

July 2023
MPT-2 File

Martin v. The Den Breeder

Law Offices of Bradley Wilson
2405 Main Street
Creedence, Franklin 33805

MEMORANDUM

To: Examinee
From: Bradley Wilson
Date: July 25, 2023
Re: Interview with Anthony Martin

I talked with Anthony Martin yesterday. He was asking for advice about a lawsuit he may want to file. As you know, I have a trial starting on Monday and I do not have time to get back to Martin quickly, so I need you to write a letter advising him about his potential claim.

Martin bought an Irish wolfhound puppy from a breeder called "The Den Breeder," a sole proprietorship operated by a man named Simon Shafer. At the time of purchase, Martin signed a contract and paid \$2,500. A month later, Martin learned from his veterinarian that the dog showed signs of a "liver shunt," a condition that can be surgically corrected. When Martin talked with Shafer about it, Shafer refused to take responsibility or to pay any of the costs of treating the condition.

Martin wants to keep the dog, whom he has named Ash. At the same time, he is very angry at Shafer and wants to recover what he paid for the dog and to have Shafer cover the cost of corrective surgery. He wants our advice on his legal rights.

Please review the attached materials and prepare an advice letter to Martin. You can assume that Shafer is both a "seller" and a "dealer" under the relevant statutes. Do not include a separate statement of facts in the letter. Instead, incorporate relevant information into the advice that you give. Write in a way that someone unfamiliar with legal concepts will be able to understand. In your discussion, identify both the strengths and potential weaknesses of Martin's prospective claim.

Law Offices of Bradley Wilson
2405 Main Street
Creedence, Franklin 33805

MEMORANDUM

To: Associates
Date: August 5, 2021
Re: Advice letters

The firm follows these guidelines in preparing advice letters to clients:

- Identify each issue separately and state as a question.
- Following each issue, provide a concise one- or two-sentence statement giving a "short answer" to the question.
- Following the short answer, write a more detailed explanation and analysis of each issue.
- Do not write a separate statement of facts but integrate the facts into your analysis.
- Explain how the relevant authorities combined with the facts lead to your conclusions. Make sure to include legal citations.
- Bear in mind that, in most cases, the client is not a lawyer. If you must use technical terms or jargon, make sure to provide a concise definition.
- Pay particular attention to the structure and sequence of your discussion, so that your client can follow your reasoning and the logic of your conclusions.

Transcript of Interview with Anthony Martin, July 24, 2023

Att'y Wilson: Thank you for coming in. I am glad you could meet me after hours.

Anthony Martin: I'm glad you could make the time. I know you're busy.

Wilson: It's no problem. Tell me how I can help you.

Martin: OK. About a month and a half ago, I bought a dog that turned out not to be healthy. I spent a lot of money to buy him. And I learned that he needs surgery, and it's going to cost a lot of money. I am angry at the breeder.

Wilson: Tell me about the dog.

Martin: He is a male Irish wolfhound. I call him Ash. He's about three and a half months old now. And he is a great dog—friendly, happy, easygoing. Just what I wanted.

Wilson: Where did you buy him?

Martin: I had been looking for a wolfhound for a while and got a referral to a breeder who raised both Scottish and Irish wolfhounds. The man's name is Simon Shafer. He calls his business "The Den Breeder." His place is way out on the county line, out in the country.

Wilson: Tell me about the sale.

Martin: I called Shafer up and said I was interested in an Irish wolfhound. He said he had a new litter of eight-week-old puppies. We set up a time for me to see them. When I got there, I could see right off that Ash was the right dog, and he seemed to take to me. We made a connection. So I asked Shafer whether I could buy him. Shafer said yes, of course, and told me the price: \$2,500.

Wilson: That sounds like a lot.

Martin: Well, not for an Irish wolfhound. And Ash really seemed like a special dog. I was willing to pay it.

Wilson: Did you ask about his health?

Martin: Yes, I did. Shafer said that his dogs were healthy; and they certainly looked lively and active. I didn't think to ask more.

Wilson: When did you pay him?

Martin: I paid him a few days later when I went back to pick up Ash.

Wilson: Did you sign anything?

Martin: Yes. At that point, Shafer had me sign a contract. He called it a "dog purchase agreement." Here it is. And Shafer had the "AKC Dog Registration Application," which

would allow me to register Ash with the American Kennel Club. The form looked properly filled out. I gave Shafer the check for \$2,500, he gave me the papers, and I left with Ash.

Wilson: Did Shafer say anything else about Ash's condition?

Martin: No, nothing else.

Wilson: What happened next?

Martin: I got Ash home, and we started getting used to each other, including house training and everything. But after about a month, I began to notice that Ash was having some trouble, especially after eating. He seemed confused and disoriented and for hours would just lie down without moving. It seemed like he was . . . depressed, if that's the right word.

Wilson: What did you do?

Martin: I took Ash to my veterinarian and asked her to look him over. That's when I learned what a liver shunt is and what effect it can have. My vet said she should test him for it, and she did. After a few days, she confirmed that Ash had a liver shunt. I brought you a printout of an article she recommended that explains it.

Wilson: Thank you. Who is your vet?

Martin: Dr. Turner. Claire Turner. I asked her what could be done about the liver shunt, and she said there was surgery that could correct the condition. A few days later, she sent me an email confirming the diagnosis and giving me an estimated price for the surgery: over \$8,000, if you can believe it.

Wilson: That's . . .

Martin: More than three times what I paid for Ash, yes. I was really angry. I called Shafer the next day and told him what I wanted: to keep Ash, to get a refund, and to have him pay for the surgery. Shafer refused. He said that I should have gotten Ash tested as soon as I bought him and that a test would have shown the disease. Since I waited so long to let him know, he said that he had no legal obligation to pay me.

Wilson: All right. I see why you came in to talk with me. I do know that there are laws in Franklin that protect people who buy pets. Let me look into them and either I or someone in my office will get back to you.

**The Den Breeder
Dog Purchase Agreement**

Buyer agrees to purchase an Irish Wolfhound puppy from Breeder for the sum of \$2,500.

All canines have the potential for genetic or congenital disease. Unfortunately, these diseases cannot always be eliminated. Breeder tries to minimize (not eliminate) these conditions in good faith.

To the best of Breeder's knowledge, the dog is in good health at the time of sale. If the dog shows signs of illness, Buyer agrees to take the dog to a licensed veterinarian to determine whether the dog has any serious illness. Should it be determined that the dog is suffering from a serious disease clearly attributable to Breeder, which would prevent it from being a companion, the dog may be returned to Breeder within 48 hours of purchase, at Breeder's expense, for replacement of the dog. This dog is sold as a companion.

If, before the dog is one year old, the dog is diagnosed with a congenital defect that would prevent the dog from being a companion, Buyer must notify Breeder in writing within 24 hours of the diagnosis and provide a copy of a report from a veterinarian confirming that diagnosis. Breeder may then seek a diagnosis from a veterinarian of Breeder's choice, and Buyer must make the dog available for that purpose.

Dated: June 12, 2023

Simon Shafer
Simon Shafer, Breeder

Anthony Martin
Anthony Martin, Buyer

Email from Dr. Claire Turner
July 18, 2023

From: Claire Turner <cturnervet@franklin.med>
To: Anthony Martin <amartin@franklinres.org>
Subject: Diagnosis and treatment of male Irish wolfhound puppy, Ash

Mr. Martin:

Thank you for bringing in your puppy, Ash, a male Irish wolfhound, for treatment. This email confirms our conversation about his diagnosis and treatment.

I examined Ash on July 16, 2023, at my clinic. He appeared well fed and cared for. You reported that he seemed lethargic and weak at home, that he seemed disoriented and lacked coordination, and that he would spend time pacing and circling. During his overnight stay in our clinic, we were able to confirm these observations.

We performed bile acid testing on Ash, a procedure that requires fasting and blood draws over a period of 12–16 hours. Ash tolerated the test well and without pain. He is a calm dog with a great temperament. The test results indicate liver dysfunction, specifically a portosystemic shunt, a congenital defect of the liver. I've attached a document describing liver shunts in wolfhound puppies.

Based on test results and observation, I believe with some confidence that surgical remedies can correct Ash's condition. Liver shunt is a known condition, and surgical procedures are now well-known and relatively reliable. I must add that no surgical intervention is without risk, but we have diagnosed this condition relatively early and have reason for a positive outlook. The cost will come to at least \$8,000, and Ash will require post-surgical treatment as well.

You asked whether earlier testing would have detected this condition, specifically at the time of Ash's purchase. It is my understanding that most reputable Irish wolfhound breeders test puppies before sale and provide the results of the test to purchasers. However, I must add that differences of opinion exist about when to test a puppy. It is possible that testing at roughly eight weeks might not show a liver shunt condition that would emerge later.

I am prepared to sign the form certifying my opinion. Thank you again for introducing us to Ash. I look forward to hearing from you.

Email Attachment: *Liver Shunt Basics for Wolfhound Puppies*

Getting an Irish wolfhound puppy is exciting! There are all sorts of new things to learn, and one of those is what a liver shunt is (also called PSS for portosystemic shunt), and why it is important to test wolfhound puppies for this condition. A simple and inexpensive blood test can tell the breeder and you if the puppy has this deformity before the puppy goes to its new home.

The liver is a highly complex organ with vital functions. It filters blood and removes toxins that are created during the normal digestion of food. During pregnancy, the mother's liver does all the work for the puppies. Blood vessels bypass or "shunt" around the puppy's liver and allow the blood to be detoxified by the mother's liver. Shortly after birth, these vessels close naturally, and a normal puppy's liver takes over the detoxification process.

A liver shunt problem arises when these blood vessels do not close. As a result, the puppy's blood continues to bypass the liver. That prevents the puppy's liver from filtering toxins from the blood, which can create symptoms such as depression, seizures, blindness, and disorientation. These symptoms are worse shortly after a meal when toxins are at their highest level. There are both medical and surgical treatment options for liver shunts with varying degrees of success. Most affected puppies start showing signs within weeks of being in their new home.

Liver shunts that do not close are viewed as congenital defects. The tricky part of a liver shunt condition is that pups may not show signs until they are 8, 10, or 12 weeks old or even older. There are also different ways the shunts can form, which create varying levels of clinical signs. No one can tell just by looking at a puppy whether it has a liver shunt condition or not.

Veterinary science disagrees over when to test for a liver shunt. Most specialists recommend delaying a test until 16 weeks of age. Moreover, occasional false positives and negatives occur. Even so, you should ask your puppy's breeder whether the breeder has performed a liver shunt test and, if so, what the results show.