
44, a commercial collections account agent, alleged that, while riding a bicycle to work, a Rottweiler dog ran at him, struck his front tire, and caused him to fall. Pntf also alleged Dfnt landlord negligently allowed his tenants' Rottweiler to crawl out of its backyard, under the fence, when he failed to repair the hole in the fence. Additionally, Pntf alleged Dfnt knew the dog presented a danger. Pntf called Dfnt's tenants, who testified they placed the dog in a dog run, whenever Dfnt came to the residence, because Dfnt was afraid to enter the backyard with the dog loose. Dfnt, male, age 50, a high school teacher, denied liability, advancing the defense that he was not the owner of the dog. Dfnt argued he had no notice of any holes in the fence, and no notice that the dog was dangerous. Dfnt also argued non-party tenants were responsible for the fence and their dog. COURT RULED TENANTS WERE AT FAULT, AS A MATTER OF LAW. Pntf sustained a fractured tibia, a separated right

10/24/02 - Judge CHARLES S. SABALOS - CV 2001-0749 - HOSTETTER aka JACOB (Bonnie Shore Dombrowski of Jacoby & Meyers, L.L.P.) v REES (David L. Curl of William B. Blaser & Associates) - PERSONAL INJURY - DOG-AT-LARGE MISHAP. Pntf, male, age

shoulder, and an injury to the left shoulder, with secondary headaches. . . . Plntf required surgical intervention, and was hospitalized for four days. Plntf was bedridden for one month, non-weight bearing for six weeks, and unable to work for nine weeks. . . . Plntf alleged he will require a future knee replacement, at a cost of \$30,000. Plntf, who rode his bicycle eighty miles per week, also alleged he is no longer able to ride a bicycle, play basketball, run, kneel or squat, and periodically requires a cane to ambulate. Plntf called his treating chiropractor, Nathan S. Conlee, D.C., who testified he treated Plntf seven times, and Plntf's complaints had resolved. It was Dr. Conlee's opinion Plntf's left shoulder complaints were preexistent. . . . Plntf used the videotape deposition of James B. Benjamin, M.D., an orthopod, who surgically repaired Plntf's knee, by taking a bone graft from the hip, and packing the bone into the upper portion of the tibia, with implantation of internal fixation devices. . . . It was Dr. Benjamin's opinion Plntf has the onset of arthritis, and will require a future knee replacement, at a cost of \$30,000. Dfnt argued Plntf's complaints had resolved eight months post-accident, with no residuals, and Plntf was able to resume all of his activities. Prayer: Just and reasonable compensatory damages; \$29,000 medical expenses; \$30,000 future medical expenses; plus \$5,000 to \$6,000 lost wages. (Plntf recovered \$5,000 under the med pay provision of Dfnt's homeowner's policy.) No pretrial negotiations (D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel argued Dfnt was at least fifty percent at fault. Plntf's counsel asked jury to award Plntf his specials, plus \$299,080 to \$722,700 for pain and suffering. Defense counsel argued there was no evidence Dfnt knew the fence had a hole in it, and the incident was concealed from Dfnt by his tenants. Defense counsel also argued Plntf did not file suit against Dfnt's tenants, and took a calculated chance that a jury would feel bad that Plntf might not recover any monetary compensation for an

accident that was not his fault. Two day trial.
Jury out fifteen minutes. FOUND FOR DEFNT.
UNANIMOUSLY.
