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Lawyer: Dog bite niche is no gravy train

In many incidents, dogs' owners have no insurance so recovery prospects are often dim, solo practitioner says

By Greg Land, Staff Reporter

With two recent judgments totaling \$760,000 to his credit, Atlanta solo practitioner Evan L. Kaine should be basking in the glow of victory. But for Kaine, who has somewhat unexpectedly become a go-to lawyer for people bitten by dogs, the specialized practice has essentially been just that: practice.

"I guess you could call this our 'pro bono' work," said Kaine.

In June, Kaine's clients were awarded \$60,000 in one case and \$700,000 in another, but he questions how much, if anything, they'll ultimately collect.

The problem, said Kaine, is that in these and many other dog bite cases the animals' owners are renters who have no insurance and whose landlords'

homeowners policies cannot be tapped under

Georgia law. Despite having clients who are in some cases grievously injured, Kaine's recovery prospects are dim at best and constitute "small victories," he said.

In June, Kaine handled the case of Andrene Wright-Howard, a Fairburn woman who was raking leaves in her front yard when a Rottweiler named Sampson living in a nearby house came running through the neighborhood.

"She ran into the house, and the dog chased her inside and bit her on the butt cheek and thigh, mauled her in her own kitchen," said Kaine.

A police report said there was a "trail of fatty human tissue leading from the kitchen into the dining room," said Kaine. She underwent multiple surgeries for her injuries, enduring permanent scarring and running up \$20,000 in medical bills. In October 2009, Kaine filed a negligence suit against Kevin Rasco, Lotus F. Perkins, Montae Perkins and Travonna Lovett, characterizing all four as Sampson's owners and alleging animal liability.

Rasco "was the absentee landlord living in California who had homeowner's insurance, but it was not a commercial policy," Kaine explained via email. "Under Georgia law, once the landlord divests [himself] of the property, [he] is no longer liable for these types of torts (with very few exceptions). As such, his personal homeowner's insurance was not available."

The other three defendants moved to Fayetteville prior to the Kaine's filing of the suit.

Following a bench trial before Fayette County State Court Judge Carla Wong McMillian on June 17 at which they appeared without counsel, the Perkinses and Lovett were ordered to pay \$60,000 for Wright-Howard's injuries.

"They hired a lawyer afterward, because we got a judgment against the head of household, the wife and the son," said Kaine. "The father didn't want this judgment to follow his son, so they've agreed to pay \$25,000 over five years."

"It's not much, but it's something for [Wright-Howard]," said Kaine. "We'll see how much they actually pay; maybe one day they'll buy something that we can attach if they don't."

The attorney for the defendants, Derrick L. Johnson, did not respond to telephone and email requests for comment.

Shortly after that trial, Kaine handled an even more tragic case in Douglas County, where he said Dakota Holt, now 10, "had his face ripped off" by a pit bull named Rambo in a July 2009 attack as the child played with a friend in the backyard of the house occupied by Rambo's owners.

A negligence and premises liability complaint filed in September 2009 by Kaine and Douglasville attorney Michael J. Miller said Rambo's owners had been cited 11 times for violations of the county's leash law in 2009, and that two months before mauling Dakota, the dog had attacked a woman in her driveway. The dog was ultimately euthanized, said Kaine.

"We had the animal control supervisor come in and testify," said Kaine, who represented the boy and his mother, Stephanie Holt, along with Miller. "These animal control laws are done by county. In this instance, there's a whole process to have these dogs quarantined and put down. The only reason the owner put him down this time was because he didn't want to pay the quarantine fees."

Dakota Holt had \$25,000 in medical bills and, despite multiple surgeries, suffered permanent facial disfigurement, Kaine said.

By the time the case came to trial, multiple defendants had been winnowed to one, Charvis Hawkins, who did not respond to inquiries, could not be found and did not attend, Kaine said. Hawkins did not have a lawyer, he said.

On June 30, Douglas County State Court Judge W. O. Dettmering Jr. signed an order granting \$450,000 in special damages and \$250,000 in punitive damages against Hawkins.

"We've got a piece of paper that says we're owed a lot of money," he said. "But we couldn't find [Hawkins], all the mail got bounced back. Maybe if she wins the lottery or buys some property, we can collect something."

There was no response to a telephone message the Daily Report left at a Lithia Springs number listed for Hawkins.

"The common thread throughout these cases is that, when it's a renter, no insurance is required under Georgia law," said Kaine. "We just felt obligated to keep advocating for our clients."

Due in part to publicity surrounding the Douglasville case, Kaine said he's now getting calls from

other dog bite victims.

"We filed suit in DeKalb, where a kid was attacked by his neighbor's dog ... the homeowners didn't respond to us, and there's no accident report. One reason we filed suit was to see if they have insurance."

"There's another one up in Buford: Some girl at a friend's dock on a lake when a dog ran up and bit her," said Kaine. "Fortunately, there, the homeowner was responsive and reached out to his insurer."

"And yet another one where a man was walking his dog in Dunwoody, in a cul-de-sac: Dog comes charging down a driveway, knocks him down, bites him. That's not as bad as the others; abrasions to his hands and knees—that dog has no history [of biting]," said Kaine. "Every dog gets one free bite."

The cases are *Wright-Howard v. Perkins*, No. 2009SV1201; and *Holt v. Hawkins*, No. 09SV00958.

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