

When A Gift Horse Is Not

In financially hard times and with the holiday season upon us, it is more common than ever for horse owners to simply give away an animal. But when is a gift horse not a gift? A case out of Washington state can offer some guidance on the question.

A couple in Washington had a passion for horse breeding. Rather than selling the animals they produced, they had a habit of giving them away to “suitable” homes. It was their generous nature that got them embroiled in a lawsuit.

One of the horses they gave away was an 18 month old filly named “Lily.” The breeders made clear that Lily was to receive good care and specified details of the feeding, stabling and maintenance care they expected her to receive. Also, the breeders did not want Lily to be used as a broodmare until she was older. Lily’s new owners were also given three other horses by the breeders, subject to the same conditions. The breeders transferred Lily’s breed registry papers to her new owners so that they could show and breed Lily in the future.

After several months with her new owners, Lily was not faring so well. Her breeders visited her and the other horses, and even took back one of the other horses because they were not satisfied with the care it was receiving. They left Lily with her new owners, but only after getting assurances that Lily’s care would improve.

According to her breeders, things did not get better. They observed Lily’s condition and demeanor deteriorate further. While Lily had been pleasant and easy to handle, she had turned into an aggressive and nervous horse, and had adopted habits indicative of psychological stress and excessive confinement. As a result, the breeders eventually repossessed Lily and took her back to their farm. And then they got sued.

Lily’s “new” owners wanted her back. They claimed that they had bought her from the breeders and that the breeders had wrongfully repossessed her. And not only did they want Lily back, but they wanted her foal back, too (even though they had agreed not to breed her at such a young age, according to the breeders). The breeders refused to return Lily and her foal, and defended the lawsuit arguing that the filly had been a “conditional gift” – conditional on the promise that she would be well and properly cared for. The breeders maintained that they were entitled to retake possession of Lily since her new owners had not taken property care of her, and had intentionally bred her despite her immature age.

The trial court sided with the breeders and held that they were entitled to take Lily back after the new owners had broken their promise to take good care of the filly. The judge placed no stock in the fact that the breeders had signed Lily’s registration papers over to the new owners, and ordered the papers transferred back to the breeders. Although none of the “conditions” set out by the breeders were ever put in writing, the judge was impressed by the fact that the breeders had taken another horse back from the



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other couple, and concluded that this was evidence that the “gift” of the horses was conditional and subject to the breeders’ satisfaction with the care the horses were receiving.

The breeders probably could have avoided the lawsuit if they had put the terms of a gift transfer in writing at the outset.

Whether you are giving a horse away, or accepting a horse as a gift, best practice would be to get a writing signed by both parties (the donor and the donee) that clearly:

- 1- Identifies the animal(s)
- 2- Spells out that the donor is transferring ownership of the animal(s) to the donee
- 3- Whether any breed registry or other papers are included in the transfer
- 4- Whether there are any restrictions on the transfer that might make the gift “conditional”
- 5- Whether there are any restrictions on subsequent transfers by the donee

As a general proposition, once you give a horse away, the new owner is legally presumed to have the freedom to do with the horse whatever s/he wants – meaning the new owner can sell it, give it away, or put it down. So if you are giving away a horse and you have different expectations, then you should get the new owner to agree to your expectations *IN WRITING*.

