expensive to keep the prize money that we're seeing in these competitions. Is higher than it's ever been before so I think collectively we can say that the states are higher. They feel higher and then since 2020 we've had a lot of new people come into the industry a lot more people wanted to be outside. During or after the pandemic also. So it's like Yellowstone became popular.

So everybody wants to be a cowboy. Everybody wants to do something with horses. And [00:54:00] while I love that, I do caution my clients to really be dotting their I's and crossing their T's when it comes to planning their horse related business. And I don't mean just a for profit business, but they're horse related activities.

If you're a horse owner and you're letting someone lease your horse, and horses lease all the time, kind of like a car, you need to be having really thoughtful agreements in place. If you sell a horse versus just selling horses professionally, you still need to have agreements in place. Certain states like Florida do require that horses have a bill of sale when they're sold.

So if I could caution my clients to do anything, it's to start putting more things in writing, get a bill of sale, get lease agreements, consult with an attorney if needed, but be thoughtful [00:55:00] and be proactive before something happens. In your practice, Kimbrell, do you prepare leases? Do you prepare those documents and then, you know, take care of those transactions up until God forbid there's litigation in any of these areas.

I do. I prepare a lot of lease agreements, purchase agreements, breeding rights agreements, really anything that you can think of, you know, I said, horses are getting more expensive. So I've seen a lot more requests for joint ownership agreements. I'm seeing more people own horses with either another person or creating separate entities like a syndicate.

So I do prepare all of those agreements. And fortunately, knock on wood, none of the agreements that I've prepared have resulted in litigation because they're so thoughtful. And my clients have already considered worst case scenario. What do we need to put in here? So this way there's no [00:56:00] miscommunication between my client and someone else.

Cause it's usually not that something terrible happened and we're going back to the contract and the contract provides one thing. Most of the time, these things

are just things that you thought couldn't happen. And a lot of people are friends with their horse trainers or their friends with their clients.

And it's always your friends that you never think. Anything could ever occur where you wouldn't be on the same page, but it happens all the time. I think that's typical of litigation and think, you know, there are so many occasions where who would have bought these, this would end up in court, but it is very interesting to hear about the different ways that horses find themselves at the center of cases like this at the center of agreements.

So thank you so much for explaining that to us. You're welcome. Happy to talk all things horses all the time. Well, [00:57:00] we really appreciate you joining us today. I learned more about equine law in this short time than I've ever known. And we appreciate having you on with us and here at Segal McCambridge.

Kimbrell Hines: Of course.

Thanks for having me.

Carla Varriale-Barker: Thank you. I really enjoyed learning about your practice and you've sort of motivated me to get back into riding.

Kimbrell Hines: Do it.

Carla Varriale-Barker: That's right. Thank you.

Courtney Dunn: Thanks for joining us here on Tort Center. You can listen to us on Apple Podcasts or Podbean, and for early access, you can follow us there.

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