

# Analyzing the Tort Liability for Damage Caused by Pets during Foster Care

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**Abstract**—Based on the dual perspective of legal interpretation and practical needs, this paper systematically analyzes the rules of tort liability allocation for pets harmed during foster care, aiming to clarify the logic of the identification of the responsible subject, optimize the allocation mechanism of liability under the situation of multi-party fault, and provide theoretical support for the reasonable application of compensation for moral damages. The theoretical significance lies in enriching the theoretical framework of animal tort liability and promoting the flexible application of dynamic system theory in judicial practice; the practical value is embodied in the unified adjudication standard, safeguarding the rights and interests of the victims, and at the same time, through standardizing the operation standard of the foster care industry, promoting the balance of risk prevention and control and responsibility allocation, and injecting the rule of law into the sustainable development of the pet economy.

**Keywords**—pet boarding, tort liability, subject of liability, allocation of liability, persona non grata

## I. INTRODUCTION

Currently, the pet economy is developing rapidly, and pet boarding service has become an important part of modern urban life. According to statistics, the scale of China's pet market has exceeded 100 billion yuan, the demand for boarding is growing exponentially, and the service model is becoming more and more diversified, covering commercial, platform and medical institutions boarding and so on. However, the frequent occurrence of incidents of pets being harmed during the period of boarding has led to personal injuries, property losses and even mental damages, and has triggered complex tort liability disputes.

Although Article 1245 of the Civil Code clearly defines the status of the main body of the responsibility of the keeper or administrator, there are still many disputes in practice: the identity of the "administrator" of the fostering party fuzzy standards, the fault of the pet owner's responsibility of the boundary is not clear, the application of the rules of moral damages conservative, as well as the fostering agreement exemption clauses in the validity of the controversy. These issues not only exacerbate the difficulty of judicial adjudication, but also restrict the standardized development of the foster care industry.

## II. OVERVIEW OF PET BOARDING

### A. Definition of Pet Boarding

Pet boarding refers to the legal act of pet owners (keepers) temporarily delivering their pets to others or organizations for management and care based on specific reasons such as travel or illness, and agreeing to return the pets within a specific period of time. With the rapid development of the pet

economy, the service content of pet boarding has become increasingly diversified, including not only basic services such as dietary care, living and cleaning, daily companionship, walking, etc., but also personalized services according to the needs of customers.

Currently, pet boarding modes are diversified and mainly include the following: commercial-type boarding, individual paid boarding, unpaid acquaintance boarding, platform-type boarding, and boarding by medical institutions. Each of these modes has its own characteristics, providing pet owners with a wealth of choices to meet the needs of pet boarding under different circumstances.

### B. Special Risk Analysis of Pets in Foster Care

#### 1) Potential dangers associated with the expansion of the pet's range of motion

In contemporary society, with the deepening of people's emotional commitment to their pets, pet boarding services are no longer limited to basic daily dietary care, and the comfort and quality of life of pets are more important to both parties in boarding. Therefore, many boarding organizations not only provide spacious and comfortable resting spaces for pets, but also have extensive public outdoor areas to meet the needs of pets' life and exercise during the boarding period. Even small pet stores or pet hospitals with boarding functions will take pets out for regular walks to meet their daily activity needs. However, the expansion of the pet's range of activities increases to some extent the risk of the pet causing injury to others or other pets.

For example, in public activity areas, pets may fight with each other, resulting in injuries to the pets. And because of the incubation period of certain infectious diseases, pets that are not detected prior to fostering may result in outbreaks of disease and transmission to other pets during the fostering period, as was the case in the Suzhou Intermediate People's Court in Jiangsu Province. In addition, pets may cause harm to other individuals. During foster care, there are many uncontrollable emergencies during the pet's outdoor walks, such as sudden car sirens or interference from passersby. Such disturbances may trigger the pet's instinctive response, causing it to engage in aggressive behavior, which may result in injury to third parties, such as passersby.

#### 2) The professional competence of foster care agencies or individuals varies widely

Fosterers with insufficient professional competence may have difficulty accurately determining the needs and personalities of pets. Even if a boarding organization has established rules for separating pets with very different personalities, these rules may not be effectively enforced if the boarding staff lacks the necessary professionalism. As a

result, the original purpose of “zoning” cannot be realized, thus increasing the risk of conflict between pets. In addition, pets need proper guidance in their daily lives, and if a foster caregiver with insufficient professional skills is unable to properly guide a pet, the pet may display aggressive behavior in a state of stress, fear or excitement, causing harm to others.

*3) Absence of a foster care agreement and lack of clarity in defining responsibilities*

Pet boarding agreement is a kind of legal agreement between the pet owner and the boarding party, aims to clarify the rights and obligations between the two parties. At present, China's pet boarding industry on boarding agreement is not uniform provisions, and more and more pet stores in the sale of pets and pet supplies sales services, but also provide pet boarding services. If the pet owner and the boarding party between the existence of boarding agreement, then the agreement will become the main basis for liability determination. However, in the process of boarding, if the lack of boarding agreement or the agreement in the division of responsibility is not clear, it will lead to the rights and responsibilities of both sides of the blurred boundaries, the definition of accidents is not clear, the lack of compensation standards and other issues.

*C. Problems with the Legal Regulation of Pet Foster Care*

Although the current law on animal husbandry tort liability has been stipulated, but due to the provisions of a more general, and in the doctrine of the “administrator” connotation of the understanding of the extension and the definition of the responsibility of the keeper there are still a variety of points of view, so the practice of fostering pets during the harm of the tort liability of the division of there are still a few problems.

First, the subject of liability is vaguely defined. Article 1245 of the Civil Code of the People's Republic of China (hereinafter referred to as the “Civil Code”) provides that “if an animal kept causes damage to another person, the keeper or manager of the animal shall bear the responsibility for the infringement; however, if it can be proved that the damage was caused by the infringed person's intentionality or gross negligence, the responsibility may be waived or mitigated.” Whether the fosterer constitutes a “keeper” under Article 1245 of the Civil Code during the foster care period, especially if the fosterer is not paid for the foster care or if the fosterer does not have full control of the pet, is still controversial. In addition, the boundaries of the pet owner's responsibilities during the period of foster care are not sufficiently clear, leading to uncertainty in the allocation of responsibilities in judicial practice.

Secondly, the standards for the application of compensation for moral damage are not uniform. With regard to the application of compensation for moral damages in cases involving pets, the standards in judicial practice are relatively conservative, and there is a lack of uniform operational guidelines. Some courts have refused to support claims on the grounds of “lack of legal basis” or “lack of seriousness of the moral damage”, making it difficult to fully safeguard the legitimate rights and interests of victims.

Third, the abuse of exemption clauses in foster care agreements. Some foster carers unilaterally exempt themselves from liability through form clauses, or even agree

that they will not be liable for any harm caused by the pet during the foster care period. Such clauses are often manifestly unfair, but the judicial practice of its validity of different standards, resulting in the victim's access to remedies is limited.

Fourthly, the allocation of responsibility in the case of multi-party fault is complicated. In the case of foster care, pet owners and third parties are at fault, the allocation of responsibility rules are more complex, increasing the difficulty of judicial decision-making.

III. DEFINITION OF THE SUBJECT OF TORT LIABILITY

*A. Definition of the Subject of Responsibility of Foster Carers*

Article 1245 of the Civil Code stipulates that the subject of tort liability for damage caused by keeping animals is the keeper or manager. In the general case of pet fostering, the fostering organization or individual actually manages and controls the pet according to his/her own meaning and interests, and forms dominance and control over the fostered pet, so there is no doubt that it constitutes the subject of liability. However, in the case of unpaid fostering or the fostering party does not have full control of the pet, the pet owner still retains part of the right to direct, at this time the fostering party is still in line with the definition of “manager” in Article 1245 of the Civil Code, there is a controversy [1].

Therefore, clarifying the specific elements of the “administrator” is not only a key prerequisite for defining the foster care organization or individual as the subject of responsibility, but also an important basis for rationally delineating the attribution of tort liability. Compared with the principle of “all or nothing” of the elements of the theory, the dynamic system theory is more flexible and open, so as to adapt to the complex situation of the need for justice, so should be grasped in the dynamic system of the specific elements of the administrator:

*1) Subjective elements*

First is the element of will, the foster care provider should be aware and conscious of the fact that he/she is entering into a legally regulated normative relationship with the pet owner, such as a custodial contractual relationship. This means that the fosterer should be aware of their own management and control of pets will be subject to legal constraints, they also have the obligation to the proper custody and care of pets. Secondly, the element of interest, in the pet caused harm to the tort occasion, in principle, should be those who use the pet for their own interests should assume the actual management and control of the pet's obligation. If the failure to fulfill this obligation and lead to the occurrence of damage, the foster party should bear the corresponding tort liability. Benefits here include not only the acquisition of economic benefits, such as income through pets, but also the fulfillment of spiritual benefits, such as the pleasure brought by the companionship of pets. Even if the boarding party is not acting in its own interest, but is looking after the pet based on the interests of others and according to the instructions of others, the boarding party is still regarded as a manager and should be liable for tort. However, in this case, the pet owner should also be held liable within the limits of fault.

## *2) Objective elements*

First, the element of ownership was indeed closely related to the definition of the subject of liability for animal harm in the early days, but in modern legal practice, the attribution of property rights is no longer central to the determination of the subject of liability for animal torts. Nonetheless, the attribution of property rights is still an important reference to assist in judging the actual management and control standards. Secondly, the time element has been emphasized in judicial practice, and the core consideration is that people who have contact with animals in the time dimension usually have a more in-depth understanding of the animal's living habits, and a relatively higher ability to prevent and control related risks. This means that the fosterer's ability to influence and control the pet during the fostering period is a key factor in determining whether he or she is a steward. Finally, the spatial element emphasizes the immediacy of the foster care provider's management and control of the pet. This element requires an analysis of the close connection between the pet and the fosterer on a practical level in order to determine on a normative level whether the fosterer is liable for damages resulting from the pet's infringement.

### *B. Whether the Original Owner of the Pet is Liable*

During the period of pet boarding, since the pet owner does not directly possess the pet, there are many different views and opinions on whether the pet owner constitutes the subject of responsibility and bears the tort liability for the harm caused by the pet.

Article 1245 of the Civil Code inherits the normative content of article 78 of the former Tort Liability Law, and the drafters of the article consider that the owner of a pet is not liable in tort for the harm caused by the pet during the period of pet fostering, regardless of whether the pet is fostered for a fee or not, and whether it is fostered for a long period of time or for a short period of time [2]. According to the control of danger theory, the attribution of tort liability should be based on the actual ability to control the source of danger. During the period of pet boarding, the pet owner refueled the pet to the boarding party's actual management, and the boarding party gained direct control over the pet, including feeding, indoctrination, and risk prevention and control duties. Due to the foster party in the foster period of the pet's danger has a stronger ability to foresee and control, and the pet owner has been detached from the pet's actual domination, therefore, according to the theory of control of danger, the pet owner should not bear the pet during the foster period of the tort liability. This logic of responsibility allocation is not only in line with the provisions of Article 1245 of the Civil Code on the responsibility of the "administrator", but also reflects the principle of fairness in matching risk and responsibility.

However, from the existing discussion in the academic community, some scholars have put forward different views from the drafters of the provisions [3]. It is argued that although the pet owner transfers the actual control of the pet during the period of foster care, and the foster party, as the actual administrator, bears the main tort liability for the harm caused by the pet, the pet owner may also bear the corresponding liability due to his own fault. For example, if a pet owner fails to truthfully or adequately inform a foster pet of its aggressiveness, history of disease, or other dangerous

propensities, resulting in the foster party's failure to take the necessary preventive and control measures, the pet owner may be found at fault for violating its duty to inform. Additionally, the pet owner may also be at fault in choosing a boarding facility. If the pet owner chooses a boarding organization that clearly does not have the appropriate qualifications or management capabilities (e.g., no business license, lack of professional facilities), and there is a causal relationship between this choice and the harm caused by the pet, the pet owner may be held liable for failing to exercise reasonable care. There is also the view that, in the case where the owner is temporarily out of town and leaves the animal in the care of a friend, both the temporary caretaker and the owner should be held liable. It is not possible to generalize and recognize the tort liability of the handler.

### *C. Impact of Third-party Fault*

In the case of a pet causing harm during foster care, there are also instances where a third party other than the pet owner and the foster care provider, through their own intentional or negligent behavior, causes the pet to cause harm to another person. This includes, but is not limited to, behaviors such as provoking the pet, entering the pet's area without permission, and negligent self-protection. When a third party is at fault, the tort liability of pet owners and boarders may be mitigated or exempted under the Civil Code. If a third party intentionally causes a pet to attack, resulting in damage to themselves or others, the liability of the pet owner and boarding party will be greatly reduced and may not even be required. The allocation of the burden of proof becomes particularly important in cases involving third-party fault. The injured party will need to prove that the third party was at fault, while pet owners and boarders may need to prove that they exercised due care in order to reduce or eliminate liability. This can lead to a more complicated fight for evidence and determination of liability during the litigation process.

In summary, it is very important to clarify the criteria for determining the subject of responsibility in cases of infringement of the rights of pets while in foster care. It is suggested that through the guiding cases, to further clarify the determination standard of the "administrator" during the foster care period, especially the definition of the responsible subject in the case of gratuitous foster care or the foster party does not have full control over the pet. At the same time, the boundaries of the responsibility of the pet owner during the period of foster care should be refined to ensure the fairness and operability of the distribution of responsibility.

## *IV. MODALITIES OF TORT LIABILITY*

### *A. Forms of Liability*

Tort liability refers to the specific form of civil liability that a tortfeasor should assume under the law for the tort he or she has committed. Article 1245 of the Civil Code does not specify the form of liability for damage caused by keeping animals, but only states that "shall be liable in tort". Therefore, the infringer can choose the appropriate form of liability according to the type of damage and the purpose of relief. In practice, the most common situation is to request compensation for all kinds of damage. For keeping animals

did not cause actual damage, but caused obstruction, can claim to stop the infringement, exclude obstruction, eliminate danger and other forms of liability. The infringer's claim for apologies for personal damage is unfounded and should not be supported.

### *B. Primary Application of Modalities of Tortious Liability*

The damage caused by animals is damage to personal rights or property rights, and compensation for damages is generally used to make up for the damage. Compensation for damages is the most important and basic form of civil liability for torts, including property damages, personal damages and moral damages. Most of the cases of damage caused by pets during the period of boarding are compensated by means of monetary compensation.

#### *1) Compensation for property damage*

During the period of foster care, the foster pet's infringement of property is mainly manifested in the form of property damage caused when infringing on an animal kept by another person or violating another person's personal rights and interests. In Article 1184 of the Civil Code, it is stated that "if the property of another person is infringed upon, the property damage is calculated according to the market price at the time of the damage or in another reasonable manner." The infringed person may request compensation based on this article. Reasonable appraisal costs incurred in calculating the damage may also be claimed.

It is questionable whether the costs incurred by the injured party in treating the injured animal, including medical and cremation costs, should be compensated under the category of property damage. Ref. [4] is made to section 251 of the German Civil Code, which states that "the costs incurred for the treatment of an animal are not deemed to be disproportionate by reason of the fact that they substantially exceed the value of the animal itself". The costs of treating a victimized animal, even if they exceed its own market value, should not be considered directly excessive. When considering the cost of treating an animal, one should not simply refer to the standard of repairing or replacing inanimate objects, but should give more consideration to the emotional value carried by the animal in order to assess the reasonableness of the cost. Although the current laws of China do not explicitly provide for this, it seems appropriate to adopt such a path of interpretation [5].

#### *2) Personal injury compensation*

The infringed person may defend his or her rights and interests in accordance with the law when personal injury is caused by keeping an animal. According to Article 1179 of the Civil Code, "Where personal injury is caused by infringing on another person, compensation shall be paid for reasonable expenses incurred for treatment and rehabilitation, such as medical fees, nursing fees, transportation fees, nutritional fees, and subsidies for hospitalized meals, as well as for the reduction of income due to lost work. Where disability is caused, compensation shall also be made for the cost of assistive devices and disability compensation; where death is caused, compensation shall also be made for funeral expenses and death compensation." Therefore, the infringed person has the right to request compensation. In terms of compensation standards, such cases do not differ in principle

from other personal injury compensation cases. However, in cases where pets are harmed during foster care, the compensation program has certain specificities [6].

The infringed person may claim compensation for regular expenses such as medical expenses, nursing care expenses and transportation expenses. On this basis, the court will also recognize some unique compensation items according to the specific circumstances of the case. For example, in the case of a child bitten by a dog, the Intermediate People's Court of Zhoukou City, Henan Province, supported the request for compensation for the cost of repairing the scar, arguing that such costs are directly related to the infringement of the law and are necessary; for example, in the case of a child scratched or bitten by a cat or a dog, the Intermediate People's Court of Dalian City, Liaoning Province, explicitly included the cost of rabies vaccination in the scope of the compensation, emphasizing that such costs are a necessary expenditure for the reasonable prevention of the expansion of the damage. emphasizing that such costs are necessary expenses for the reasonable prevention of the expansion of the damage.

#### *3) Moral damages*

The moral damage caused by keeping animals that violate material personality rights (right to life, right to health, right to body, etc.) shall be compensated if it meets the conditions for legal compensation. There is no doubt in the doctrine and practice. For example, a person who was chased by a dog and fell down, resulting in a ninth-degree disability. If the moral damage does not reach a serious level, it is not compensable because it does not meet the statutory conditions.

It should be clear that, when the infringer's pet suffers injury or death, whether it can claim moral damages, whether the pet constitutes a "specific object with the meaning of personality symbols" as a prerequisite for judgment. In judicial practice, not all family pets can claim compensation. According to the current rules, only cats, dogs and other mammals with deep emotional interaction with human beings, based on the purpose of spiritual companionship in the family environment for a long period of time, through the formation of a long-term common life of strong emotional dependence, so that the pet has become a special object bearing the specific personality interests of the keeper, can support the request for compensation for moral damages. According to the majority view, the pet constitutes a "specific object with personality symbolism" subject to the following conditions: (1) the pet has become an important part of the pet owner's spiritual life; (2) the pet has been living with its owner for more than five years; (3) whether a monumental event has occurred under specific circumstances, such as the dog rescuing the owner; (4) whether the pet has become a special object carrying the owner's specific personality interests. owner; (4) the loss of the pet has caused the pet owner mental anguish, and so on [7].

However, at this stage, the mainstream opinion in judicial practice is still conservative with regard to this type of claim for moral damages, which is not based on the infringement of personal rights. Most courts do not support such claims for moral damages on the grounds of "lack of legal basis" and "lack of seriousness of the moral damage". It is recommended that the applicable standards for moral damages be clarified, and that relevant judicial

interpretations or guiding cases be adopted to clarify the applicable conditions and compensation standards for moral damages in cases of pet victimization. For example, reference can be made to the relevant provisions of the German Civil Code to include reasonable pet treatment costs in the category of property damage, and appropriately relax the conditions for the application of moral damages, in order to better protect the legitimate rights and interests of the victim.

## V. ALLOCATION OF TORTIOUS LIABILITY AND DEFENSES

### A. *Allocation of Tort Liability based on Fault Patterns*

#### 1) *Foster care provider at fault*

During the period of foster care, the pet is removed from the control of the original owner, and the foster caregiver becomes the de facto caretaker of the pet based on a contractual relationship, and as a result, becomes the de facto controller of the risk, with a direct duty to manage the pet's dangers.

The fault of the foster care provider includes, but is not limited to, the following three areas: first, negligent management by failing to fulfill the basic duty of control as well as to perform the necessary duties of supervision, such as walking the dog without a leash or failing to ensure that the cage is securely closed. Second, there is miscalculation of risk by failing to segregate pets knowing they have a history of aggression. Finally, there are violations of industry norms, such as failing to perform a behavioral assessment or obtain a pet's medical report prior to boarding. In the event that a boarder engages in any of these negligent behaviors, and as a result the pet causes harm to a third party or another animal, the boarder, as the actual caretaker, should be independently liable for the corresponding tort liability. This approach is not only in line with the current legal provisions, but also in line with the principle of fairness of "matching risk and responsibility". In pursuing the tort liability of the foster carer, it must be proved that the negligent behavior of the foster carer is an indispensable condition leading to the occurrence of damage.

#### 2) *The original pet owner is at fault*

In the case of the original pet owner of the pet foster behavior there is negligence, according to the theory of risk control, the foster party as the actual management of the pet, naturally should bear the foster pet during the period of damage caused by the tort liability. However, on whether the original pet owner should be responsible, there are many views in the academic community, has been analyzed in detail. In the case of recognizing the responsibility of the original owner of the pet subject status, for the distribution of tort liability, there are also different views and discussions:

The first view is that if the pet owner is at fault for the act of boarding itself, for example, if the pet owner knows that his or her pet is unsuitable for the boarding environment or if the pet owner fails to inform or ignores the special needs of the pet, then he or she is jointly and severally liable with the boarding party. The second point of view is that the pet owner and the boarding party bear joint and several liability. Based on the theory of danger opening, the pet owner, as the danger opener, should also fulfill the obligation to prevent the danger from occurring, such as choosing the keeper with appropriate

management ability, informing the keeper of the special dangers existing in the animal, and so on. If the keeper violates such obligations, the animal should bear fault liability for causing harm. At the same time, combined with the breeder for their own interests, should be made to set up with the manager of the joint and several liability. The third point of view that, should refer to the application of the Civil Code, Article 1209, that is, "due to the lease, borrowing and other circumstances of motor vehicle owner, manager and user is not the same person, traffic accidents caused damage, belong to the motor vehicle party responsibility, the motor vehicle user to bear the liability; motor vehicle owner, the manager of the damage is at fault, bear the corresponding compensation. corresponding liability." The pet owner shall bear the corresponding liability according to his fault.

The author agrees with the third point of view, because the pet owner does not have the ability to actually manage and control the pet during the period of foster care, so at this time can not constitute the responsible body of the pet harm, and the requirement of joint and several liability or not really joint and several liability can not be relied upon. With reference to the application of article 1209 of the civil code, according to the fault of the corresponding responsibility is more appropriate.

#### 3) *Multiple parties at fault*

During the period of foster care, if the pet caused harm to the incident of multiple parties are at fault, the distribution of tort liability should be based on the relevant provisions of the Civil Code, combined with the degree of fault and causal relationship between the parties to make a comprehensive judgment.

If the fosterer and the pet owner are jointly at fault, e.g., if the fosterer has failed to fulfill its duty of management and the pet owner has failed to truthfully inform the pet of the dangers of the pet, the fosterer, as the de facto manager, usually bears the primary responsibility, and the pet owner bears the secondary responsibility. If the fosterer and the victim are jointly at fault, for example, if the fosterer fails to take the necessary protective measures and the victim intentionally provokes the pet or enters a restricted area, the fosterer may reduce its liability; if it can be proved that the damage was intentionally caused by the victim, the fosterer may be exempted from liability altogether [8].

In current practice, there is the problem of complexity in the allocation of liability in cases of multiple faults, so it is of great practical significance to improve the rules for the allocation of liability in cases of multiple faults. It is recommended to further refine the rules of allocation of liability under multi-party fault through legislation or judicial interpretation, and to clarify the conditions for the application of joint and several liability, share of liability and unreal joint and several liability. For example, reference can be made to the provisions of Article 1209 of the Civil Code to rationally allocate the proportion of responsibility by taking into account the degree of fault and causality of each party.

### B. *Defenses*

#### 1) *Statutory defenses*

First, the victim is at fault. According to China's legislation, if the pet owner or fosterer can prove that the

damage was caused by the infringer's intent or gross negligence, he or she may not be held liable or may mitigate his or her responsibility.

Second, the third party is at fault. If the damage suffered by the victim is caused by a third party, the victim may request compensation from the pet owner or fosterer, or from a third party. The pet owner or fosterer has the right to recover compensation from the third party.

Third, force majeure. Force majeure refers to objective circumstances that cannot be foreseen, changed or avoided. It should be noted that the ability to foresee is not the same for different subjects, in the case of pet foster care, if the foster party has a professional qualification, the standard of its duty of care should be higher than that of ordinary individuals.

## 2) Contractual defenses

During the foster care period, if tort liability arises as a result of harm caused by the pet and a foster care agreement exists between the pet owner and the foster care provider, the pet owner can rely on the agreed terms of the foster care agreement to assert defenses in order to mitigate or exempt itself from liability.

The defenses in the foster care agreement mainly include the following three categories: First, exemption clauses. For example, in the foster care agreement, it is agreed that "during the foster care period, the pet is not responsible for any damage caused by fighting in the public activity area". Second, the limitation of liability clause. This is mainly to agree that in the event of damage to the pet during the period of boarding, the boarder will only be partially liable, such as agreeing on the maximum compensation limit. Thirdly, risk notification and consent clauses. For example, the boarding agreement requires the pet owner to confirm that he or she "is aware of the risk of harm caused by the pet and voluntarily assumes the corresponding consequences".

It is important to note that while exemption clauses or other covenants in a foster care agreement may be used as a defense, the validity of these clauses is limited by law. For example, exemption clauses may be held invalid if they violate mandatory provisions of the law or if they exempt damages caused by intent or gross negligence. In addition, exemption clauses that result in too great an imbalance between the rights and obligations of the parties may be held to be invalid as form clauses.

Therefore, regulating the exemption clauses in foster care agreements will not only help safeguard the legitimate rights and interests of the victims, but also promote the standardized development of the foster care industry. It is recommended that the regulation of the foster care industry be strengthened and that the formulation of industry codes of practice and qualification standards be promoted. It is also recommended that the relevant departments formulate a standard contract for foster care services to clarify the boundaries of the effectiveness of exemption clauses, and at the same time,

require the foster carer to explicitly remind the pet owner of the key terms in the agreement to ensure the balance of rights and obligations between the two parties.

## VI. CONCLUSION

The issue of tort liability for damage caused by pets during foster care centers on the definition of the subject of liability and the reasonableness of the allocation of liability. As the actual manager of the pet, the fosterer usually has to bear the tort liability caused by the negligence of the management independently, while the pet owner may also bear the corresponding liability if he/she fails to fulfill the obligation of informing the pet or is at fault when choosing the fosterer. Third-party fault may reduce or exempt the responsibility of the boarding party and the pet owner. Although the current law has clarified the basic framework for the allocation of responsibility, there are still problems such as the vague definition of the subject of responsibility and the lack of uniformity in the standard of compensation for moral damages. In this regard, it is important to clarify the criteria for the determination of the "manager", to unify the rules for the application of compensation for moral damages, and to regulate the exemption clauses in the fostering agreement, which is conducive to the promotion of the standardization of the fostering industry and sustainable development, and to achieve a fair distribution of tort liabilities and effective remedies.

## CONFLICT OF INTEREST

The author declares no conflict of interest.

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