

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.

14-CV-1197
NO. _____

EMERALD H. WHITE
Plaintiff,

V.

STEVEN E. BAKER and
TIFFANY M. BAKER,
Defendants.

§ **IN THE DISTRICT COURT**
§ Galveston County - 405th District Court
§
§ _____ **JUDICIAL DISTRICT**
§
§
§ **OF GALVESTON COUNTY, TEXAS**

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Emerald H. White, hereinafter called Plaintiff, complaining of and about Steven E. Baker and Tiffany m. Baker, hereinafter called Defendants, and for cause of action would show unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

PARTIES AND SERVICE

2. Plaintiff, Emerald H. White, is an Individual whose address is 2601 - 13th Avenue North, Texas City, Texas 77590.

3. The last three numbers of Emerald H. White's driver's license number are 480. The last three numbers of Emerald H. White's social security number are 245.

4. Defendant Steven E. Baker, an Individual who is a resident of Texas, may be served with process at his home at the following address: 2916 - 9th Street, Texas City, TX 77590. Service of said Defendant as described above can be effected by personal delivery.

5. Defendant Tiffany M. Baker, an Individual who is a resident of Texas, may be served with process at his home at the following address: 2916 - 9th Street, Texas City, TX

77590. Service of said Defendant as described above can be effected by personal delivery.

JURISDICTION AND VENUE

6. The subject matter in controversy is within the jurisdictional limits of this court.
7. Plaintiff seeks:
 - a. monetary relief over \$200,000 but not more than \$1,000,000.
8. This court has jurisdiction over the parties because Defendants are Texas residents.
9. Venue in Galveston County is proper in this cause.

FACTS

10. At all times material hereto, Defendants were the owners of the premises located at 2916 - 9th Street, Texas City, TX 77590.

11. Emerald H. White entered upon said premises for the purpose of retrieving her pet dogs. Defendants' dog entered and/or attempted to enter Plaintiff's premises through a hole in the mutual fence separating the two respective properties. Plaintiff's dogs then chased Defendants' dog back through the fence onto Defendant's property. When Plaintiff entered Defendants' property to retrieve her dogs, Plaintiff was unexpectedly and viciously attacked by Defendants' dog. Plaintiff suffered multiple serious bite and scratch type injuries requiring ongoing medical treatment. Plaintiff felt conscious pain and suffering and now suffers also from fear, anxiety and trepidation. At the time of the attack, Plaintiffs' dogs attempted to protect Plaintiff and repel the unprovoked attack. At all times relevant herein, Defendant, Defendant's agents and employees, kept an animal, to wit: a beagle dog.

12. During the time that Emerald H. White was upon Defendant's property, Emerald H. White was seriously injured as a result of an attack by Defendant's dog. This animal has vicious and dangerous propensities abnormal to its class due to its nature and previous disposition towards

persons on Defendant's property of which Defendant knew or had reason to know. The attack of this animal resulted in injuries to Emerald H. White.

LIABILITY OF DEFENDANTS STEVEN E. BAKER AND TIFFANY M. BAKER

13. At all times mentioned herein, Defendants owned the property in question, located at 2916 - 9th Street, Texas City, TX 77590.

14. At all times mentioned herein, Defendants had such control over the premises in question that Defendants owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.

15. Plaintiff would show the court that Defendants were the owner or had possession of the animal in question and of the property on which the animal in question was maintained and kept. Defendants were negligent at all times relevant herein and that such negligent conduct was a proximate cause of the above described attack and subsequent injuries to Emerald H. White. As such, Defendants are responsible for negligent conduct, specifically:

- A. Failing to confine or restrict the animal in a secure enclosure or by leash, constraints, or other reasonable methods while Emerald H. White was upon the property of Defendants;
- B. Failing to confine or restrict the animal in a secure and safe enclosure or place while Emerald H. White was upon the property of Defendants, when in fact, Defendants knew that the animal had shown vicious propensities to other persons or to Defendants on past occasions;
- C. Failing to instruct persons to restrain the animal in question during the visit of Emerald H. White upon the property of Defendants;
- D. Failing to remove the animal in question from the property of Defendants in violation of City Code;
- E. Failing to properly restrain the animal in question;
- F. Failing to provide adequate controls and physical restraints over the animal in question;

G. Failing to properly train the animal in question to prevent the vicious behavior of the animal; and

H. Failing to investigate the history of the animal in question.

16. Due to the above aforementioned acts and omissions, Plaintiff therefore, invokes the doctrine of strict liability in Section 402A, Restatement of the Law of Torts, 2d, and as adopted by the Supreme Court of Texas. Defendants are strictly liable for the injuries and damages to Plaintiff as described herein.

PROXIMATE CAUSE

17. Each and every, all and singular of the foregoing acts and omissions, on the part of Defendants, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

EXEMPLARY DAMAGES

18. Defendants acts or omissions described above, when viewed from the standpoint of Defendants at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff and others. Defendants had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.

19. Based on the facts stated herein, Plaintiff requests exemplary damages be awarded to Plaintiff from Defendants.

DAMAGES FOR PLAINTIFF, EMERALD H. WHITE

20. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendants' acts as described herein, Plaintiff, Emerald H. White was caused to suffer serious bite and scratch type injuries, and to endure anxiety, pain, and illness resulting in damages more fully set forth below.

21. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Emerald H. White has incurred the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, Emerald H. White for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Galveston County, Texas;
- B. Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Mental anguish in the past;
- E. Physical pain and suffering in the future;
- F. Mental anguish in the future;
- G. Physical impairment in the past;
- H. Physical impairment which, in all reasonable probability, will be suffered in the future;
- I. Loss of earnings in the past;
- J. Loss of earning capacity which will, in all probability, be incurred in the future;
- K. Loss of Household Services in the past;
- L. Loss of Household Services in the future;
- M. Disfigurement in the past;
- N. Disfigurement in the future;

- O. Fear of future disease or condition; and
- P. Cost of medical monitoring and prevention in the future.

21. By reason of the above, Plaintiff, Emerald H. White has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Emerald H. White, respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants for damages in an amount within the jurisdictional limits of the Court; exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

LAW OFFICES OF PAUL HOUSTON LAVALLE
& ASSOCIATES, P.C.

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PLAINTIFF HEREBY DEMANDS TRIAL BY JURY