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## Judge allows multiple theories for punitive damages by dog bite victim

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By JIM BOYLE

A Pennsylvania attorney is claiming victory after a Dauphin County Court of Common Pleas judge allowed multiple legal theories to be presented for a punitive damages claim submitted by the victim of an alleged dog attack.

According to Thomas Newell, a veteran dog bite lawyer, the decision to overrule four of five objections will allow him to present seven legal theories to a Dauphin County jury, including one that establishes the dog's vicious propensities even though there were no previous physical attacks.

"I am unaware of any prior court decisions allowing a dog bite victim to pursue punitive damages via multiple legal theories," said Newell in a statement. "Equally important is my belief that this is the first Pennsylvania legal opinion that allows a dog bite victim to pursue a punitive damage claim without proof of any prior or subsequent physical attack upon another person or animal."

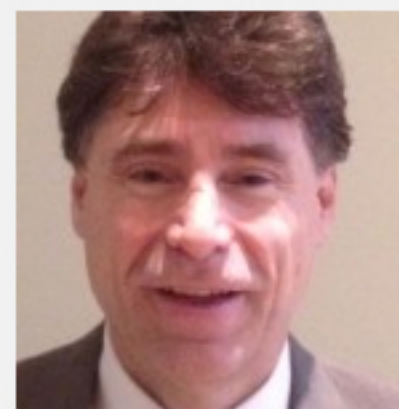
According to court documents, FedEx delivery person Mandy Bitting entered the property of Clifford Schaffner on Nov. 21, 2012, to drop off a package at the front door, per company policy. Three adult boxers were not visible when Bitting entered the property, but they allegedly came out of nowhere and began attacking and biting her, the lawsuit says. They only stopped when Schaffner called and restrained them.

The complaint says that the dogs had pursued another FedEx driver, but remained unrestrained and unsupervised when Bitting attempted to make her delivery. There is also no record of whether the dogs received their rabies shots, a violation of Pa. dog laws, according to the complaint.

Dauphin County Court of Common Pleas Judge William Tully ruled that the defense's first four objections were arguments that could only be settled through factual determination, not through the objection process. Specifically, Schaffner's attorneys argued that in order for a cause of action alleging negligence to go forward, Bitting must show that the dog law violation was unexcused and that the defendant knew of his dogs' alleged violent propensities.

Tully did sustain an objection from the defense which argued that the Pennsylvania Rabies Prevention Act does not provide a legal basis in support of a plea for punitive damages.

This entry was posted in Court of Common Pleas, negligence, News, Personal Injury and tagged Dauphin County, dog attack, dog bite, punitive damages, Rabies Prevention Act, top. Bookmark the permalink.



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