

Barrister sued over dog

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COURT REPORTER

AN Adelaide barrister is being sued in the District Court for allowing his pet dog to roam and chase cars before it allegedly caused the crash of a motorcyclist.

The motorcyclist is claiming more than \$40,000 in damages and compensation from prominent barrister Nicholas Swan over an incident in which he crashed his motorbike at Hindmarsh Island. Michael O'Connell, a

managing director of AG Security, claims Mr Swan was negligent in letting his black dog roam from his beach house on to the side of Batson Parade in February 2007.

In his statement of claim, Mr O'Connell says he and two friends were riding motorcycles towards his house when he approached a tight bend and saw a car approaching in the opposite direction.

Mr O'Connell says he noticed Mr Swan's dog chasing the car, before falling behind and turning its attention to

his motorbike. Despite his efforts to slow down and pull left, Mr O'Connell claims the dog ran between the front and back wheels of his bike, causing him to lose control and crash. The dog was not injured in the incident.

Mr O'Connell claims his resultant knee injury was "caused solely by (Mr Swan's) dog being on the road" and that the lawyer was liable for damages under the Dog and Cat Management Act of 1995. Mr O'Connell told *The Advertiser* he had previously asked

Mr Swan to stop his dog roaming on to the road because he was concerned it would be hit by a car, but declined to comment further.

In his court claim, Mr O'Connell says Mr Swan had failed to fulfil a duty of care to protect road-users "against foreseeable injury caused by his dog."

"(Mr Swan) was aware that the dog had a propensity to run on to the road and to run after motor vehicles (and) that the dog was likely to

create a danger to road users," the documents claim.

Mr O'Connell is seeking \$42,849 in damages, court and solicitor's fees for his knee injury and consequential loss and expense.

Mr Swan, who is a specialist in areas such as defamation law and was admitted to practice in 1975, chose not to comment on the civil case when he was contacted by the *The Advertiser*.

Mr Swan is yet to file a statement of defence with the court.



CIVIL CASE: Nicholas Swan is being sued for negligence.