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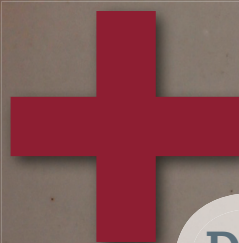
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THE JOURNAL OF THE GEORGIA TRIAL LAWYERS ASSOCIATION

Hot Coffee or Distorted:

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Holt, et al. v. Hawkins, et al.

BY EVAN KAINE & MIKE MILLER



One of the hot topics consistently making headlines throughout Georgia has been the rash of dog bites and the fallout for the victims of them. The case of *Stephanie Holt, on behalf of Dakota Holt, a minor v. Chaye Hawkins a.k.a. Charvis Hawkins* (CAFN: 09-SV-00958) was tried in the State Court of Douglas County, Georgia on June 30, 2011 before Judge W. O'Neal Dettmering, Jr. The plaintiffs were represented by Michael J. Miller of Miller & Hightower, LLC and Evan L. Kaine of Kaine Law, LLC.

Our Clients: Dakota Holt and His Family

On July 30, 2009, eight-year-old Dakota Holt went to a neighbor's house on a play

date. His friend, Master Hawkins, was of similar age and lived with his mother, Chaye Hawkins, the defendant. The two boys were playing in the Hawkins' fully-enclosed backyard when Master Hawkins ventured inside for a toy.

When leaving the house and returning to the backyard, Master Hawkins did not completely close the back door. Seizing the opportunity, Rambo, the Hawkins' Rottweiler, charged out of the house and mauled Dakota Holt by biting his face. There were no adults present so Master Holt walked home to his mother, Stephanie Holt.

Not wanting to wait for an ambulance, Stephanie drove Dakota to the closest emergency room at Wellstar Douglas

Hospital. Upon arrival, the emergency room staff assessed the situation as critical, and transferred him via ground ambulance to Scottish Rite Children's Medical Center in Atlanta, Georgia. Once admitted, he was immediately taken into surgery with a plastic surgeon and two ocular specialists, as his facial injuries resulted in deep gashes invading his left tear-ducts and exposed his right jaw bone.

By all appearances, the overnight surgery and post-operative care had spectacular results and have allowed Dakota's life to revert to a sense of normalcy – at least on the outside.

Irresponsible Dog Owners

The plaintiffs did not receive much cooperation from the parties prior to litigation, so suit was filed in order to conduct basic discovery. It was revealed that State Farm Insurance insured the home and the homeowners.

Like many in recent economic conditions, Ms. Hawkins rented the house at which Dakota was mauled. The owners of the house did not live there with the Hawkins, but instead fully used the residence as an "investment."

Georgia Dog Bite Law

Dog attacks are generally covered under the dog owner's homeowner's or renter's insurance policy. In situations like this one, where the homeowner fully divests themselves of the property, the homeowner is deemed to be an absentee or out-of-possession landlord. Georgia law is clear that in most situations involving dog attacks, absentee landlords cannot be held liable for the tortious acts of their tenants. Without personal liability, the homeowner's insurance policy was inapplicable.

As it is not required by Georgia law, Ms. Hawkins chose not to purchase renter's insurance and therefore there was not an insurance policy under which to make a claim. Ms. Hawkins can remain personally liable but most experienced attorneys recognize that this proposition usually results in a "paper judgment" — one that is not collectable.

"Pro Bono" Work

By the time the insurance policy and coverage issues were resolved, the case was already prepared for trial and a default judgment was obtained against Ms. Hawkins (who was always *pro se*). Counsel decided that the *right* thing to do was to proceed with representing the Holt family and fully litigate the case. The matter was stipulated, by the Court and plaintiffs' counsel (the only counsel left in the case), to a bench trial calendar.

At trial, plaintiffs called two witnesses. The first witness was a supervisor with the Douglas County Animal Control. The supervisor was involved with the investigation of the attack in which Dakota Holt was injured and had personal knowledge of the defendant's dog-related citation history with Animal Control. Specifically, the witness testified about the 11 prior citations issued to the defendant within the prior four months leading up to the 12th citation for the Dakota Holt dog bite. The prior citations included a prior bite of another neighbor on May 7, 2009, but otherwise consisted of county leash law violations.

Following the supervisor's testimony, Dakota's mother, Stephanie, took the witness stand and discussed the facts of the day of the attack (July 30, 2009) and the ensuing medical care. The specifics of Dakota's surgery in which a drain was placed in his tear duct, along with his post-accident demeanor and change of personality, were also detailed by Ms. Holt.

It is unlikely that the Holt family will ever receive a penny of this money to help cover the \$25,000.00 in medical expenses that they incurred as the dog's owner did not have insurance.

Ms. Holt then provided the foundation by admitting photographs illustrating Dakota's injuries and pre- and post-operative conditions. As Dakota's parent and guarantor, Stephanie Holt reviewed each of Dakota's medical expenses for the Court and totaled them to be \$25,201.99.

As part of the plaintiffs' closing statement, counsel explained the formula used in asking the Court for an award totaling \$639,801.99. The Court *sua sponte* conducted follow-up questioning of Stephanie Holt related to the potential need for her son's future care.

The Judgment

From the bench, the Court issued judgment in the amount of \$700,000.00, approximately \$60,000.00 more than the amount originally requested.

Many attorneys perceive the Douglas County State Court to be a historically conservative venue. Because of the historical verdict trends in Douglas County, the plaintiffs asked only for an amount that they could quantify without any speculation for possible future care. This is one of the highest awards to come out of the Douglas State Court since its creation in 2001.

Even with this judgment, it is unlikely that the Holt family will ever receive a penny of this money to help cover the \$25,000.00 in medical expenses that they incurred as the dog's owner did not have insurance. This is a small victory for the Holts, but one that cannot be celebrated.

The Aftermath

The Dakota Holt story has created a stir with the local media since the day the judgment was issued. In that time, the Holts are yet to recover any sums awarded or discover any other sources from which to pay their outstanding medical expenses.

Their attorneys Michael J. Miller and Evan L. Kaine are making grassroots fundraising efforts to help the Holt family cover their medical expenses. Anyone interested in participating in the fundraiser or wishing to make donations may contact Attorney Michael Miller in his Douglasville office at (770) 942-2720. ●

Evan L. Kaine is a principal at Kaine Law, LLC and concentrates his practice on personal injury matters including motor vehicle accidents, slip and fall incidents, and wrongful death. Mr. Kaine is an advocate for defending clients' rights and protecting their interests, and prides himself in making it his primary goal to help families put their lives back together after a tragic event.

Michael J. Miller is Managing Partner at Miller & Hightower, Attorneys at Law in Douglasville, GA. By staying informed of the law and involved in the local community, Mike takes a comprehensive approach to helping people who have been injured by others. He works hard to provide compensation for the clients' injuries, but also looks for ways to help his clients identify and utilize any and all available insurance to ensure that they can get the treatment and compensation they deserve.