



# THE CHATTERBOXER

Celebrating 60 years of commitment to the breed

April 2005

Member, American Boxer Club

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Our next meeting is  
Tuesday, April 5, 2005  
Jennifer Walker's House  
7:00 p.m.

## NEWS YOU CAN USE

### AKC Seeks Support of Fancy to Spread Responsible Dog Ownership Message

The American Kennel Club (AKC) is pleased to announce that the third annual AKC Responsible Dog Ownership Day will be held on Saturday, September 17th (the day the AKC was founded in 1884). The goal of the initiative is to educate first-time dog owners about the responsibilities of dog ownership and help current owners enhance their relationships with their pets.

All AKC-affiliated dog clubs are encouraged to participate by holding public events in their communities anytime during the month of September. All clubs and organizations wishing to hold an AKC RDO Day event are asked to fill out the online response form by August 1, 2005. The first 500 who confirm the details of their event will receive a resource-filled packet including posters, brochures, sample press releases and many more materials that will assist them in putting together an entertaining and informative event. All events will be listed on the AKC web site, searchable by state, beginning on July 1.

On Saturday, September 17th the AKC will hold flagship events in both New York City and Raleigh, North Carolina, where their offices are located. Included will be activities such as AKC Canine Good Citizen tests, Obedience/Agility/Rally demonstrations, ID clinics, breeder referral and rescue information, raffles, games and many more entertaining and educational events.

"Holding an AKC Responsible Dog Ownership Day event is a great way for fanciers to reach out and demonstrate what dogs and the people who love them bring to a community. Hosting an event can help a club raise their visibility with local legislators and news media as well as establish themselves as a resource for the public to learn about training, locating reputable breeders, AKC dog shows and so much more," said AKC spokesperson Gail Miller. "We hope that our clubs will join us and help demonstrate all the ways that the purebred dog fancy positively impacts the public."

To learn more about AKC Responsible Dog Ownership Day, sign-up to hold an event or view photos and information about previous years' events, please visit the AKC website at [www.akc.org/clubs/rdod/index.cfm](http://www.akc.org/clubs/rdod/index.cfm).

## MEMBER BIRTHDAYS

The Michigan Boxer Club would like to send good wishes to the following Club members who are celebrating a birthday in February:

<u>Member Name</u>
Margaret Ashman
Tom DeWolff
Medley Small
Judy DeWolff

<u>Whelped On</u>
April 2
April 2
April 12
April 22

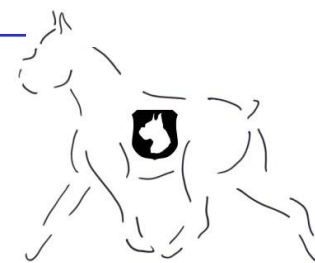


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## CONTEMPLATIONS

*I've given up my column space this month for an important message from Cheryl Robbins regarding the ABCF Memorial Wall.*

~Jen



To breeders and owners of our beloved breed,

Once again it is with a sad heart and an emptiness that I feel inside that I announce that a week ago we lost our Dam of Merit, CH. Bayview Tequila Hi of CherKei, our "Shooter". She would have had her 10th birthday on June 25th. Her autopsy report came back as a ruptured splenic tumor and pathology showed HEMANGIOSARCOMA.

This is Keith's and my 30th year in this beloved breed. Through all those years you learn from experience and from listening to those who have come before us. With our experience with the 7 other Boxers that we had lost to Hemangiosarcoma, this one totally threw us. Shooter was absolutely fine, feeling super, playing with her favorite red jolly ball the day before - the picture of health when we said good night to her that night. When we woke the next morning, we found a very weak dog that could barely stand and her gums were bluish pink. It looked like heart - the bluish color coming from lack of oxygen - I thought. Keith and I rushed her to Auburn University Small Animal Clinic. During the drive I was holding her in the back of the SUV and she died in my arms before we could get there for help. She couldn't be gone...we didn't have a chance to save her...but our Shooter Pooter was gone.

We proceeded to Auburn U. where several Doctors and students were waiting with a cart to rush her inside. We told them there was no hurry, Shooter was gone. I asked our Vet to check her heart first during the autopsy, as I was sure that was it. She called me later that day to tell me that it was a ruptured splenic tumor and that she had bled out internally. They called a few days later to say that it was a Hemangiosarcoma.

My plea to all Boxer breeders and owners is to please, please have autopsies done especially on the dogs or bitches that you use for breeding. We have to know what is killing our dogs. If I had not had it done I would have been convinced it was her heart from the symptoms that she presented to us that morning. I would have been wrong, very wrong.

Some of you may be thinking...almost 10 years old...they have to die from something...but "just about" 10 is not good enough for me. Shooter was not ready to go. She was full of life and by the way, the autopsy on her heart showed that her heart was excellent, no signs of BCM—she was in top condition.

Once again, I say to all of you...PLEASE STEP UP WITH ME AND SHARE WITH EACH OTHER WHAT IS KILLING OUR DOGS. The ABCF Memorial Wall that was started last year was accepted by many of you with open arms and loving hearts. The honesty that came pouring out from many of you breeders and owners was overwhelming to me and to many others. It was old practice to keep our health problems hidden in fear that we would lose a puppy sale or stud fees. So many of you let it be known that those reasons were not as important as sharing the cause of death of your beloved pet.

We see on our Lists so often when someone posts about the wonderful results of their Holter monitor. All of the heart testing is important...but...what about testing for cancer...research hasn't gotten that far, but they are making great advances. We are losing so many of our dogs with GREAT hearts to cancer and DM...WE MUST DO SOMETHING ABOUT THAT!!!!

I CHALLENGE those of you out there that haven't sent a picture and donation to the ABCF Memorial Wall to PLEASE, STEP UP AND BE COUNTED. Let the world see your beautiful dog or bitch that was taken from you much too soon. It is also a wonderful place to put those Boxers that have lived long lives...this too is important to be shared.

Another ABC is just around the corner and since the last ABC there have been many of us that have lost one or more of our special "kids". Please send in their photo with a donation, large or small, to be displayed for the Boxer world to see. Last year, because the idea of a "Wall" came very close to ABC, it was done up in a very hurried manner but I think you will agree, if you saw it, that it still was a beautiful thing to behold. This year, we are asking for those of you who would like to participate in this lasting treasure that will grow from year to year, to PLEASE get your photos and donation in to Sharon Fosseen before April 1st. This year the Memorial Wall will have been re-done as we had envisioned it. This will be an yearly ongoing tribute to the Boxers we have lost and to the new generation of breeders that want to break through the "Wall" of silence that has strangled our breeding programs for years.

Memorialize your Boxer on this permanent Memorial Wall and share with the Boxer world what caused your dogs death and at what age they were when they died. PLEASE!!!!!! Until we are totally honest, how will we know where to channel the donations for research. When you walk up to view the Memorial Wall this ABC, I think you will be surprised how much cancer and DM there really is in our breed.

Please send photos, donation, age at death, & cause of death to:  
**Sharon Fosseen, 44 E. High Drive, Spokane, WA 99203**  
before April 1st.

Do this for the generations to come, do this to honor your Boxers, do this for your Breed. They can't speak but we can stand up and speak for them, that even in their death some good can come. They give us unconditional love every day, this is the least we can do for them. Let's ban together for the love of this wonderful breed, the best breed on earth! STAND UP FOR THEM!!!! Join me again and stand by that Memorial Wall this year at ABC with tears in your eyes but feeling proud that you have broken that old code of "silence" and come forward for your dogs to be honest. Is that asking too much???

God bless you all and may the hole in your heart heal with time as I am sure mine will.....but it will take time. Sleep well Shooter.

*Cheryl Robbins*

# THE CHATTERBOXER

ABC FOUNDATION

## 10th Annual Auction

Tuesday, May 10, 2005

Breed Clubs:

This year is the American Boxer Charitable Foundation 10th Annual Auction. We have grown every year and this year we want to be our **biggest and best ever!** We have had broad support and our Breed Club support has been growing every year. **Ohio Boxer Club** (that wonderful basket overflowing with dog toys) and **The Boxer Rescue Foundation** have been strong Auction supporters for years! Last year the **Pacific Northwest Boxer Club** donated a wonderfully unique handmade Boxer quilt! We also received great items from the **Greater Ohio Boxer Club, Greater Ohio Boxer Rescue, Midwest Boxer Club** and the **Midland Boxer Club** in England. We are asking that **your** Club join this happy band of donors. It's a great way for your Club to participate in the effort to address the health issues facing our breed!

If you can't participate as a Club...ask your members to participate as individuals. Every item donated helps!

### HELP US HELP OUR BOXERS!

You don't need to be a member of ABCF to donate or to attend. You only need the desire to help our breed. If you can donate items for our Auction, please fill out a Donor Form. If you can't go to the Drawbridge this year but want to donate, and don't know anyone who is going, send your items to:

**Tina Truesdale 455 Central Avenue Seekonk, MA 02771**

If you are going to be at the Drawbridge but the dinner isn't your "thing", please feel free to come by the Auction at about 8 pm. We will again have the very popular "**Bidders Only**" tables and all you have to do is in, get your bidding number and start bidding! Everyone is welcome!

For more information call Sharon Fosseen  
**(509) 747-1406 Fax (509) 747-1406 [abcf@mindspring.com](mailto:abcf@mindspring.com)**

**American Boxer Charitable Foundation, Inc.  
Auction 2005 Tuesday, May 10, 2005  
Donor Form**

\_\_\_\_\_  
Donor name as you would like it listed in publications

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Phone

\_\_\_\_\_  
E-mail

Description of item(s) donated

Estimated Value

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Any additional information needed:

\_\_\_\_\_  
\_\_\_\_\_

Please estimate the value of your items as best you can and return this form with your donation. You will receive a receipt after the Auction.

**Thank you for "giving back" to your breed...**

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## BOXER SHORTS

Submitted by Genine DeMaso, Debut Boxers

### DOG SHOW TERMS EXPLAINED

**Angulation:** Degree to which dog handlers will bend over backwards to impress judges.

**Balance:** (a) How to juggle the checkbook so your husband won't know how much money you spent on dog shows last month. Usually done in the bathroom with the door locked; (b) Ability to hold coffee, danish, leash, treats and entry form all at once.

**Bitch:** (a) Name for a lady dog; (b) Name often heard at dog shows, not always to describe a lady dog.

**Blind Retrieve:** When you can't see the toy under the furniture.

**CGC:** Canine Gastrointestinal Catastrophe.....aka GAS!!

**Coat:** The hairy covering of a dog that usually falls out about one week before the Specialty show.

**Crabbing:** What you do when the judge doesn't like way your dog moves.

**Dam:** (a) lady dog with children; (b) expression frequently overheard at dog shows as losers leave the ring.

**Distemper:** Shown by those hot-headed competitors.

**Dog:** To chase a judge from show to show in an effort to attain more breed wins.

**Double Blind:** Finding two toys under the furniture.

**Elbow:** Method of getting to ringside when late.

**Expression:** "Sweet" look adopted by dogs while staring ravenously at chunks of liver.

**Fancier:** Degree to which some gentlemen handlers dress more than others.

**Feathering:** What winners are accused of doing to judges' nests.

**FlyBall:** Neutering.

**Force Fetch:** Dog drops the toy under furniture, scratches at the carpet until you're forced to "fetch" it.

**Front Part:** Part of the dog often stacked toward the outside of the ring.

**Guard Hair:** An activity in which one watches intently as the dog's hair falls out, in clumps, just after entries are mailed.

**Heel:** (a) what you feel like when your dog beats the one you had just sold to an eager novice; (b) expression often screamed to attract the attention of deaf dogs.

**Height:** As in "Maximum Allowed".....a measurement which all champions fall under by AT LEAST 1/8 of an inch.

**Hock:** A way of financing your dog shows by the use of jewelry such as wedding rings.

**Kennel:** Where you go when the kids fight and your husband yells at you.

**Litter:** Trash left all over the building and parking lot after a dog show.

**Mask:** What to wear when you have to show the pet you sold six months ago.

**Multi-Generational Pedigree:** Something you should have read first.

**Muzzle:** What to put on your kids at a dog show to prevent them from calling your competition what they overheard you call him last night.

**Noseprints:** Cute marks left all over your French doors.

**Outcrossing:** What your husband tells the minister you are doing out in the kennel with the dog and the bitch.

**Overshot:** Running so fast that you pass the 1st place ring marker and plow into the judge and the stewards.

**Pedigree:** Dog food with lots of great coupons.

**Points:** Minute, invisible awards for winning which you cannot convince your spouse are more important than cash prizes.

**Puppies:** Small, dog like food-processing machines with the ability to stink up an entire house and collectively deafen a band of magpies. These creatures have not yet been perfected, as they come with leaky systems, and can also be dangerous to weak hearts and bank accounts.

**Qualifying Score:** Justifying the 170.5 you got in obedience today.

**Ribbons:** What you want to cut the other exhibitors into, after their pet wins.

**Specialty:** Whatever your dog is good at, like bringing home dead cats or chewing on walls.

**Type:** What your dog has.....if you turn down the lights and squint a little.

**Utility:** The kind of vehicle you need to haul around your dogs.



## Contracts for the Sale of the Purebred Dog

by Brian T. Hodges, Esq.

*This article is being reprinted with the permission of the author. It will be presented in parts over the next few months.*

### SECTION II

#### BUYER'S OBLIGATIONS

The breeder may wish to oblige the buyer to take additional measures concerning the care of the dog, showing the dog, etc. If so, the additional terms should be written in a section of the contract dealing with the buyer's continuing responsibilities.

This section should explain the obligations that the buyer promises to fulfill, beginning with a general introduction section encompassing all basic care requirements.

While provisions concerning general training and care are probably the least enforceable terms of the entire dog contract, such provisions are nonetheless valuable. The language itself impresses on the buyer the importance of owner control and responsibility for the dog. And such provisions may serve to assist in protecting the seller against future claims of destruction or damage caused by the animal, absent some evidence of prior knowledge of the dog's propensities. An example of this is a clause wherein the buyer agrees to not to use aggression training with the dog.

The buyer's basic obligations for training and care may include any combination of the following non-exhaustive list:

- The dog shall be maintained and kept under buyer's control at all times;
- Not allowed to run at large (with possible exception of under direct supervision and control of owner);
- Provided a secure enclosure (if desired, you can add specific acceptable materials, height, and need to secure against escape both under and over the enclosure);
- Required veterinary care;
- General requirements – all encompassing provisions that are the minimum for maintaining the health and well-being of the dog (adequate food, water, and shelter from the elements, for example);
- "Including but not limited to ..." any specific examples that are particularly important to your contract, whether because of specific breed concerns, or purpose-specific requirements needed to maintain the dog in necessary health and condition;
- Any specific requirements for ongoing prophylactic treatment.

*EXAMPLE: The buyer agrees to provide the dog with proper exercise, diet, shelter and general care; properly maintain adequate accommodations for a Newfoundland considering its size and weight. The buyer further agrees to provide regular veterinary care including checkups, booster vaccinations, microchip and any other care needed by the dog, (e.g. regular worming, illnesses, injuries, etc).*

Because the importance of a "training and care" provision is mostly informative – not its enforceability – it is good practice to explain why the buyer is agreeing to do (or not do) certain things.

*EXAMPLE: There are many factors that can influence growth and development of a giant breed dog, such as diet, exercise, weight gain, proper veterinary care, etc. The buyer agrees to complete the appropriate vaccinations, give the dog regular and appropriate exercise, and feed the dog according to the information provided by the seller. The buyer additionally agrees to provide a suitable fenced area for this dog.*

It is not uncommon to see contracts require vaccine requirements, regular dental treatments, and other preventative treatments such as flea/tick or heartworm.

*EXAMPLE: The buyer agrees to maintain the dog in a humane environment and properly train and care for it. The buyer agrees to license the dog, inoculate the dog against rabies, distemper, parvovirus, and other communicable diseases as recommended by a qualified veterinarian. The buyer agrees that the dog will not be allowed to roam and will be socialized and obedience trained appropriately.*

However, considering the ongoing developments in the veterinary industry and increasing questions regarding over-treatment causing negative health ramifications – especially as pertains to vaccinations – it might be wise to require such measures "as appropriate" for the dog's age, condition, local area, and relative risk of exposure dependent upon the dog's activities. This necessarily introduces a subjective element in the requirement, but is arguably also more reasonable. It may be wise to suggest "appropriate" measures rather than some specific schedule that is easily breached, and that could actually prove to be unhealthy in some future study – especially considering the questionable enforceability of such a clause anyway (absent some direct interest in the animal giving rise to an 'interest' in the animal's ongoing health, such as a co-ownership).

In addition, the seller may choose to include restrictions on participation in activities that are contrary to the breeder's general program, and/or to the general population of that breed or type of dog.

*EXAMPLE: Because Newfoundland dogs continue to grow beyond two (2) years of age, the Buyer agrees to use extreme care to ensure that a dog under two (2) years of age should not be allowed to jump from any height without assistance. Any such activity may cause permanent and irreversible damage to growing joints.*

#### OTHER REQUIREMENTS

There may be several requirements that the breeder wants the buyer must fulfill with respect to general "paperwork" regarding the dog. You may want to include in your contract some language emphasizing that these seemingly mundane issues have a distinct value to the seller, particularly with respect to building the reputation and measuring the worth of their breeding program. This

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adds value not only to the judge or lawyer who might later be called to interpret the contract, but also acknowledges the buyer's understanding of the non-tangible values involved in breeding a pedigreed dog.

These "paperwork" requirements may include obligations for the buyer to:

- Use the kennel's name as first name of the official registry name;
- Notify seller of any change in contact information;
- Submit applicable registration materials (including any specific requirements particular to that breed);
- Submit applicable materials to microchip (and/or tattoo and/or other permanent identification registry);
- List the kennel as a secondary contact on any such registry;
- Notify seller of any pertinent accomplishments of the dog – titles, awards of merit, or other accomplishments recognized by any appropriate organization.
- Release agreement – allowing seller to use the dog's name, picture, and/or other information in advertising the kennel or other dogs, providing that seller shall give buyer proper recognition of ownership where appropriate.

#### FUTURE TRANSFER OF OWNERSHIP OF DOG

In interpreting the parties' property interests after a contract, courts prefer that the buyer receive the entire property interest in the animal. Because ownership of property grants the owner the exclusive right to possess, use, and dispose of the property, a clause that prohibits a buyer from reselling the dog may be ruled unenforceable. Therefore, it is incumbent on the drafter to explicitly set forth the reasons for a no resale clause, retain an interest in the dog, include a first option on any resale, or have a resale trigger some damages provision.

This is an extremely important section that addresses the respective rights to the dog should the original purchaser decide to sell or place the dog. This is also one of the most sensitive aspects of the contract – subtle drafting can drastically affect whether the clause will be enforceable or not. In general, you want to make a "take-back" provision as fair and as clear as possible, with a definitive scheme for when and how the dog is to be returned, the measurement of any value for the dog, and limitations on what the seller will be responsible for.

While such covenants are not generally favored by law, it is important to never underestimate the "non-legal" value of such clauses – it can often be just as important to the seller, if not more so, that the buyer unambiguously understands that the seller WANTS the dog back if things do not work out. Simply having the option in writing can often mean a successful, voluntary return of the abandoned dog, aside from any questions regarding the legal enforceability of the clause itself. This is important to any good breeder, as they want to help ensure that their dogs will not end up in shelters, abusive or neglectful homes, puppy mills, or other unacceptable situations if the first placement falls through. The seller often also has a keen interest in controlling the destination of any intact breeding dogs.

These "future transfer" requirements may include obligations for the buyer to:

- Notify Seller of intention to sell or give away the dog;
- in writing;
- in a time frame (i.e., "a minimum of two weeks before ...");
- Provide seller with an absolute first right of refusal (It is important to include language that a refusal must be reasonable, as it helps the chance of such a right being upheld if later challenged in court.)

*EXAMPLE: In the event the buyer is unable to keep the dog for any reason, the buyer agrees to immediately contact the seller. The buyer agrees that the seller has the first option to either: (a) take the dog back or (b) assist the buyer in finding a suitable home for the dog.*

*EXAMPLE: The parties understand that the Breeder retains an interest in all dogs bearing his/her Kennel name, and that an unauthorized resale of the dog may adversely affect and damage the Kennel's reputation and the value of the kennel's dogs. Because of the foregoing, the parties agree that the Buyer will not resell the dog without prior approval of the Seller. The parties further agree that, in the event that the Buyer is unable to keep the dog for any reason, he/she will immediately contact the Seller, who has the first option to accept the return of the dog. The Seller will make a reasonable offer based the breeder's reasonable assessment of factors that may affect the dog's value, such as age, condition, and general health. In the event that the Buyer sells the dog without the Seller' prior consent, the Seller may seek damages in the value of the dog and consequential damages to the Kennel.*

If you include a "take back" clause, you want to outline what happens if the seller exercises their option to take the dog back. You will want to specifically state that transfer will be complete, including:

- Transfer of ownership under all applicable registries;
- Provide current copy of veterinary records to date;
- If desired, provide a payment/reimbursement scale.

You may also choose to include the following provisions:

- Note that provision is not meant to interfere with the buyer's or seller's rights as may otherwise be provided under the contract, unless otherwise agreed upon in writing;
- Provide that all past expenses and liabilities are the sole responsibility of the buyer, other than as may otherwise be provided by the Agreement;

Specifying these terms in the contract helps to clarify and limit the allowable financial compensation for a returned dog before any trouble occurs and emotions begin to run high. At the very least, the contract should specify that any financial reimbursement is subject to the breeder's reasonable assessment of factors that may affect the dog's value, such as age, condition, and general health.

## Contracts for the Sale of the Purebred Dog, Continued

One method to determine financial reimbursement is a declining scale of value, which reduces the maximum total percentage of purchase price (subject to the current health and condition of the dog) that the buyer can expect, graduated upon declining scale as the dog gets older. The exact age scale depends largely on the breed's maturity rate, and the seller's personal desires. For large breeds, the typical maximum age where the buyer can expect any kind of financial reimbursement is two years, more commonly eighteen months.

If there is any remaining payments or services per an extended sales agreement, the contract should specify how those unpaid benefits will be allocated if the dog is returned before the contractual payment terms are met in full.

You also want to include information about what will happen if the seller does not exercise their option to take back the dog, including any of the following:

- At seller's discretion, seller may require notice in writing as to whom the dog is to be adopted (Including current contact information for the potential adopter);
  - Indicate minimum time frame during which buyer must provide contact information (i.e., at least two weeks before the dog is transferred to the new owners).
- Buyer acknowledges seller's right to approve of any sale or transfer:
  - Not to be unreasonable withheld.
- Stipulate that the present contract will apply with full force and effect to the new owners:
  - Require the buyer to provide a written copy of the contract to the new adopters;
  - Require the buyer to notify the third party of the contract's terms and conditions;
  - Require the buyer to notify the third party that by adopting the dog, they are assuming terms and conditions of the contract;
  - Require the buyer to incorporate the contract into any agreement, preferably written, between the buyer and third party.

### HEALTH GUARANTEE OBLIGATIONS

This section is extremely important, and a critical area in which the drafter should take care to put the contractual conditions in the clearest terms possible.

A competent health guarantee clause, both on the seller's and buyer's side, should take into consideration breed-specific diseases, tests, and acceptable practices. The options for handling health issues that may crop up are very personal, and require careful thought on the part of all parties to the agreement.

You may choose to obligate the buyer to do certain things in order for any health guarantee to be valid:

- A preliminary veterinary examination:
  - Specify time frame within which exam must occur;
  - Meeting this condition is a pre-requisite for preserving the buyer's rights under the health guarantee provisions within the contract;
  - If desired, specify the documentation or method(s) of documentation or communication the seller requires regarding the veterinarian's findings.
- Specify any necessary testing to uphold specific health guarantees, as appropriate to breed, function and/or type of dog (e.g. OFA, PennHip, etc.);
- Include, if applicable, requisite time frame for test to be performed;
- Specify whether the x-rays are to be submitted to seller or directly to the recognized organization that will certify the results; and require that any results be conveyed to seller. If test results are to be sent to seller, specify who will in turn then submit them for certification, refer here to Seller's Warranties and Guarantees.
- Clearly state that failure to comply with these provisions will void any guarantees as to that condition.

*EXAMPLE: Buyer's obligations that may arise concerning a health guarantee regarding hip dysplasia:*

- Have dog's hips x-rayed, at buyer's expense, by veterinarian who is board-certified, or otherwise demonstrably qualified to performing x-rays for this specific purpose;
- Specify the age range in which test must occur (most organizations require that the dog be at least 2 years old before they will certify the dog – and the seller likely will desire a cap on how long the buyer can wait before performing the test. A common range is between 2 and 3 years.);
- Specify where x-rays are to be sent (whether to seller, or directly to OFA or PennHip).

### GENERAL TRAINING AND SOCIALIZATION

This section will outline the Buyer's responsibility in training and socializing the dog as appropriate for its breed and lifestyle. While such a clause is quite susceptible to legal challenge, the terms in this section of the contract can prove to be a powerful tool in demonstrating that the owner bears significant responsibility in the ultimate temperament and reliability – and thus safety – of that individual dog.

In these days of increasing awareness of liabilities arising out of dog bites or attacks, these clauses may help protect the seller from damage caused by an untrained, unsocialized, or otherwise inappropriately managed dog (including lack of restraint and training of a dog using inappropriate aggression/attack methods), causes that do not flow from the seller's responsibility in breeding dogs of sound, stable temperaments.

In addition, such clauses serve to help educate the buyer in what methods the seller considers appropriate and necessary training.

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This not only helps to show that the seller did indeed attempt to educate the buyer – it also puts that education in writing, hopefully helping the buyer to shape a reliable canine citizen.

With Newfoundland dogs, it is important to include language indicating that the Buyer recognizes that they are adopting a large and powerful breed, that they are familiar with the breed's traits, that they bear responsibility for the training and socialization of that dog, and responsibility for the safety of the dog and others with whom the dog interacts. (However, be careful not to word this caution to state that the breeder has produced what they know to be an inherently dangerous animal, or a dog with poor temperament).

The "training" provision should state that all expenses incurred in caring for, raising and/or training the dog – even those obligations imposed by the contract – are to be the sole responsibility of the buyer, unless otherwise explicitly provided by the contract. The provision should contain some language indicating the following:

- The buyer recognizes general characteristics of the breed, especially if it's a large and/or guarding breed;
- The buyer accepts the risks and responsibilities of owning the dog;
- And the buyer acknowledges that he/she has sole responsibility for ongoing, life-time socialization and training for the dog as appropriate for its age and level.
- The buyer may be more specifically obligated to:
- Obedience train and socialize the dog as appropriate:
  - The contract may require specific classes, such as puppy kindergarten and/or a basic obedience course and/or Canine Good Citizen, etc.;
  - The contract may also require that the classes occur during a particular time period when training is believed to be ideal for that level (i.e., puppy kindergarten between 3 and 6 months of age; basic obedience begin before the dog reaches 7 to 9 months of age);
  - If desired, may specify minimum class hours each class must entail.
- Provide the seller with some kind of proof of fulfilling the training requirements:
  - State what will constitute acceptable proof;
  - And state time period in which Buyer must provide this proof.

As further encouragement to fulfill the "training" obligations, many contracts offer reimbursement of a modest portion of the original purchase price if the buyer complies in full with these requirements (such as obtain a CGC certificate) – not only does this provide incentive, but the Seller can increase their purchase prices accordingly.

#### **BREEDING AND/OR PERFORMANCE OBLIGATIONS**

If the dog is a breeding or performance prospect, the buyer may bear extra responsibilities. These issues are very individual, and depend on the nature of the particular arrangement unique to any given situation. The following below is an idea of what might be included – any specific requirements or expectations, including

who will pay for which expenses, should be laid out as specifically as possible. Quite simply, this is an area where confusion about respective responsibilities is perhaps one of the more common sources of later dissension between the parties. Any of the following provisions may help to clarify the parties positions:

- The buyer accepts responsibility for training, grooming and socializing the dog as necessary to prepare the dog for this specific purpose;
- The buyer agrees to attempt to title the dog (such as a conformation Championship, performance titles, breed titles, etc.);
- The buyer agrees that they are 100% responsible for any expense incurred in achieving these goals;
- The buyer acknowledges that seller has guaranteed only that the dog has the basic physical characteristics necessary to achieve the desired goal, and that the seller cannot guarantee that the dog actually will achieve this goal.
- The guaranty of so-called "show-quality" does not extend to guaranteeing that the dog is of breeding quality, or that the dog will suit the buyer's breeding needs.
- Unless the seller wishes to make this kind of promise, the contract should specifically state that the quality guarantee does not guarantee that the dog will even be able to breed (due to some physical infertility or other impediment).
- In the context of show dogs, the buyer agrees to not alter (spay or neuter) the dog until after it has achieved its title, unless otherwise waived in writing by the seller, or unless in response to a life-threatening situation (as documented by veterinary records).

The following conditions are often required in order to ensure the integrity of the seller's reputation as a breeder, as well as the breed as a whole. While their enforceability is uncertain, they are considered reasonable and standard requirements within the fancy, and therefore have some inherent value.

- The buyer agrees to not use the dog for contributing to puppy mills, commercial breeding facilities, or other practices considered detrimental to the health of the individual and of the breed;
- The buyer agrees that the dog shall not be bred until it has achieved the appropriate title (whether a working or conformation title, or both);
- The buyer agrees that the dog shall not be bred except to another dog of the same breed;
- the buyer agrees that the dog will not be bred unless the other dog has also passed its health clearances, as required of the subject dog in the contract.

#### **NO BREEDING OBLIGATION**

Because the general practice with purebred dogs is to spay or neuter pet quality dogs well after the seller releases the dogs at 8-10 weeks old, a no breeding clause is essential to protect the kennel's name and reputation, not to mention the health of the breed. But, as discussed above, courts do not like contracts that give the buyer less than a whole interest in the "thing" purchased. Therefore, the no breeding clause should explain why the parties have

## Contracts for the Sale of the Purebred Dog, Continued

agreed to this clause. One way to achieve this is to write into the contract the price difference between a puppy sold with the intention to breed (say \$2,000) and a puppy sold as a pet without the intent to breed (\$1,000). This will clearly establish to anyone reading the contract that there is a great difference in value between the two types.

*EXAMPLE: The buyer agrees that the dog is sold as a companion dog and must be spayed or neutered when it reaches maturity, before twelve months of age. The seller will rebate [\$] to the purchaser, one third of the purchase price, upon receipt of a certificate of spay or neuter from a qualified veterinarian, provided that the dog has not previously been used for breeding.*

If you wish to leave the option open to convert the pet dog animal contract into a show or breeding dog, you can add a provision stating so much.

*EXAMPLE: If requested by the buyer, the seller shall have the prerogative to re-evaluate the dog for [show quality/breeding purposes]. In the event that the dog is considered [show/breeding] quality, the parties will execute new agreement and the buyer will pay the difference between a show quality dog and a pet quality dog.*

### BREACH OF AGREEMENT

Finally, you want to provide a clause which describes the buyer's and seller's respective rights if the buyer breaches the contract in any way. Elements of this clause can include:

- The buyer must forfeit the dog to seller;
- The buyer relinquishes any remedies that would have otherwise been provided by the contract;
- A liquidated damages clause;
- Attorney's fee provision;
- The buyer remains solely responsible for any expenses incurred prior to breach, including expenses incurred for care, training, etc.

*EXAMPLE: In the event of breach of this agreement, buyer agrees to pay all expenses of retaking, holding, preparing for sale, selling, and expenses as may be allowed by law and incurred by the seller in enforcing his or her rights under this security agreement. The rights and remedies conveyed upon the seller will be in addition to and not in substitution of or in derogation of the rights and remedies conferred by the laws of the State of Washington.*

For a liquidated damages provision to be enforceable, the liquidated sum must be a reasonable pre-estimate of loss at the time of the execution of the agreement. In short, if the seller wants to put a specific amount of damages into the contract (\$5000), the contract should explain why that amount is reasonable. A figure simply drawn out of the air may not be enforceable. Therefore, as in the "No Resale" clause, the liquidated damages clause should explain why the parties have agreed that a sum certain would resolve any dispute arising from a breach of the agreement.

*EXAMPLE: The parties understand that, in addition to costs relating to the health, welfare, and safety of the dog, the damages that may arise from a breach of this agreement may adversely affect the reputation and value of the Kennel's dogs. The parties agree that any material breach of this agreement ... \$5,000.*

One consideration when drafting a liquidated damages provision is where you want to enforce the provision, if needed. Do you want to keep your claims in small claims court? If so, the current jurisdictional limit on small claims awards in Washington State is \$4,000. A liquidated damages provision providing for \$5,000 may be brought in small claims court, but the court may only award \$4,000. On the other hand, if the liquidated damages provision is for \$10,000, the seller may wish to bring the case in district or superior court. In that case, the parties will need to retain attorneys, and be prepared for a long legal battle. (In King County the current wait between the filing of a complaint and trial is about 18 months).

Even if the seller does not want to enforce damages provisions against breaching buyers, a liquidated damages provision can be used as a good negotiating tool. The ability to seek \$5,000 from a buyer who wants to establish a back yard breeding program with the dog that you sold to him as "pet quality" may provide the impetus for the buyer to surrender the dog and not engage in those practices.

### About the Author

Brian T. Hodges is a graduate of the University of Washington (B.A., M.A.) and Seattle University School of Law (JD). He is a judicial clerk at Division one of the Washington State Court of Appeals, and has written extensively on environmental and natural resources law.

Brian is one of the early members of the Washington State Bar's Animal Law Section, where he focuses on contract and zoning issues affecting ownership and use of companion dogs. He also specializes in service dog law. Brian is a Newfoundland dog fancier, and shares his life (and sofa) with his two Newfies, Winnie (Winnifred McCracken Droolittle) and Maggie (Highlandlass DeS-neeuwwachter). His e-mail address is [bthodges@earthlink.net](mailto:bthodges@earthlink.net)

**Coming next month....."Seller's Obligations"**



April 2005

## EDUCATIONAL PROGRAMS

### April 2005—Introduction to the Energetic Dog

by Erin Kelly, EKG, Ltd., Holistic Behavior and Performance Consulting

Synopsis: 1½ hour introductory demonstration session to using subtle body language communication techniques for dogs; Boxers in particular. This demonstration includes:

- The use of Flower Essences, Fear Ease, Storm Ease, Stress Ease, Trauma Ease or Excite Ease
- Canine body language '101' to change the dog's behavior of:
  - Jumping up on owner/guests
  - Constant over-vigilance (hyper-alert)
  - Separation anxiety
  - Aggression
  - Expressing high levels of tension (barking, whining, etc.)
- Introduce the participant to the many possibilities of what energetics are and how they can enhance their own lives and the lives of our beloved animal friends; specifically canine body language, canine massage, flower essences and EFT.
- Demonstrate on up to 4 dogs the techniques I use.
- Answer questions as necessary.

#### PERSONAL BACKGROUND OF ERIN KELLY

When Erin Kelly chose to investigate alternative medical treatment possibilities for herself for a chronic serious illness, she had been in the emergency medical field for almost 19 years; much of it on the road as a medic. Beginning with homeopathics and flower essences (Bach and Living Essences of Australia) 13 years ago and moving to Canine Massage and EFT (tapping on acupressure points for relief of mental and emotional stressors) a new world opened that gave her a way to safely work with all mammals and plants in concert with existing systems. Having learned to train dogs from her uncle who owned a successful kennel of working dogs, she applied what she had learned in energetic medicine to the work of calming dogs. Adding her own interpretation of a system of translation of canine-human body language, she continued to develop her own set of techniques until she could reproduce positive results over 75% of the time. It worked so well that she started her own business 3½ years ago, focusing on the most difficult animals at first and then moving to performance animals in the last 1½ years. She now teaches these communication techniques, as well as flower essences and E-Tap in seminars to those interested in enhancing their relationships with the animals.

## FUN FINDS

### Heave-A-Beaver

"This long-lasting Toughie Ring Toss will fly far through the air, and when chewed upon will outlast other toys, since it is made of extra-durable canvas and heavy duty rope. The canvas material is reinforced with triple stitched seams. You can hurl it, chuck it, play tug with it and we are sure it will give you some great laughs too!"

The Heave-A-Beaver was a present from my mom to the dogs this past Christmas. It has held up surprisingly well—Patsy did finally get the rope separated on one 'handle', but the canvas is still intact. That might be due to the fact that the Beaver does not have a squeaker in his belly, though. The Beaver is not as widely popular as the Cuz toys, but Patsy loves its, Linus plays with it sometimes, and our Boxer guest for the week, Major Taylor, has been having a grand old time with it!

This toy is also available in Chuck-A-Duck and Hurl-A-Squirrel characters, in two sizes. PetsMart carries them, as do some specialty pet stores and online retailers.



The Boxers at Newcastle give the Heave-A-Beaver:

**ONE AND 1/2 PAWS UP!**



Spring is just around the corner, and gardening projects will be underway soon—which means that it is time for the annual warning about a common gardening product, **Cocoa Mulch**, which is sold by Home Depot and other garden supply stores and contains a lethal ingredient called "theobromine".

It is lethal to dogs and cats. It smells like chocolate and it really attracts dogs. They will ingest this stuff and die. Several deaths already occurred. Just a word of caution - check what you are using in your gardens and be aware of what your gardeners are using in your gardens.

Theobromine is the ingredient that is used to make all chocolate - especially dark or baker's chocolate - which is toxic to dogs.

Cocoa bean shells contain potentially toxic quantities of theobromine, a xanthine compound similar in effects to caffeine and theophylline. A dog that ingested a lethal quantity of garden mulch made from cacao bean shells developed severe convulsions and died 17 hours later. Analysis of the stomach contents and the ingested cacao bean shells revealed the presence of lethal amounts of theobromine.

According to the ASPCA:

Cocoa beans contain the stimulants caffeine and theobromine. Dogs are highly sensitive to these chemicals, called methylxanthines. In dogs, low doses of methylxanthine can cause mild gastrointestinal upset (vomiting, diarrhea, and/or abdominal pain); higher doses can cause rapid heart rate, muscle tremors, seizures, and death.

Eaten by a 50-pound dog, about 2 ounces of cocoa bean mulch may cause gastrointestinal upset; about 4.5 ounces, increased heart rate; about 5.3 ounces, seizures; and over 9 ounces, death. (In contrast, a 50-pound dog can eat up to about 7.5 ounces of milk chocolate without gastrointestinal upset and up to about a pound of milk chocolate without increased heart rate.) According to tables we've examined, cocoa mulch contains 300-1200 mg. of theobromine per ounce, making cocoa mulch one of the strongest concentrations of theobromine your pet will encounter in any chocolate product. Yet the question of the gravity of the risk presented by this type of gardening mulch remains a matter of debate. According to Hershey's, "It is true that studies have shown that 50% of the dogs that eat Cocoa Mulch can suffer physical harm to a variety of degrees (depending on each individual dog). However, 98% of all dogs won't eat it."

Rather than gamble their dogs won't be attracted to the mulch, responsible pet owners will probably prefer to choose another form of soil enhancement for their gardens.

The danger of canine theobromine poisoning does not begin and end with cocoa mulch - chocolate in any form poses substantial risks. This most beloved of foodstuffs contains theobromine and small amounts of caffeine, both of which can sicken and even kill cats and dogs.

Chocolate's toxicity to animals is directly related to three factors: the type of chocolate, the size of the animal, and the amount of chocolate ingested. Unsweetened baking chocolate presents the greatest danger to pets because it contains the highest amount of theobromine, approximately 390-450 mg. per ounce. White chocolate contains the least. As a general rule of thumb, one ounce of milk chocolate per pound of body weight can be lethal for dogs and cats. (Milk chocolate contains approximately 44-66 mg of theobromine per ounce.)

Theobromine affects the heart, central nervous system, and kidneys, causing nausea and vomiting, restlessness, diarrhea, muscle tremors, and increased urination. Cardiac arrhythmia and seizures are symptoms of more advanced poisoning. Other than induced vomiting, vets have no treatment or antidote for theobromine poisoning. Death can occur in 12 to 24 hours.

This type of poisoning is uncommon because it is rare that a dog, even a small dog, will eat enough chocolate to cause anything more than an upset stomach. Yet it can happen, especially if the animal gets into baking chocolate or powdered cocoa, two forms of the sweet particularly loaded with theobromine.

Do not feed chocolate to dogs or cats. If you keep a pet, do not leave chocolate lying about lest your critter help himself to it and in so doing poison himself. If your animal begins exhibiting signs of distress and you believe he might have gotten into some chocolate, call your veterinarian immediately. (It will help if you can supply information about the approximate weight of your critter, what sort of chocolate was ingested - white, milk, dark, cocoa powder, baking - and roughly how much.) But time is of the essence if such a poisoning has indeed taken place, so make the call right away.

April 2005

## DOGS ON THE AIR

### Showdog Moms & Dads

Premieres Wednesday, March 30  
10:00 p.m. on Bravo



Bravo turns its behind-the-scenes eye on the competitive, quirky world of show dogs in the new, original docu-series Showdog Moms & Dads, a follow-up to last year's engrossing hit series Showbiz Moms & Dads.

For millions of dog owners nationwide, competing in dog shows is a labor of love... love of a particular dog, love of building a better breed and love of beating the competition. "Showdog Moms & Dads" reveals the struggles, the sacrifices, the thrills of victory and disappointment of defeat the owners and their dogs face each weekend as they compete in shows across the country. With dogged determination, owners juggle careers, family and bank accounts to see their pooch crowned top dog.

## SHOW WINS

### Royal Palms Smarty Pants—"Smarty"

**Owners:** Alan & Joanna Dorfman, Boca Boxers  
Jack & Gloria Bower, Royal Palms Boxers

**Breeders:** Jack & Gloria Bower

**Handler:** Guy Fisher, Murbe Boxers

Am/Can Ch. Karizma Backatcha Touchstone  
x Royal Palms Gucci Gucci

### Reserve Winners Bitch to 5 point Major, Best Puppy

Greater St. Louis Boxer Club—3/5/05  
Judge—Mrs. Joan Johnson

### Winners Bitch—1 point

Detroit Kennel Club—3/19/05  
Judge—Mr. John Connolly

### Winners Bitch, Best of Winners—3 point Major

Dubuque Kennel Club j— 3/27/05  
Judge—Dr. Robert J Berndt

### Randolph's Beau Jangles—"Jag"

**Owners:** Cindy Walunas, CR Boxers & Liz Bistline

**Breeder:** Virginia Johnson, Cameliard Boxers

**Handler:** Genine DeMaso, Debut Boxers

By Am/Can Ch. BJay's Traveling Man x  
Am/Can Ch. Cameliard's Color Me Gone

### Best Junior, Best in Sweepstakes

Greater St. Louis Boxer Club—3/4/05  
Judge—Mrs. Gloria Bower

**Please Mail, Fax or E-Mail Show Wins and  
Litter Announcements to:**

**Jennifer Walker**  
28423 Kendallwood Drive  
Farmington Hills, MI 48334

**Phone: 248-489-1963**

**Fax: 248-489-1720**

**secretary@michiganboxerclub.com**

### Final Dues Reminder

Just a reminder that MBC dues for 2005 must be **received** (not postmarked) on or before our first meeting on February 1, 2005. After February 1, a \$10 late fee will be required to renew your membership, as stated in the MBC Constitution. The \$10 late fee can be paid up to March 31, 2005. After March 31, members who have not paid yearly dues must apply for new membership.

Remember, we have had a change in Officers - membership dues should now be mailed to:

Mary Lou Bumpus, Treasurer  
Michigan Boxer Club  
7784 Wild Wings Court  
Brighton, MI 48116  
810-231-1416

### Meeting Site Change

Please note that due to our education program, the April meeting will not be held at the Livonia Library, but will instead be at Jennifer Walker's house.

An RSVP is not required, but if you don't normally attend meetings and will be coming in April, a heads-up would be appreciated so that adequate seating can be arranged. :)

## MICHIGAN BOXER CLUB

### 2005 Officers

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Joan Johnson  
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Livonia, MI 48150  
734-427-9781

**Vice President**

Alan Dorfman  
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**Secretary**

Jennifer Walker  
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Farmington Hills, MI 48334  
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**Treasurer**

Mary Lou Bumpus  
7784 Wild Wings Court  
Brighton, MI 48116  
810-231-1416

[www.michiganboxerclub.com](http://www.michiganboxerclub.com)

### 2005 Board of Directors

Charlie Beauchamp  
586-776-4283

Joanna Dorfman  
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Virginia Johnson  
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Dick Johnson  
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Marilyn Stark  
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