

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO
CIVIL DIVISION

James Allen
8263 Coldharbor Boulevard
Lewis Center, Ohio 43035

and

A.W., A Minor, by and through her Mother
and Next Friend, Amy Werling
2011 Baltic Avenue
Lewis Center, Ohio 43035

and

Amy Werling
2011 Baltic Avenue
Lewis Center, Ohio 43035

and

John Doe Plaintiffs 1-25, names unknown
are individuals who have unknowingly
adopted or fostered dangerous or vicious
dogs from the Humane Society of
Delaware County or its agents, have been
attacked by dangerous or vicious dogs
adopted or fostered out, or kenneled or
placed in the public, by the Humane
Society of Delaware County or its agents,
and/or have suffered from the public
nuisance and/or fraud of defendants.

Plaintiffs,

v.

Michael Prasse
2215 Aurora Avenue
Lewis Center, Ohio 43035

and

Judith Prasse
2215 Aurora Avenue
Lewis Center, Ohio 43035

CASE NO. 12- CVH-040378

JUDGE EVERETT H. KRUEGER

COMPLAINT
(JURY DEMAND ENDORSED HEREIN)

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
FILED
2012 APR -9 AM 8:47
JAN ANTONOPLOS
CLERK

and

Humane Society of Delaware County
c/o Judy Schmid, Agent for Service
6304 Center Street
Lewis Center, Ohio 43035

and

John Doe Defendants 1–25, names
unknown, are individuals who have
knowingly adopted or fostered out, or
kenneled or placed in the public, dangerous
or vicious dogs in association with the
Humane Society of Delaware County or its
agents, have adopted or fostered out, or
kenneled or placed in the public, in
association with the Humane Society of
Delaware County or its agents, dangerous
or vicious dogs which attacked a person or
animal, and/or contributed to, participated
in or allowed the public nuisance and/or
fraud of defendants.

Defendants.

Now come Plaintiffs, by and through counsel, and for their Complaint in the above-captioned matter, state as follows:

INTRODUCTION

1. The Humane Society of Delaware County (“HSDC”) has knowingly adopted or fostered out, or kenneled or placed, dangerous and vicious dogs into residential neighborhoods and the public in general. It did so despite knowing such dogs had been recommended for euthanization by veterinarians in order to protect the safety of HSDC employees and the public. The HSDC also ignored warnings from veterinarians and others that its policy of placing dangerous and/or vicious animals into the public was a reckless and irresponsible act that eventually would lead to injury or death.

2. The adopting, fostering, kenneling, and placement of dangerous and vicious dogs occurred despite the HSDC being warned repeatedly about the dangers such dogs created for other animals, the public, and employees of the HSDC.

3. The HSDC ignored warnings and kenneled at least two dogs known to be dangerous and/or vicious in the home of Michael and Judith Prasse, which is located in the Oak Creek East residential neighborhood. Mr. Prasse was President of the HSDC's Board of Directors from February, 2010 to May, 2011. In effect, the Prasse's home became an annex of the HSDC for animals recommended for euthanization due to their dangerous or vicious nature but which the HSDC refused to euthanize.

4. James Allen lives in the Oak Creek East subdivision. As a result of the decision by the HSDC to kennel or place dangerous or vicious dogs in an annex located in a residential neighborhood, and the negligence of Mr. Prasse and his wife Judith Prasse, in May, 2010, Sadie, a German Shepherd mix which had been recommended for euthanization due to being dangerous or vicious, attacked Mr. Allen and his dog Georgia without provocation while they were taking a walk on a public sidewalk. Georgia was near death, but survived.

5. Amy Werling and her family also live in the Oak Creek East subdivision. After the attack on Mr. Allen and Georgia, the HSDC and the Prasses took no corrective action and continued to kennel Sadie at the HSDC annex located at the Prasse home. As a result, in October, 2010, Sadie attacked A.W., the daughter of Amy Werling, and her dog Brutus while they walked on a public sidewalk. At the time of the attack, A.W. was 13 years old. Brutus, whose carotid artery was virtually severed, survived after extensive surgery.

6. The HSDC also promoted and permitted the adoption, fostering, kenneling, or placement into the public of dangerous or vicious dogs by unknowing members of the public, rather than euthanize them.

7. Mr. Allen, the Werlings, and others in the Oak Creek East subdivision, live in constant fear of being attacked by Sadie or another dangerous or vicious animal kenneled by the HSDC at its annex located at the Prasse home. In addition, as members of the public, Mr. Allen, the Werlings, and others are fearful due to the HSDC's policy of adopting or fostering out, or kenneling or place in the public, known dangerous or vicious dogs.

8. The policies, actions and failures to act of the HSDC and others already led to the attacks on Mr. Allen, A.W., Georgia, Brutus, and others. Despite having knowledge of these incidents, the HSDC continues to adopt or foster out, or kennel or place in the public, dangerous and vicious dogs, and/or kennel them in annexes located in residential neighborhoods, continues to ignore the recommendations of veterinarians, and refuses to change its policies.

PARTIES AND VENUE

9. Plaintiff James Allen is an individual residing at 8263 Coldharbor Boulevard, Lewis Center, Ohio 43035 in the Oak Creek East subdivision. He is the registered owner of the dog, Georgia.

10. Plaintiff Amy Werling resides at 2011 Baltic Avenue, Lewis Center, Ohio 43035 in the Oak Creek East subdivision. She is the mother and Guardian of A.W., a minor, and registered owner of the dog, Brutus.

11. John Doe Plaintiffs 1-25 are individuals who have unknowingly adopted or fostered dangerous or vicious dogs from the HSDC or its agents, have been attacked by

dangerous or vicious dogs adopted or fostered out, or kenneled or placed in the public, by the HSDC or its agents, and/or have suffered from the public nuisance and/or fraud of defendants.

12. Defendant Michael J. Prasse (“Mr. Prasse”) is an individual believed to reside at 2215 Aurora Avenue, Lewis Center, Ohio 43035 in the Oak Creek East subdivision (“Prasse Home”). Mr. Prasse was President of the HSDC’s Board of Directors from February, 2010 to May, 2011, and remains affiliated with the HSDC.

13. Defendant Judith L. Prasse (“Ms. Prasse”) is Mr. Prasse’s wife and believed to reside at the Prasse Home.

14. Defendant the HSDC is an Ohio corporation with its principal place of business located at 4920 State Route 37 East, Delaware, Ohio 43015. As used herein, the “HSDC” includes its principals, officers, employees, and/or agents.

15. John Doe Defendants 1–25 are individuals who have knowingly adopted or fostered, or kenneled or placed in the public, dangerous or vicious dogs in association with the HSDC or its agents, have adopted or fostered out, or kenneled or placed in the public, in association with the HSDC or its agents, dangerous or vicious dogs which attacked a person or animal, and/or contributed to, participated in or allowed the public nuisance and/or fraud of defendants.

16. Venue is proper in Delaware County as the events giving rise to plaintiffs’ Complaint took place in Delaware County, Ohio.

FACTS

A. Mr. Prasse and the HSDC

17. The HSDC operates in Delaware County, Ohio, under the direction of a Board of Directors (“Board”). Among other tasks, the HSDC accepts surrendered dogs, operates an

adoption or foster program for dogs, and is to euthanize animals not suitable for adoption, including such animals which are dangerous or vicious.

18. In approximately 2007, Mr. Prasse began volunteering for the HSDC. According to Mr. Prasse, he trained dogs in basic manners.

19. On or about October 20, 2009, Mr. Prasse submitted an application for a position on the HSDC's Board. In his application, Mr. Prasse wrote he was "guardian for four dogs, all from HSDC." Mr. Prasse was subsequently elected to the Board in November 2009.

20. Mr. Prasse became President of the HSDC's Board in February, 2010, and remained President until May, 2011.

B. The HSDC Chose to Adopt or Foster Out, or Kennel or Place in the Public Including In Residential Neighborhoods, Dogs With Histories of Biting and Being Dangerous or Vicious.

i. The Dangers at the HSDC with Dangerous and Vicious Dogs and Refusal to Address Those Dangers.

21. The HSDC accepts dogs surrendered by the public, including dogs surrendered because they are dangerous or vicious.

22. Dr. Laurie Schulze, DVM ("Dr. Schulze") is a former member of the Board. In January, 2009, she examined the surrender records for twenty-two dogs on the HSDC's adoption floor and discovered nine had a history of biting. On or about February 4, 2009, Dr. Schulze informed the Board of her findings.

23. On or about February 11, 2009, the Board approved a short term emergency action plan to address the HSDC's aggressive dog problem. The plan was authored by Dr. Schulze. This was the HSDC's first written policy regarding aggressive dogs.

24. A staff meeting was scheduled for February 26, 2009, to explain and implement the emergency action plan. This meeting was canceled, however, because the then Board

President, Sherri Mitchell (“Ms. Mitchell”), and the HSDC’s Shelter Director, Wade Beane (“Mr. Beane”), felt the definition of “aggression” was too broad. Ms. Mitchell instead created an Intake Policy Committee and Behavioral Council to assess each dog in the HSDC’s possession on a case by case basis.

25. On or about March 3, 2009, Dr. Schulze e-mailed the members of the Behavioral Council with a summarized history of dogs the Behavioral Council would be discussing at the next Behavioral Council meeting, including dogs named Bandit, Trooper, Dusty or Dustin, Charlie, Pepper, Princess (Gracie), and Panther. Several of these dogs were on the general adoption floor.

26. In April and May, 2009, Behavioral Council members Dr. Jill Hayes, DVM (“Dr. Hayes”), Sam Frost, and Lori Hensley utilized the Safety Assessment For Evaluating Rehoming (SAFERTM), an aggression assessment tool developed by the American Society for the Prevention of Cruelty to Animals, to assess all twenty-six dogs then in the HSDC’s possession, and determined only six met the HSDC’s recently approved requirements for adoption. Several dogs were recommended for euthanization by Dr. Hayes, Mr. Frost, and Ms. Hensley. Mr. Beane disagreed with the recommendation and none of the dogs were euthanized.

27. Prior to May 10, 2009, Dr. Hayes was employed directly by the HSDC as a veterinarian. On or about May 10, 2009, Dr. Hayes e-mailed Ms. Mitchell stating she was resigning from her veterinary position at the HSDC and would work going forward as an independent contractor on an hourly fee basis. Dr. Hayes indicated she was concerned about the HSDC’s lack of a fact based policy related to adopting out dogs with a history of biting. In response, the HSDC terminated Dr. Hayes’ employment and ended its relationship with her.

28. In August, 2009, the Board was presented with an intake/adoption policy which had input from Mr. Beane, Mr. Prasse, and Dr. Schulze, among others. On or about August 27, 2009, however, a different intake/adoption policy prepared by Mr. Beane was e-mailed to the Board. On or about August 29, 2009, Dr. Schulze e-mailed the Board stating Mr. Beane's policy was different than the policy on which she had collaborated.

29. In September, 2009, Dr. Schulze expressed her concern that Mr. Beane's policy was inappropriate and would allow aggressive dogs out in the public. At the September, 2009, Board meeting, the Board decided to not vote on either policy.

30. On or about September 18, 2009, Dr. Nikki Eaton, DVM, a member of the HSDC's Board, e-mailed other Board members stating The Ohio State University would not support an event with the HSDC because the HSDC adopted out aggressive dogs and did not have an intake policy for potentially aggressive dogs.

31. In October, 2009, the Board rejected an intake/adoption policy proposed by Ms. Mitchell and Mr. Beane.

32. On or about October 8, 2009, Dr. Hayes e-mailed several officials with the Girl Scouts of Ohio's Heartland Council regarding an event to be held at the HSDC for local Girl Scouts. Dr. Hayes was concerned for the safety of the participating Girl Scouts because of the aggressive history of dogs on the general adoption floor. Dr. Hayes cited Bandit and Charlie as examples of aggressive dogs and noted she had tried to change the dangerous situation before leaving the HSDC in May, 2009. Dr. Hayes stated that the HSDC was made aware of the dangers early in 2009, yet the problem remained.

33. On or about November 13, 2009, Mr. Prasse e-mailed to members of the Board an intake/adoption policy claiming it had all the agreed upon changes discussed at a policy meeting

held on or about November 7, 2009. Dr. Schulze had not agreed to the new policy. Over the objection of Dr. Schulze, on or about November 18, 2009, the Board approved a written intake/adoption policy. Dr. Schulze was asked to assist with ensuring quality control for the new policy.

34. On or about December 20, 2009, Dr. Schulze sent an e-mail to the Board stating the HSDC was housing dogs meeting Ohio's legal criterion for being dangerous or vicious. She indicated she would no longer assist with implementing quality control because of the resistance of other Board members and employees to her efforts. She concluded things were still functionally the same as when she first discovered a problem in January, 2009, and requested the Board revisit the issue.

35. After the Board took no corrective action, on or about February 9, 2010, Dr. Schulze authored another e-mail discussing the implementation of the HSDC's new intake/adoption policy. She noted she had brought to the Board's attention in February, 2009, that the HSDC had several dogs on the adoption floor with bite histories, but the Director at the time had a practice of adopting out as many dogs as possible without considering the impact on each dog or the public's safety. Dr. Schulze also stated her belief the new HSDC policy was just a façade, created to make it appear that the HSDC did not intake or adopt or foster out dangerous or vicious dogs, when in fact it continued to do so, regardless of the dog's history. By way of example, she noted the HSDC allowed a dog named "Rebecca" to be adopted out when Rebecca should have been transferred back to the Franklin County Dog Shelter based on the results of a SAFERTM assessment. Rather than address her concerns, the Board responded by removing Dr. Schulze as a Board member at the February, 2010 Board meeting.

ii. ***Rather Than Address the Aggressive Dog Problem, the HSDC Kenneled or Placed Two Dogs, Sadie and Bandit, at the Prasse Home in the Oak Creek East Subdivision.***

36. Sometime in 2008 or 2009, Sadie, a female German Shepherd mix, was kenneled at the HSDC. When Sadie was received at the HSDC, she was aggressive, dangerous, and/or vicious and known to lunge at people who looked at her. While at the HSDC, Sadie lunged, growled, and barked at people and other dogs. Sadie's dangerous and/or vicious tendencies at the HSDC escalated to the point that she was recommended for euthanization.

37. Rather than euthanize Sadie, Mr. Prasse and the HSDC transferred her to the Prasse Home for kenneling, but did not transfer ownership to Mr. Prasse. It was still the intent of the HSDC and Mr. Prasse that the HSDC would adopt or foster Sadie out. Mr. Prasse would often bring Sadie back to the HSDC.

38. On or about December 26, 2008, Bandit, a male Cattle Dog mix, was surrendered to the HSDC. Three days earlier, Bandit had been adopted out to a family. The family could not keep Bandit due to aggression and viciousness, and returned him because he growled, snapped, and bit adult family members. For example, Bandit bit the father of the family when he came in the back door of the house, breaking his skin and drawing blood. Upon Bandit's return to the HSDC, Mr. Prasse attempted to train him.

39. With full knowledge of the prior surrendering of Bandit for being dangerous or vicious, in February, 2009, the HSDC again adopted out Bandit without disclosing his history of being dangerous or vicious. On or about February 7, 2009, Bandit's new adoptive family informed Dr. Schulze that Bandit was overly aggressive with other dogs, snapped at people, often in their face, and attempted to bite a service man. The family returned Bandit to the HSDC and Mr. Prasse continued to attempt to train him.

40. In approximately July, 2009, it was determined Bandit should be euthanized due to his being aggressive, dangerous, and/or vicious. Rather than do so, the HSDC transferred Bandit to Mr. Prasse's home for kenneling and further training.

41. On or about September 4, 2009, Mr. Prasse authored an e-mail to the President of the Oak Creek East Home Owners' Association admitting his knowledge of Sadie's and Bandit's dangerousness or viciousness and stating he took them into his home because otherwise they were going to be euthanized.

42. Upon information and belief, the HSDC has adopted or fostered out, or kenneled or placed in the public, dogs other than Sadie and Bandit that are dangerous or vicious. These dogs remain in residential neighborhoods.

43. Pursuant to O.R.C. 955.11(D), every time the HSDC transfers ownership or possession of any dog it has knowledge of being dangerous or vicious, the HSDC is to give to the buyer or other transferee, and the dog warden of the county in which the buyer or other transferee resides, a written form complete with information on, among other things, whether the dog has attacked or bitten a person. Upon information and believe, the HSDC has never completed one of these forms and provided it to a transferee or any dog warden, further endangering the public.

44. On information and belief, five dogs transferred from the HSDC are being kenneled in the Prasse Home.

C. Sadie Attacks Mr. Allen and Georgia on May 7, 2010.

45. On May 7, 2010, at approximately 7:15 PM, plaintiff Allen was walking Georgia, his 8-pound Yorkshire Terrier, on Coldharbor Boulevard, Lewis Center, Ohio, in the Oak Creek

East subdivision. Coldharbor Boulevard is approximately 175 feet from the Prasse Home. Mr. Allen and Georgia were on a public sidewalk.

46. During the walk, Sadie suddenly appeared and, without provocation, attacked Georgia, biting and thrashing her around. When Mr. Allen attempted to rescue Georgia, Sadie bit him on the hands, forearm, and cheek, breaking the skin.

47. Mr. Prasse arrived carrying a leash with a muzzle for Sadie. Mr. Prasse admits he was negligent in allowing Sadie to escape his backyard.

48. Mr. Allen took Georgia to a veterinary clinic. Georgia had several broken ribs and had to be transported for immediate surgery to a veterinary medical center. It was necessary to make an incision from the middle of her back to the middle of her stomach during the surgery. She also had metal staples to hold the incision together. Georgia stayed at MedVet until May 10, 2010.

49. The wound to Mr. Allen's face became infected. On May 9, 2010, he had to undergo a tetanus shot. Mr. Allen continues to suffer from psychological trauma related to this incident.

50. As a result of this dog attack, a criminal complaint was filed in the Delaware County Municipal Court, Case No. 10CRB01032, charging Mr. Prasse with Failure to Keep a Dog Confined or Under Reasonable Control, in violation of O.R.C. 955.22(C). According to the Complaint, Sadie "was running at large and attacked" Georgia in the area of 8263 Coldharbor Boulevard. The Complaint also stated Sadie bit Mr. Allen "on face, left arm, [and] both hands." On or about May 17, 2010, Mr. Prasse submitted a guilty plea, waived trial, and paid fines and costs for this criminal case.

D. Sadie Attacks A.W. and Brutus on October 5, 2010.

51. On October 5, 2010, 13-year-old A.W. was walking Brutus, her family's 3-year-old Yorkshire Terrier, on a leash on Coldharbor Boulevard, Lewis Center, Ohio, in the Oak Creek East subdivision. A.W. and Brutus were on a public sidewalk.

52. Despite the prior incident involving Mr. Allen and Georgia, on the same day, Sadie was permitted to be outside without supervision by Mr. Prasse, Mrs. Prasse, or any other agents of the HSDC.

53. Sadie left the yard and charged A.W. and Brutus. Sadie latched onto Brutus' neck and began to thrash him around. A.W. attempted to intervene and rescue Brutus, but Sadie bit A.W.'s fingers and hands. As Sadie began to carry Brutus back to the Prasse Home, A.W. continued to hold onto Brutus' leash.

54. Kim Cristofoli, a resident of the adjacent Walker Wood subdivision, was driving down Coldharbor Boulevard and saw A.W. struggling to save Brutus. A.W. had blood and marks on her legs from the struggle and Brutus appeared to be lifeless. Ms. Cristofoli yelled at A.W. to let go of Brutus' leash because she was in danger. Upon A.W. letting go, Sadie ran off with Brutus in her mouth. Ms. Cristofoli instructed A.W. to remain at the scene while Ms. Cristofoli called 911. A.W. followed Sadie and Brutus.

55. A.W. called her mother, Amy Werling, who drove first to the scene of the attack, where she thought A.W. was, and then to the Prasse Home. Upon her arrival, Sadie was still thrashing Brutus around, but eventually dropped him.

56. A.W. had to be treated for the bites on her fingers and hands, including having to have a fingernail pushed back under the cuticle. She continues to suffer from psychological trauma related to this incident.

57. Brutus sustained life-threatening injuries, including having his carotid artery virtually severed. Mrs. Werling took him first to a veterinary clinic. Like Georgia, Brutus had to then be transported to a veterinary medical center where he had surgery and was kept for 6 days.

58. Just four days later, on or about October 9, 2010, Sadie was again seen running free in the backyard of the Prasse Home without supervision by Mr. Prasse, Mrs. Prasse, or any other agent of the HSDC. Sadie also was acting aggressively toward a neighbor.

59. As a result of the attack on Brutus and A.W., a criminal complaint was filed in the Delaware County Municipal Court, Case No. 10CRB02529, charging Mr. Prasse with Failure to Keep a Dog Confined or Under Reasonable Control, in violation of O.R.C. 955.22(C). According to the Complaint, "Mike Prasse's dog, a Shepherd mix, was off its property and attack[ed] the Werling's dog, a Yorkie Poo, as [A.W.] was walking her dog on Coldharbor Blvd. causing injury to both the dog and [A.W.]. This being the second offense."

60. On or about October 25, 2010, Mr. Prasse pled no contest and was found guilty of a violation of O.R.C. 955.22(C).

61. On or about November 8, 2010, a sentencing hearing took place in the Delaware County Municipal Court. During the hearing, Mr. Prasse stated Sadie had been on a leash constantly since the attack involving the Werlings. Mr. Prasse also stated Sadie was receiving training at Tucker and Miles Paw Prints and that the person in charge of Sadie's training, Bill Alan aka William Hadley, did not believe Sadie was vicious toward humans. Mr. Prasse did not tell the Court Bill Alan also was Director of the HSDC and a member of the Board.

62. Mr. Prasse was sentenced to a 30-day suspended jail sentence, a \$250 fine, and one year of community control. Because of Sadie's propensity to escape and attack other dogs

and people, it was ordered she must be tethered or on a leash at all times when outside of Mr. Prasse's residence.

63. An invoice dated April 2, 2011 from Tucker and Miles Paw Prints stated Sadie should be euthanized rather than hurt someone else. Despite this, Sadie still is kenneled at the Prasse Home.

**FIRST CAUSE OF ACTION
NEGLIGENCE – AGAINST MICHAEL PRASSE, JUDITH PRASSE, AND THE HSDC**

64. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

65. Defendants owned, kept, kenneled, or harbored Sadie on May 7, 2010.

66. On and before May 7, 2010, Sadie was a known vicious dog with a history of causing injury to people and other animals.

67. Defendants knew of Sadie's viciousness.

68. Defendants each had a duty to confine or otherwise control Sadie and to prevent Sadie from attacking, mauling, or biting James Allen and his dog Georgia on May 7, 2010.

69. Defendants each breached their respective duties to confine or otherwise control Sadie and to prevent her from attacking, mauling, or biting James Allen and his dog Georgia on May 7, 2010.

70. As a direct and proximate result of defendants' breaches of duty, James Allen and his dog Georgia suffered personal injuries, pain and suffering, and mental anguish.

71. As a direct and proximate result of the breaches of duty by defendants, James Allen incurred monetary damages for medical care, veterinary care, and other aspects of financial loss, is expected to incur damages in the future, and both he and Georgia suffered serious and permanent injuries.

72. The actions/inactions of defendants constitutes negligence in keeping Sadie.

73. Defendants are each jointly and severally liable to James Allen for his damages.

**SECOND CAUSE OF ACTION
NEGLIGENCE – AGAINST MICHAEL PRASSE, JUDITH PRASSE, AND THE HSDC**

74. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

75. Defendants owned, kept, kenneled, or harbored Sadie on October 5, 2010.

76. On and before October 5, 2010, Sadie was a known vicious dog with a history of causing injury to people and other animals.

77. Defendants knew of Sadie's viciousness.

78. Defendants each had a duty to confine or otherwise control Sadie and to prevent Sadie from attacking, mauling, or biting A.W. and her dog Brutus on October 5, 2010.

79. Defendants each breached the duties to confine or otherwise control Sadie and to prevent Sadie from attacking, mauling, or biting A.W. and Brutus on October 5, 2010.

80. As a direct and proximate result of the breaches of duty by defendants, Amy Werling, A.W., and Brutus suffered personal injuries, pain and suffering, and mental anguish.

81. As a direct and proximate result of the breaches of duty by defendants, Amy Werling and A.W. incurred monetary damages for medical care, veterinary care, and other aspects of financial loss, are expected to incur damages in the future, and Amy Werling, A.W., and Brutus suffered serious and permanent injuries

82. The actions/inactions of defendants constitutes negligence in keeping Sadie.

83. Defendants are each jointly and severally liable to A.W. and Amy Werling for damages.

**THIRD CAUSE OF ACTION
STRICT LIABILITY PER R.C. 955.28 – AGAINST MICHAEL PRASSE, JUDITH
PRASSE, AND THE HSDC**

84. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

85. Each of the defendants was, on or about May 7, 2010, an owner, keeper, or harbinger of Sadie as those terms are used in Chapter 955 of the Ohio Revised Code.

86. Sadie's unprovoked attack on plaintiff James Allen and his dog Georgia on May 7, 2010, were the proximate cause of injuries to plaintiff James Allen and Georgia.

87. Plaintiff James Allen has suffered personal injuries and pain and suffering, has incurred money damages for medical care and treatment and other aspects of financial loss, and is expected to continue to incur damages that have not yet been fully itemized or tallied.

88. Each of the defendants are jointly and severally, strictly liable to plaintiff James Allen for damages caused by Sadie.

**FOURTH CAUSE OF ACTION
STRICT LIABILITY PER R.C. 955.28 – AGAINST MICHAEL PRASSE, JUDITH
PRASSE, AND THE HSDC**

89. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

90. Each of the defendants was, on or about October 5, 2010, an owner, keeper, or harbinger of Sadie as those terms are used at Chapter 955 of the Ohio Revised Code.

91. Sadie's unprovoked attack on plaintiff A.W. and her dog Brutus on October 5, 2010, were the proximate cause of injuries to plaintiff A.W. and Brutus.

92. Plaintiff A.W. has suffered personal injuries and pain and suffering, and plaintiff Amy Werling has incurred money damages for medical care and treatment and other aspects of

financial loss and is expected to continue to incur damages that have not yet been fully itemized or tallied.

93. Each of the Defendants are jointly and severally, strictly liable to plaintiffs A.W. and Amy Werling for damages caused by Sadie.

**FIFTH CAUSE OF ACTION
PUBLIC NUISANCE – AGAINST MICHAEL PRASSE, JUDITH PRASSE, AND THE
HSDC**

94. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

95. Defendants have kenneled since at least 2009 known dangerous or vicious dogs in the Prasse Home. The kenneling of dangerous or vicious dogs in a residential neighborhood without adequate confinement affects the public's safety and health, and works a substantial annoyance and inconvenience to the public. Because of the presence of dangerous or vicious dogs, the public cannot walk safely in the Oak Creek East subdivision or the general Lewis Center area, without fear of harm by a dangerous or vicious dog.

96. Plaintiffs James Allen, A.W. and Amy Werling have suffered a particular harm of a different kind than that suffered by the public in general, namely attacks by the same dangerous or vicious dog, Sadie, on May 7, 2010 for James Allen, and on October 5, 2010 for A.W. and Amy Werling.

97. These attacks and continued kenneling in a residential neighborhood of known dangerous or vicious dogs have caused and continue to cause plaintiffs James Allen, A.W., and Amy Werling to sustain personal injuries, pain and suffering, mental anguish, and damages.

**SIXTH CAUSE OF ACTION
PUBLIC NUISANCE – AGAINST THE HSDC AND JOHN DOE DEFENDANTS 1–25**

98. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

99. The HSDC authorized in the past, and is believed to still be authorizing the adopting, fostering, kenneling, or placement in the public of other dogs known to be dangerous or vicious. Defendants John Does 1–25 are individuals who have knowingly kept and/or harbored dangerous or vicious dogs from the HSDC.

100. The public relies on the HSDC to not adopt or foster out, or kennel or place in the public, and for John Doe Defendants 1–25 to not keep or harbor, dogs known to be dangerous or vicious. The HSDC adopting or fostering out, kenneling or placing in the public, and John Doe Defendants 1–25 keeping or harboring, dangerous or vicious dogs in residential communities and in the public at large, affects the public's safety and health, and works some substantial annoyance and inconvenience to the public. The effect has been exacerbated by the HSDC not providing the public with any warnings, per O.R.C. 955.11(D), that the HSDC transfers dogs it knows to be dangerous or vicious.

101. Plaintiffs James Allen, A.W., and Amy Werling have suffered a particular harm of a different kind than that suffered by the public in general, namely attacks by the same dangerous or vicious dog, Sadie, on May 7, 2010 for James Allen, and on October 5, 2010 for A.W., and Amy Werling.

102. These attacks and continued adopting or fostering out, or kenneling or placing in the public, known dangerous and vicious dogs have caused, and continue to cause, plaintiffs James Allen, A.W., and Amy Werling to sustain personal injuries, pain and suffering, mental anguish, and damages.

103. John Doe Plaintiffs 1–25 have suffered a particular harm of a different kind than that suffered by the public in general. This harm and continued adopting or fostering out, or kenneling or placing in the public, known dangerous and vicious dogs have caused, and continue to cause, John Doe Plaintiffs 1–25 to sustain personal injuries, pain and suffering, mental anguish, and damages.

**SEVENTH CAUSE OF ACTION
NEGLIGENCE PER SE – AGAINST MICHAEL PRASSE, JUDITH PRASSE, AND THE
HSDC**

104. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

105. Ohio Revised Code Section 955.22(C) provides: “Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper, or harborer of any dog shall fail at any time to do either of the following: (1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harborer by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape; (2) Keep the dog under the reasonable control of some person.”

106. Ohio Revised Code Section 955.22(D) also provides: “Except when a dangerous or vicious dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper, or harborer of a dangerous or vicious dog shall fail to do either of the following: (1) While that dog is on the premises of the owner, keeper, or harborer, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained; (2) While that dog is off the premises of the owner, keeper, or harborer, keep that dog

on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following: (a) Keep that dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top; (b) Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person; (c) Muzzle that dog.”

107. Defendants Michael Prasse, Judith Prasse, and the HSDC failed to adequately restrain the dangerous or vicious dog, Sadie, in violation of R.C. 955.22.

108. Plaintiffs James Allen, A.W., and Amy Werling are within the group of individuals intended to be protected by R.C. 955.22.

109. As a direct and proximate result of the Defendants’ negligence per se, plaintiffs James Allen, A.W., and Amy Werling have been damaged and continue to be damaged.

EIGHTH CAUSE OF ACTION NEGLIGENCE – AGAINST THE HSDC

110. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

111. Defendant the HSDC owed a duty to the neighbors of Michael Prasse and Judith Prasse, and to the public, to not allow the adopting or fostering out, or kenneling or placement in the public, of dangerous or vicious dogs.

112. As a direct and proximate result of Defendant the HSDC’s breach of this duty, plaintiffs James Allen, A.W., and Amy Werling have been damaged.

**NINTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS –
AGAINST MICHAEL PRASSE, JUDITH PRASSE, AND THE HSDC**

113. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

114. Plaintiffs James Allen, A.W., and Amy Werling witnessed and/or fell victim to dangerous attacks by the same dangerous or vicious dog and/or were subjected to physical peril. The actions and conduct of defendants negligently caused, and continue to cause, plaintiffs James Allen, A.W., and Amy Werling to suffer severe emotional distress.

115. All defendants are individually and jointly and severally liable for the emotional distress suffered by plaintiffs James Allen, A.W., and Amy Werling.

**TENTH CAUSE OF ACTION
FRAUD – AGAINST THE HSDC**

116. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

117. On information and belief, the HSDC made representations about, or concealed when there was a duty to disclose, the dangerous or vicious nature of dogs available for fostering or adoption, or kenneled or placed in the public.

118. On information and belief, the representations or concealments by the HSDC would be material to any person deciding whether to adopt, foster, kennel, or accept placement of dogs from the HSDC.

119. On information and belief, the HSDC made representations or concealments falsely, with knowledge of the falsity or with such utter disregard and recklessness as to the truth that knowledge may be inferred.

120. The HSDC made representations or concealments with the intent to mislead others into relying upon the representations or concealments.

121. Plaintiffs James Allen, A.W., and Amy Werling reasonably and justifiably relied upon representations or concealments by the HSDC to believe the HSDC was not adopting or fostering out, or kenneling or placing in the public, dangerous or vicious dogs, including not doing so in residential communities, including Oak Creek East subdivision.

122. As a direct and proximate result of the HSDC's misrepresentations, misleading statements, omissions, and misconduct, James Allen, A.W., and Amy Werling have suffered, and will continue to suffer, financial damages and other losses, injuries, or harm.

123. John Doe Plaintiffs 1–25 reasonably and justifiably relied upon representations or concealments by the HSDC to believe the HSDC was not adopting or fostering out, or kenneling or placing in the public, dangerous or vicious dogs. As a direct and proximate result of these misrepresentations, misleading statements, omissions, and misconduct, John Doe Plaintiffs 1–25 have suffered, and will continue to suffer, financial damages and other losses, injuries, or harm.

**ELEVENTH CAUSE OF ACTION
FRAUD – AGAINST MICHAEL PRASSE AND JUDITH PRASSE**

124. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

125. On information and belief, Michael Prasse and Judith Prasse made representations, or concealed when there was a duty to disclose, the dangerous or vicious nature of dogs kenneled in their home.

126. The representations or concealments by Michael Prasse and Judith Prasse would be material to any person deciding whether to walk or live near the Prasse Home.

127. Michael Prasse and Judith Prasse made representations or concealments falsely, with knowledge of its falsity or with such utter disregard and recklessness as to whether it was true or false, that knowledge may be inferred.

128. Michael Prasse and Judith Prasse made representations or concealments with intent to mislead others into relying upon the representations or concealments.

129. Plaintiffs James Allen, A.W., Amy Werling, and John Does 1–25 reasonably and justifiably relied upon the Michael Prasse and Judith Prasse representations or concealments to believe Michael Prasse and Judith Prasse were not kenneling dangerous or vicious dogs in their home. As a direct and proximate result of these misrepresentations, misleading statements, omissions, and misconduct, James Allen, A.W., Amy Werling, and John Doe Plaintiffs 1–25 have suffered, and will continue to suffer, financial damages and other losses, injuries, or harm.

**TWELFTH CAUSE OF ACTION
FRAUD – AGAINST JOHN DOE DEFENDANTS 1–25**

130. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

131. John Doe Defendants 1–25 made representations, or concealed when there was a duty to disclose, the dangerous and vicious nature of dogs they participated in adopting or fostering out, or kenneling or placing in the public, in association with the HSDC or its agents.

132. The representations or concealments by John Doe Defendants 1–25 would be material to any person deciding whether to walk or live near any location where John Doe Defendants 1–25 caused dangerous and vicious dogs to be adopted, fostered, kenneled, or placed.

133. John Doe Defendants 1–25 made said representations or concealments falsely, with knowledge of their falsity, or with such utter disregard and recklessness as to whether it was true or false, that knowledge may be inferred.

134. John Doe Defendants 1–25 made said representations or concealments with intent to mislead others into relying upon the representations or concealments.

135. Plaintiffs James Allen, A.W., Amy Werling, and John Does 1–25 reasonably and justifiably relied upon the representations or concealments of John Doe Defendants 1–25 to believe John Doe Defendants 1–25 were not adopting or fostering out, or kenneling or placing in the public, dangerous or vicious dogs. As a direct and proximate result of these misrepresentations, misleading statements, omissions, and misconduct, Plaintiffs James Allen, A.W., Amy Werling, and John Does 1–25 have suffered, and will continue to suffer, financial damages and other losses, injuries, or harm.

**THIRTEENTH CAUSE OF ACTION
RECOVERY FOR CRIMINAL ACT – AGAINST MICHAEL PRASSE, JUDITH
PRASSE, AND THE HSDC**

136. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

137. Ohio Revised Code 2307.60 provides: “Anyone injured in person or property by a criminal act has, and may recover full damages in, a civil action unless specifically excepted by law, may recover the costs of maintaining the civil action and attorney’s fees if authorized by any provision of the Rules of Civil Procedure or another section of the Revised Code or under the common law of this state, and may recover punitive or exemplary damages if authorized by section 2315.21 or another section of the Revised Code.”

138. Plaintiffs James Allen, A.W., and Amy Werling were injured and suffered damages because of the violation of Ohio Revised Code 955.22 by defendants.

139. Plaintiffs James Allen, A.W., and Amy Werling ask for recovery of full damages, the costs of maintaining a civil action, attorneys' fees, and punitive damages.

**FOURTEENTH CAUSE OF ACTION
VIOLATION OF DECLARATION OF COVENANTS, EASEMENTS, CONDITIONS
AND RESTRICTIONS FOR OAK CREEK EAST – AGAINST MICHAEL PRASSE AND
JUDITH PRASSE**

140. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

141. Article III, Section 27 of the Declaration of Covenants, Easements, Conditions and Restrictions for Oak Creek East ("OCE Deed Restrictions") states that "[n]o more than two dogs or two cats or two other pets which are permitted outdoors may be kept on any Lot except when animals in excess of such numbers are less than three months old." Since at least 2009, defendants the HSDC, Michael Prasse and Judith Prasse have kept more than two dogs at the Prasse Home, none of which have been less than three months old.

142. As owners in the Oak Creek East subdivision, plaintiffs James Allen and Amy Werling are entitled, under Article VIII, Section 2 of the OCE Deed Restrictions, to bring an action in law or in equity for violations of Article III, Section 27, including seeking an Order "to restrain and/or to enjoin violation, . . . and to recover all damages, costs of enforcement and any other costs incurred (including without limitation reasonable attorneys' fees)."

143. Plaintiffs James Allen and Amy Werling bring this action to enjoin defendants the HSDC, Michael Prasse, and Judith Prasse from keeping more than two dogs at the Prasse Home, and to recover all damages, costs of enforcement, and any other costs incurred including reasonable attorneys' fees.

**FIFTEENTH CAUSE OF ACTION
PUNITIVE DAMAGES – AGAINST ALL DEFENDANTS**

144. Plaintiffs hereby incorporate by reference all previous paragraphs as if fully rewritten herein.

145. The actions or omissions of defendants demonstrate malice or aggravated or egregious fraud, and/or that the HSDC, as principal or master, knowingly authorized, participated in, or ratified actions or omissions of an agent or servant that so demonstrate.

146. Defendants should be punished due to their conduct of putting others at risk of serious injury.

147. Plaintiffs James Allen, A.W., and Amy Werling have adduced proof, and John Doe Plaintiffs 1–25 will adduce proof, of actual damages that resulted from the malicious actions or omissions of defendants.

148. Plaintiffs James Allen, A.W., Amy Werling, and John Doe Plaintiffs 1–25 hereby request an award of punitive damages to appropriately punish defendants for their extreme misconduct.

WHEREFORE, plaintiffs demand judgment against defendants jointly and severally in an amount in excess of \$25,000, plus such other sums as plaintiffs shall prove at trial, including, but not limited to, past and future economic losses, past and future noneconomic losses, punitive damages, interest, costs, attorneys' fees, and any other relief that this Court deems appropriate.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFFS

JURY DEMAND

Plaintiff requests a jury demand on all issues so triable.

Respectfully submitted,



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Timothy R. Bricker (0061872)
Erik P. Henry (0085155)

ATTORNEYS FOR PLAINTIFFS

050-362-305159