
Pima County Superior Court Jury Trials

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8/5/11 - Judge KENNETH LEE - CV 2009-6574 - STONE (Douglas B. Levy, a sole practitioner) v CORR (David L Curl of Curl & Abraham, P.L.C.) - PERSONAL INJURY - DOG BITE. *Prologue: Dfnt previously had some trouble with her Golden Retrievers fighting, and she had spoken to her veterinarian regarding issues between the two male dogs, "Denver" (father) and "Winston" (son). On June 9, 2007, "Denver" and "Winston" began fighting while Dfnt was at home. "Winston" was taken to the veterinarian with a bite to his left front leg, as well as multiple superficial wounds. On June 29th, Dfnt's daughter and two friends were playing ball with the dogs in the backyard. "Denver" and "Winston" went for the same ball and got into a fight over the ball. "Winston" was taken to the veterinarian with bite wounds. On August 4th, Dfnt's neighbor came to Dfnt's residence to let the dogs outside, at which time "Denver" and "Winston" got into a fight. "Winston" was again taken to the veterinarian, and Dfnt was advised to discuss dog fighting problems with a trainer. On August 12, 2008, "Winston" bit his sister, "Aspen", on the ear and scratched her neck. "Aspen" was taken to the veterinarian with a puncture of the right ear.* Plntf, female, age 47, a house/pet sitter, alleged that, while pet sitting for Dfnt's five dogs, on August 21, 2008, she arrived at Dfnt's residence at 10:30 a.m., and took the dogs outside three times during the day and three times in the evening. Plntf also alleged she let "Winston" and "Dakota" out first, and let them run for five to ten minutes, then put them back in the living room. Additionally, Plntf alleged she then let "Denver" and "Willow" out of the bedroom. Plntf alleged that, as she was checking on "Aspen", she heard a commotion between the dogs, and found the four dogs fighting, with "Aspen" joining in. Plntf also alleged she was

bitten on the finger tip, but was still able to get "Aspen", "Willow" and "Dakota" back into the house. Additionally, Plntf alleged that, when she went back outside, "Denver" and "Winston" were still fighting. Plntf alleged that, when she reached to grab "Denver", she was bitten by "Winston". Plntf also alleged Dfnt should have warned Plntf of the four prior incidents with the dogs. Plntf also alleged "Winston" was able to get into the backyard through a closed sliding glass door. Plntf called Jay V. Smith, a dog trainer, who testified Dfnt should have hired a dog trainer to help with her dogs, and that others were fortunate not to have been injured. Dfnt, female, a housecleaner, denied liability, advancing the defense that Plntf provoked the dogs. Dfnt alleged Plntf had been instructed to keep "Denver" and "Winston" separate, and to not play with "Denver" in the backyard because it would make "Winston" want to come out also. Plntf sustained a puncture wound to her middle finger, which nearly severed the tip; plus puncture wounds to her wrist, forearm, and legs. Plntf alleged she has residual numbness and tingling in both hands, plus weakness in her grip strength, and drops things. Plntf also alleged she is unable to use her hands as she did previously, and has a permanent impairment of the right arm and left hand. Additionally, Plntf alleged her right arm is sensitive to touch. Plntf also alleged she was unable to perform her occupational duties for three months. Plntf called Brandon Z. Massey, M.D., a hand surgeon, who testified Plntf's treatment was causally related, and Plntf faces future carpal tunnel release and ulnar nerve decompression surgery, at a cost of \$7,500 to \$9,000. Plntf also called Jeffrey Winslow, O.T., who testified regarding the treatment administered, which was causally related. COURT GRANTED DFNT'S MOTION FOR JUDGMENT, AS A MATTER

OF LAW, ON THE ISSUE OF PUNITIVE DAMAGES. Prayer: Just and reasonable compensatory damages; \$14,475.85 past medical expenses; \$7,500 to \$9,000 future medical expenses; plus \$4,350 lost wages. Plntf made a \$100,000 pretrial offer of judgment - Dfnt made a \$40,000 offer of judgment (D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf a total of \$277,825.84. Defense counsel argued provocation. In the alternate, defense counsel suggested \$35,000 was adequate compensation. Four day trial. Jury out thirty minutes. AWARDED PLNTF \$52,825 COMPENSATORY DAMAGES. UNANIMOUSLY.
