

# Injured After Attempting to Save a Neighbor's Pet: The New Jersey Supreme Court Rejects Owner's Liability under the Rescue Doctrine

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We love our pets like family and would do anything to rescue a pet from harm. However, if during such a pet rescue the rescuer sustains a personal injury, is the pet's owner liable for the rescuer's injury and damages? A recent case in New Jersey considered this question and specifically addressed whether the "rescue doctrine" would apply.

## What is the rescue doctrine?

The New York Court of Appeals, in its 1921 case *Wagner v. International Railway*, described the rescue doctrine as follows: "[t]he state that leaves an opening in a bridge is liable to the child that falls into the stream, but liable also to the parent who plunges to its aid." In other words, the rescue doctrine states that whoever is liable for putting a person in peril is also liable for injuries sustained by the rescuer.

## Does the rescue doctrine extend liability to people saving property or pets?

In short, at least in New Jersey as of June 2022, the rescue doctrine does not extend liability to those undertaking efforts to save property, including pets.

The recent case of *Ann Samolyk v. Dorothy Berthe, III (A-16-21) (085946)*, centered on an injury the plaintiff sustained after she jumped into a lagoon while attempting to save a neighbor's dog. The plaintiff had brought a civil action alleging that the neighbor/dog owner negligently allowed their dog to fall or jump into the canal that borders their property, which prompted the attempt to rescue the dog from

drowning.

The Court acknowledged the bond we may form with pets, but still declined to extend the rescue doctrine under these facts, noting “[n]otwithstanding the strong emotional attachment people may have to dogs, cats, and other domesticated animals . . . sound public policy cannot sanction expanding the rescue doctrine to imbue property with the same status and dignity uniquely conferred upon a human life.”

The Court also held that there are certain situations where an individual may sustain injuries while protecting property, but are “at their core, adjuncts to the protection of human life” and therefore, may permit a cause of action under the rescue doctrine.

For example, the court explained that if the woman had “jumped into the canal after defendant’s dog as a simultaneous reaction to seeing a child of tender years running after the animal and quickly approaching the dock . . . to protect the child from imminent danger by rescuing the dog... that may have been a viable cause of action under the rescue doctrine.”

In other words, the rescue doctrine is only applicable if the rescue was to prevent harm or death to a person, irrespective of whether the “rescue” was of a person or property.

The Court was unable and unwilling to elevate pets or other irreplaceable property to the same “status and dignity conferred to a human life.” People who are injured in a similar rescue scenario are therefore unable to recover damages in New Jersey.

Personal injury cases are extremely fact-specific and the applicable legal options for recovery of damage depend upon the facts of each matter.