# **CASE NOTE:**

## DENNIS V. VOUTE SALES LTD [2022] WLUK 360

27 May 2022

In Dennis v Voute Sales Ltd [2022] WLUK 360 HHJ Howells sitting as a Judge of the High Court was required to determine the correct approach to s2(2)(a) of the Animals Act 1971.

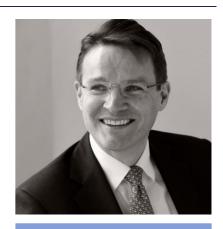
The Claimant, a groom engaged by the Defendant to assist at Tattersalls Sales, suffered a serious injury to her knee whilst leading a horse from its stables. There was a factual dispute as to whether the accident occurred as a result of the horse spooking, or as a result of the Claimant tripping. This was resolved in favour of the Defendant. The claim therefore failed on the facts.

However, the Judge also considered the contentious issue of how section 2(2)(a) of the Act should be determined. The first limb of 2(2)(a) required the Court to be satisfied that 'the damage is of a kind which the animal, unless restrained was likely to cause'. There were rival contentions as to how this requirement should be interpreted. The Claimant's case was that the approach adopted in Lynch v Ed Walker Racing Ltd [2017] EWHC 2484 should be followed. In Lynch it had been conceded that it was not necessary for each of the requirements in sections (a), (b) and (c) to be considered sequentially, and that the first limb of 2(2)(a) should be considered 'by reference to the characteristics relied on for the purpose of paragraph b'. The Claimant accordingly argued that the Court should consider the horse's characteristics as displayed during the incident when asking whether injury was likely.

In contrast, the Defendants argued that pursuant to the Court of Appeal decisions in Curtis v Betts [1990] 1 WLR 459 and Smith v Ainger [1990] WLUK 192 each sub-section of s2(2) should be considered sequentially, and that words should not be read into s(2)(2)(a) 'through a process of implication effected by reference to succeeding requirements.' The concessions made in Lynch, it was contended, were wrong. The Defendants argued that the Court should simply ask the more general question of whether the horse, unless restrained, was likely to cause personal injury.

The Court accepted the Defendant's interpretation. Consequently, the Judge held that even if the Claimant's version of the accident had been accepted the claim would have failed as there was no evidence that the horse was likely to cause personal injury and the experts did not support the Claimant's alternative case under the second limb of s2(2)(a).

This is a significant decision as the Claimant's approach, if accepted, would have significantly lowered the bar for claims to succeed under the Animals Act 1971.



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Roger is an experienced advocate who is recommended by the legal directories in the fields of clinical negligence and personal injury. He is also well known for his expertise in litigation relating to animals and farming.

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