

IN THE COURT OF APPEALS OF MARYLAND

Dorothy M. Tracey,

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Appellant,

*

October Term, 2011

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v.

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Docket No. 53

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**Anthony K. Solesky and Irene Solesky,
As the Parents, Guardians, and Next
Friends of Dominic Solesky, a minor.**

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Appellees.

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**BRIEF OF AMICUS CURIAE
DOGSBITE.ORG IN SUPPORT OF APPELLEES**

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INTEREST OF THE AMICUS

DogsBite.org is 501(c)(3) not-for profit corporation founded in October, 2007 and incorporated in December, 2009, becoming the first national dog bite victims' organization in the United States dedicated to reducing serious dog attacks.

DogsBite.org's amicus brief is desirable as it will provide evidence of the historical, selective breeding of pit bulls and the danger posed by these dogs. DogsBite.org advocates from the perspective of victims of pit bull attacks and wants to promote the development of law which protects innocent people from pit bull attacks. It is desirable for this Court to receive information from DogsBite.org in rebuttal to the ASPCA's positions, which seek to downplay the significant differences between pit bulls and other dogs.

DogsBite.org's brief will provide evidence of the seriousness of the physical injuries that are reasonably expected to result from pit bull attacks. This information is derived from medical journal documentation, expert reports, and scientific studies. Further, in its brief, DogsBite.org will rebut the argument of the ASPCA relating to breed identification. Findings of other courts relating to the unique characteristics will also be provided to this Court by Amicus. In short, DogsBite.org will provide this Court with support for the proposition that pit bulls should be considered dangerous animals and public safety hazards.

DISCUSSION

A. Factual and Legal Setting of the Case.

Landlords who know, or in the exercise of reasonable care should have known, of the existence of a dangerous condition and failed to act within a reasonable time thereafter to protect against injury by reason of it, should be financially accountable for the resulting harm. Allowing a pit bull to remain on the premises is inherently a dangerous condition. The data collected by Dogsbite.org supports this conclusion.

The focus for amicus is to support policy which protects victims from death and permanent injuries caused by attacks attributed to pit bulls. The link between serious and fatal injuries by pit bulls is disturbing. By providing the court relevant data showing the disproportionate amount of fatal attacks attributed to pit bulls, Dogsbite.org intends to provide information which is otherwise not readily available to the Court. DogsBite.org is a non-profit 501 (c)(3) public charity organization that provides the public with education about dangerous dogs -- specifically focusing on pit bulls -- and has the only independent website dedicated to putting the safety of humans before dogs, as it is the only source of objective information on this topic that is not owned, controlled, or funded by untrustworthy pit bull breeders/ owners, or financially and ethically compromised Veterinarian or non-profit animal welfare groups.

The decisions made in Shields v. Wagman, 350 Md. 666, 714 A.2d 881 (1998) and Matthews v. Amberwood, 351 Md. 544, 719 a.2d 119 (1998) should be extended to impute knowledge of dangerousness associated with permitting a pit bull dog to remain

on leased premises to any landlord who knows a pit bull is on their property. It is now conventional wisdom in the United States that pit bulls are extremely dangerous.

B. Reliance on Breed Identification is not inherently flawed.

American Pit bull terriers are registered through two separate entities in the United States. The United Kennel Club (UKC), founded in 1898 and the American Dog Breeder's Association (ADBA), founded in 1909. Both entities have websites available to the public which are replete with photographs of various American pit bull terriers from the late 1800's to today. See <http://www.adbadog.com> and <http://www.ukcdogs.com>. The UKC provides insight on what an American pit bull terrier should look like. The existence of a written breed standard provides adequate information that have been relied upon for years by various public groups, such as in the famous annual Westminster Dog Show. There is a vast amount of information concerning the American pit bull terriers general appearance, characteristics, head, skull, muzzle, teeth, nose, eyes, ears, neck, forequarters, body, hindquarters, feet, tail, coat, color, height and weight and gait. Any lay person can see the striking similarity between the photographs of American pit bull terriers recorded over the last century and how similar they look to pit bulls today. With the vast expanse of today's 24 hour/7 days a week digital satellite-fed multi-media available to Americans, and the continual reporting of pit bull attacks on the nightly news, with video clips of pit bulls, the breed is easily recognizable by most Americans and the concept of visual identification of pit bulls is not inherently flawed as the ASPCA would have the Court believe.

Even where criminal laws prohibit the possession of a pit bull, due process allows the determination that a dog is a pit bull to be based on nonscientific evidence. *Colorado Dog Fanciers v. Denver*, 820 P.2d 644 (Colo. 1991) (citing *Jackson v. Virginia*, 443 U.S. 307, 61 L. Ed. 2d 560, 99 S. Ct. 2781 (1979) and *Robinson v. United States*, 324 U.S. 282, 89 L. Ed. 944, 65 S. Ct. 666 (1945)). A proponent of such a fact is not required to meet its burden of proof with the mathematical certainty of scientific evidence. *Id.* Despite the ASPCA's concerns, just as in the Westminster Dog Show, the trained evaluators of the suspect animal, in comparing the dog to the breed's written standard, does so in a live three-dimensional visual and tactile inspection – actually putting their hands on the dog. The ASPCA cannot provide any evidence of any official evaluation of a suspected pit bull ever conducted without the physical presence of the animal before the evaluator – even if a necropsy.

Finally, the ASPCA's inference to DNA analysis as being most reliable is misplaced, as the ASPCA, nor anyone, can provide the parameters of a definitive specific DNA sequence for any specified breed of dog – as none exists. DNA can only best be used to match a suspect sample to a known sample, but the concept that dogs, or humans for that matter, can be categorized by DNA sequencing is one that may be conceptualized in science fiction (*See Huxley's A Brave New World*), but is not yet accepted in the law. Human experiences for hundreds of years, before the discovery of DNA, have taught us that in the animal kingdom, form follows function, and reliance upon traditional breed evaluation for these purposes is legally sufficient.

Given the enormous amount of press coverage of Michael Vick's pit bulls, television shows devoted to pit bulls, such as DogTown by National Geographic, Pit Bulls and Parolees by Animal Planet and Pit Boss, also by Animal Planet, and the constant production of "positive pit bull" stories by animal welfare groups, such as the ASPCA, it seems unlikely that the average person cannot identify a pit bull.

C. Pit bulls are more dangerous than other breeds of dogs.

1. Selective Breeding Creates Increased Tendencies for Dangerous Behaviors

For hundreds, if not thousands, of years, mankind has been involved in the selective breeding of dogs for the intended purpose of increasing the probability of desired behaviors. Some dogs were bred for hunting by their tracking of other animals, or for their ability to retrieve downed birds from waterways. Other dogs were bred to alert humans to the approach of other humans or animals – the preverbal guard dog. Other dogs were bred to chase down and kill vermin or poachers – such as mice or rats. Such selectivity for function often results with a corresponding selectivity for form – form follows function. For example, the distinctive physical characteristics of the Dachshund breed of dogs is entirely an intentional result of selective breeding for their desired behavioral tendencies to chase vermin down into their burrows; their long bodies with short legs and sharp claws make them the best at this job. This selective breeding also means that they are more likely to engage in that very behavior as compared to other breeds. Imagine trying to stop a Dachshund from digging up a garden in going after a

mouse! Similarly, mankind has also selectively bred dogs for fighting, seeking very specific behavioral and physical traits that would make them more successful against larger and stronger animals – whether fighting bears, bulls, or other dogs. The history of the intentional selective breeding development of pit bulls is described in "*Pit Bulls for Dummies*" by D. Caroline Coile, Ph.D., Wiley Publishing Co., 2001, ISBN: 0764552910, as follows:

"In Britain, Mastiffs were perfected as War dogs. When the Romans invaded Britain, they too were so impressed by the Mastiff's warring ability that they brought some back to Rome. Romans valued entertainment, and the courageous dogs became infamous as "Gladiators" who fought humans, bears, lions, bulls, and even each other in Rome's Great Coliseum." "The British, too, placed high value on contest that featured animals fighting to the death. The spectacle of a dog killing a bull was the highest entertainment that most small villages could offer its poor inhabitants. . . .By the 16th Century, bull-, bear-, and even horse-baiting provided the finale for a royal evening of entertainment. In the 17th Century, the King even appointed a Master of the King's games of Bears, Bulls, and Dogs."

"The dog's owners won prizes for their animal's spectacular performances, and the progeny of famous or particularly *game* dogs (meaning those dogs who refuse to quit the task at hand despite overwhelming adversity) were sought after and capable of bringing high prices. As distasteful as it sounds, these dogs produced the never-say-die stock from which today's Pit Bull claims her heritage."

The Butcher's Dog

"A subtype of Molossian dogs known as *Bullenbeissers* were valued for their ability to control unruly cattle, earning their keep as butcher's dogs. These dogs had to catch and grip escaping or uncooperative bulls on their way to market. The dog would hang on the bull's nose, gripping the nose without letting go until the butcher could regain control. A good butcher's dog could make the butcher's job easy; a bad dog could be killed by the bull. As with all people who depend upon their dogs, butchers were proud of their best "bulldogs" and anxious to prove them better than the neighboring town's butcher's dogs. So began the cruel practice of

bull-baiting, in which a bull was tormented (sometimes for hours) not only for entertainment, but also in the mistaken belief that torturing the animal before killing it made its meat more tender. In fact, in some places, selling meat from a bull that had not been baited was illegal.”

“Almost every town in England had a bull-baiting ring. One or two dogs were released, and they would attempt to grab the bull (which was usually chained to a stake) by the nose, often tormenting it for hours. The cruelties inflicted upon the poor animals (bulls and dogs alike) by people in the process were atrocious. In one well-known case, the owner of a dog demonstrated how courageous his dog was by cutting off each of her legs, one leg at a time, while she continued to drag herself to attack the bull. The dog was lost, but her offspring were in high demand.”

“An end to legal blood sports in England finally came about in 1835, but that only pushed the fans and gamblers to conduct covert matches. Staging a clandestine bull-baiting would have been difficult, but scheduling a dogfight in a barn, cellar, or back room without being discovered was quite simple.”

“Dog fighting favored a slightly smaller, more agile gladiator than the dogs who were adapt at baiting larger animals. Most historians believe that the stocky bull-baiting dogs were crossed with the swift and agile terriers of the time to produce the aptly named Bull and Terrier, a relatively small, smart, agile, tough, and strong game dog the likes of which had never been seen before...as the Bulldogs or Bull and Terriers became known less for their bull-baiting skills and more for their fighting skills in the pits, they came to be known as Pit Bulldogs, or more simply, Pit Bulls.”

2. Courts Have Upheld Pit Bull Bans Because Pit Bulls Are More Dangerous

Each and every judicial decision in the U.S. has upheld well-written governmental regulations on pit bulls against a variety of legal attacks, but one of the most informative rulings came out of Denver, Colorado. *See The Colorado Dog Fanciers, Inc., The American Dog Owners Association, Inc., The United Kennel Club, Eugene Allen, Ken Lee, Michelle and Brian Mondragon, and Gainor Riker, v. The City and County of*

Denver, acting by and through its City Council, and John A. Fairman, Manager/CEO of the Department of Health and Hospitals for the City and County of Denver, Denver District Court Case No. 89CV11714 (Consolidated with 89CV12348) (J. Rothenberg) upheld on appeal, *Colorado Dog Fanciers v. City and County of Denver*, 820 P.2d 644 (Colo. 1991) (hereinafter referred to as “*Colorado Dog Fanciers*”). The trial court made several specific factual findings that supported the City’s claim that there was a rational basis for differential treatment of pit bulls, stating:

27. It cannot be proven that pit bull dogs bite more than other dogs. However, there is credible evidence that pit bull dog attacks are more severe and more likely to result in fatalities.

28. At trial, the City claimed that there were fifteen major differences between pit bulls and other dogs. Some, but not all of these differences were proven:

(b) **Athletic ability**. Pit bull dogs are extremely muscular and unusually strong for their size. Reportedly, a 78-pound pit bull dog in Texas pulled 5,650 pounds for a distance of 15 feet in a weight-pulling contest.

(c) **Biting**. The City did prove that they inflict more serious wounds than other breeds. They tend to attack the deep muscles, to hold on, to shake, and to cause ripping of tissues. Pit bull attacks were compared to shark attacks.

(e) **Destructiveness**. The Court finds that some pit bull type dogs, due to their strength and athletic ability, can damage facilities and equipment. There is a disproportionate number of attacks by chained pit bull dogs which is indicative of their strength.

(f) **Fighting ability and killing instinct**. The City did prove that unregistered pit bull type dogs were responsible for a disproportionate number of severe or fatal attacks on other dogs and human beings. Credible testimony also proved that, when a pit bull dog begins to fight, it often will not retreat.

(g) **Frenzy**. The evidence proved that once pit bull type dogs do attack, they are less likely to retreat than other dogs.

(h) **Gameness**. Pit bull dogs trained for fighting are valued for "gameness," that is, their tenacious refusal to give up a fight. The Court finds that pit bull dogs trained for fighting do have the attribute of gameness.

(j) **Manageability**. American Staffordshire Terriers, Staffordshire Bull Terriers, American Pit Bull Terriers, and their mixed breeds can make excellent, gentle pets. Nevertheless, credible testimony proved that proper handling, including early socialization to humans, is very important for these dogs. Even their most ardent admirers agree that these dogs are not for everyone and they require special attention and discipline. The Lockwood study reported that 13.3 percent of pit bull type dogs attacked their owners as compared with 2.2 percent of other dogs.

(k) **Strength**. Pit bull dogs are stronger than many other dogs. The evidence showed that 42.7 percent of the pit bull type dogs attacked while restrained. . . .

(m) **Tolerance to pain**. The evidence did show that, when a pit bull dog does attack, it exhibits unusual tenaciousness and will not retreat from an attack, even when considerable pain is inflicted on the dog.

(n) **Unpredictability** . . . pit bull dogs, unlike other dogs, often give no warning signals before they attack.

The key lesson to be learned is this: The difference between other breeds of dogs and pit bulls is like the difference between a firecracker and a hand grenade – no one can predict which is more likely to explode, but one will clearly cause more damage. “Dangerous” is not only evaluated in terms of statistical probability of the undesired event, but the damage to be reasonably expected should that event occur. The ASPCA’s references to “aggressive tendencies”, therefore, are all meaningless.

3. Scientific Studies Confirm Pit Bull’s “Grip & Rip” Behaviors Inflict More Damage.

Scientific experts have verified the factual predicate for the validity of this perspective of the unique dangers present in pit bull attacks in their scientific forensic evaluation of the injuries of humans inflicted by various breeds of dogs. In 1988, the case report from the University of Texas, published in Texas Medicine, first identified the unique injuries suffered only by victims of pit bull attacks, caused by pit bull behaviors of biting, uniquely holding the bite, and then ripping and tearing the victim's body (a.k.a. "Grip & Rip" behaviors) - likening them only to injuries suffered by victims of shark attacks. *Pit Bull Case Report Nurture Review*, by Steven F. Viegas, MD, Dept. of Surgery, Div. of Orthopedics, and Dept. of Anatomy and Neurosciences; Jason M. Calhoun, MD, M ENG, Dept. of Surgery, Div. of Orthopedics, and Jon Mader, MD, Dept. of Medicine, Div. of Infectious Diseases, University of Texas Medical Branch, Galveston TX 77550 Texas Medicine, Vol. 84, November 1988. This study was relied upon by the trial court in *Colorado Dog Fanciers* (See Defendant's Trial Exhibit "KK", transcript 5/24/1990 p. 183.). The results of this study were more recently confirmed by forensic studies by the Coroner of Detroit, Michigan of autopsies performed on children killed by pit bulls. See Cheryl L. Loewe, MD, Francisco J. Diaz, MD, and John Bechinski DO, *Pitbull Maulings Deaths in Detroit*, The American Journal of Forensic Medicine and Pathology, Vol. 28, No. 4, December 2007.

4. Experts in the Field of Ethology confirm Pit Bulls Are More Dangerous

Additional litigation in 2004 not only reaffirmed the continued reliability of the science relied upon by the Colorado Supreme Court in *Colorado Dog Fanciers*, but it

resulted in new evidence justifying Denver's pit bull ban. In 2004, the case of the City & County of Denver v. the State of Colorado, Denver District Court Case 04CV3756, (J. Englehoff, April 7, 2005) (appeal voluntarily dismissed by Defendant/Appellee, Colo. Ct. Appeals Case 05-CA-000149) involved a declaratory judgment action, based upon the state constitution's home rule authority, against state law HB04-1279, which attempted to prohibit BSL in Colorado. Denver's expert witness was a certified applied animal behaviorist, Dr. Peter Borchelt, co-author of the only known article in the field of ethology on the attack of packs of dogs on humans: *Attacks by Packs of Dogs Involving Predation on Human Beings* Peter L., Borchelt, Ph.D., Randall Lockwood, Ph.D., Alan M. Beck, Sc.D., Victoria L. Voith, D.V.M., Ph.D., published in Animal Law and Dog Behavior, Ed. David Favre and Peter L. Borchelt, Ph.D., 1999. Dr. Borchelt emphasized that Dr. Borchelt also testified about the effect of increasing the number of pit bulls involved in an attack upon a human in terms of the likelihood of serious injuries or death. Rather than a simple multiplying effect (i.e., the mathematical pattern of x , $x + x = 2x$, $2x + x = 3x$), Dr. Borchelt testified the effect would be closer to an exponential effect (i.e., $1 = x^1$, $2 = x^2$, $3 = x^3$). At the conclusion of the evidence on Thursday, , Denver District Court Judge Martin Egelhoff found that the State failed to provide any new evidence to undermine Judge Rothenberg's original 1990 findings regarding the differences between pit bulls and other dogs. The Judge also found that the City had provided new evidence to provide additional support for Judge Rothenberg's findings. The Court found that

pursuant to the rule of *stare decisis*, the Colorado Supreme Court’s ruling in Colorado Dog Fanciers is still valid, and therefore the pit bull ban was still constitutional.

5. The ASPCA’s Own Expert Confirms Pit Bulls Tendencies for Unsafe Surprise Attacks.

In the ASPCA brief, Dr. Randall Lockwood – a Senior Vice-President of the ASPCA, is cited as an expert. Despite Dr. Lockwood’s current potential hesitancy to bite the hand that feeds him, prior to his association with the ASPCA Dr. Lockwood’s writings were probably less subject to bias. In 1995, his opinion was that pit bulls had been selectively bred for the increased capacity to engage in surprise attacks upon their victims, stating the following:

In addition to a lowered threshold for attack and higher pain thresholds in many fighting animals, selection for fighting has apparently resulted in the disruption of normal communication in individuals from recent fighting lineage. Under natural conditions, the aggression of wild canids is held in check by a detailed set of postural and facial signals that clearly indicate mood and intent (Fox, 1971a; Schenkel, 1967). . . . Dogs from fighting lineages have been under selective pressures that suppress or eliminate accurate communication of aggressive motivation or intent. It is to a fighting dog’s advantage for its attack to be unexpected. Many accounts of such attacks on people note that the incident occurred ‘without warning’. Similarly, once initiated, such attacks are often not ended by the withdrawal of the opponent or the display of species-typical submissive behavior. Combat involving fighting dogs can continue for several hours and separation of the animals may require the use of a ‘parting stick’ to physically pry the animals apart.”

Lockwood, Randall, *The ethology and epidemiology of canine aggression*, The domestic dog: its evolution, behaviour, and interactions with people, edited by James Serpell, Cambridge University Press, 1995; republished in Animal Law and Dog Behavior, Ed. David Favre and Peter L. Borchelt, Ph.D., 1999.

Therefore, the ASPCA's own expert has confirmed that the optimal fighting dog – the pit bull has a built-in selected increased tendency to attack without such normal clues as growling, or raising its hackles, or baring its teeth – all which would leave young children, the infirm or weak elderly, or even adults subject to the inability to predict an imminent attack so as to take a last ditch effort to protect themselves. As such, pit bulls are more dangerous because of this increased potential for surprise attacks.

D. Breed Specific Rules Have Been Effective.

A policy or law which serves its purpose to reduce the number of serious attacks by pit bulls is warranted. The pit bull ban in Council Bluffs, Iowa, is a fine example. The Chief Animal Control Officer, Galen Barrett, describes how pit bull attacks were “through the roof” prior to the City Council enacting a pit bull ban. His statistics reveal that in the year prior to enforcement of the breed specific law, pit bull ban, twenty-nine (29) people were injured in Council Bluffs, Iowa. After enacting and beginning enforcement of the “ban” in 2005, the number of people injured by pit bulls dropped to twelve (12). In 2006, the numbers continued to decline, with six (6) people injured by pit bulls. In 2007, there were only (2) injured victims attributed to pit bulls. By 2008, the City of Council Bluffs had brought the number of victims to pit bull attacks to zero (0). In 2009, the City of Council Bluffs again reported no victims to a pit bull attack.

A recent study in Spain concerning hospitalizations caused by dog bites after the adoption of legal regulations of dangerous dogs, including pit bull terriers, in Catalonia,

Spain, showed a significant decline during the period 1997-2008. In 1999 and 2002, breed specific regulations were approved by both the Kingdom of Spain and the government of Catalonia. The report explains that the regulations received extensive public attention and media coverage.

Dogsbite.org has compiled a comprehensive list of U.S. Cities, Counties, States and Military Facilities with Breed-Specific Laws. There are over seven-hundred U.S. cities with breed specific laws. Though only one U.S. State, Ohio, has enacted a state-level breed specific law, such laws have been enacted within 38 different U.S. states.

E. Pit bulls are rightfully targeted by authorities.

The Court should take judicial notice of the disproportionate fatal attacks attributed to pit bulls. Dogsbite.org has recorded fatal dog attacks in the United States from January, 2005 to 2010. During this six (6) year period, 182 Americans suffered death due to dog bite injury. In this six (6) year time frame, 2005 through 2010, pit bulls accounted for 105 human deaths. Pit bulls accounted for 58% of the total amount. Analysis of these facts makes it clear that the policy should be to discriminate against this breed for purposes of protecting the public. These numbers are not make believe, nor are they unreliable or suppositions. Each one of the deaths are documented. See attached Apx.

Merritt Clifton's publication addresses the overrepresentation of pit bulls among reported in dog attack deaths and maimings. According to his research the frequency of pit bull attacks among these most severe cases are "so disproportionate that even if half of the attacks in the pit bull category were misattributed, or even if the pit bull category

was split three ways, attacks by pit bulls and their closest relatives would still outnumber attacks by any other breed. Further, Clifton adds, “Of the breeds most often involved in incidents of sufficient severity to be listed, pit bull terriers and their close mixes make up only about 5 % of the total U.S. dog population.” He also notes that pit bulls are noteworthy for attacking adults almost as frequently as children. This is unique to pit bulls. He concludes, pit bulls differ behaviorally from other dogs in having far less inhibition about attacking people who are larger than they are. Further, Clifton reports, that pit bulls are notorious for attacking seemingly without warning, giving victims little or no opportunity to read warning signals that would usually avert an attack from any other dog.

Between January 1, 2006 to December 31, 2008, Dogsbite.org recorded 88 U.S. fatal dog attacks. The data shows that pit are responsible for 59% (52) of these fatal attacks. This is equivalent to a pit bull killing a U.S. citizen every twenty-one (21) days. Pit bulls make up approximately 2-9% of the U.S. dog population.

At least three (3) more dog bite studies indicate that pit bulls are ranked number one in fatal dog attacks in the U.S. See, Breeds of Dogs Involved in Fatal Human Attacks in the United States between 1979 and 1998, by Sacks, Sinclair, Gilchrist, Golab and Lockwood, *Journal of the American Veterinary Medical Association*, September 15, 2000, Vol. 217. No. 6, Pages 836-840. Dog Bite Related Fatalities United States, 1995-1996, by R.Lockwood, PhD., *Morbidity and Mortality Report*, CDC, May 30, 1997. Vol.

46, No. 21. Dog Bite Related Fatalities from 1979 through 1998, by J.J. Sacks, R.W. Sattin and S.E. Bonzo. *Unintentional Injury Section*, CDC.

The American Association of Plastic Surgeons (AAPS) realizes the significant public health issue associated with the damage caused by pit bulls. In their 2008 Annual Meeting, a ten-year, two institution review of pediatric dog attacks, the AAPS present dog attack data and representative cases as evidence to support a nationwide prohibition of dangerous dogs. The study further notes that the Province of Ontario, Canada has banned pit bulls since 2004, as have several (hundred) American cities. The abstract goes on to outline why organizational advocacy in plastic surgery should be directed towards a national prohibition of dangerous dogs.

In the *Annals of Surgery* publication, *Mortality, Mauling and Maiming by Vicious Dogs*, the authors conclude attacks by pit bulls are associated with higher morbidity rates, higher hospital charges, and a higher risk of death than are attacks by other breeds of dogs. Strict regulation of pit bulls may substantially reduce the US mortality rates related to dog bites.

Coverage of the damage caused by pit bulls and the recognition of the extreme dangerousness associated with this breed as been frequently documented over the last thirty (30) years.

In a 2006 Chicago Tribune special report, the memories of a pit bull mauling and boy's struggle to survive were documented. In 1987, People Magazine published an article called an *Instinct for the Kill*, which documents a young child who nearly became

a casualty to a pit bull attack. In that article, a man named David Nordmeyer, an animal control officer from Minneapolis, Minnesota, very accurately predicts, “Every city in this country is going to have tragic problems with the (pit bull) breed.” Later, in this same publication, Elson Duvall, an animal control official in Maryland explains, “They grab hold and keep shaking like a shark. They tear huge chunks of meat out of you.”

Sports Illustrated entered the discussion in 1987, with an article from E.M. Swift, *The Pit Bull Friend and Killer*. The front page of the Sports Illustrated publication showed an American pit bull terrier showing his fangs with the caption, “BEWARE OF THIS DOG”. The article highlights the disproportionate number of confirmed dog-related fatalities in the U.S., 12 of the 18 fatal attacks in the eighteen (18) months prior to publishing the article were attributed to pit bulls, or 67%.

Time Magazine also published an article titled, *Behavior: Time Bombs on Legs*, which described the severe damage caused when pit bulls attack. In 1979, Anchorage Daily News, published an article, *Pit bulls: fighters*. This article quotes a pit bull breeder, “But a pit bull bites with a purpose. It clamps down and doesn’t let go: and its jaws are twice as strong as a German Shepherd’s. Often it breaks another dog’s bones.”

In the Journal of Trauma article, *Mauling by Pit Bull Terriers: Case Report*, the authors point out that due to the (pit bulls) unique anatomy and nature of its attack, pit bull injury tends to be more severe than that of other breeds.

With the amount of disproportionate, serious, widespread, fatal and severe injury attacks attributed pit bulls in this country, the Court should take judicial notice of such

fact. These fact are generally known within every City and every State, and Maryland is no exception.

F. A Judicial Rule of Liability based on breed is supported by facts, law and public policy.

Amicus has presented objective, scientific data demonstrating that breed specific pit bull regulations are based on reliable science and accurate beliefs about the extreme dangerousness of pit bulls, as compared to other breeds. Just like other commonly known unreasonable dangers, the American public is not ignorant of these facts, partially thanks to Dogsbite.org, and landlords should be not be protected merely for claims of ignorance. Who will forget Sarah Palin's comments in September, 2008, suggesting that the only difference between a hockey mom and a pit bull is "lipstick". The instant case should take judicial notice of the abundant case law that supports this position. In deciding whether to fashion or affirm a new rule of tort liability, Amicus believes the Court should consider the information provided here. Further, Amicus urges the Court to consider past, present and future victims of pit bull attacks and how such rule will help to prevent or lessen the extent of these tragedies that have become all too familiar with this breed.

APPENDIX

6-Year Dog Bite Fatality Chart - 2005 to 2010

During this 6-year period, 182 Americans suffered death due to dog bite injury.

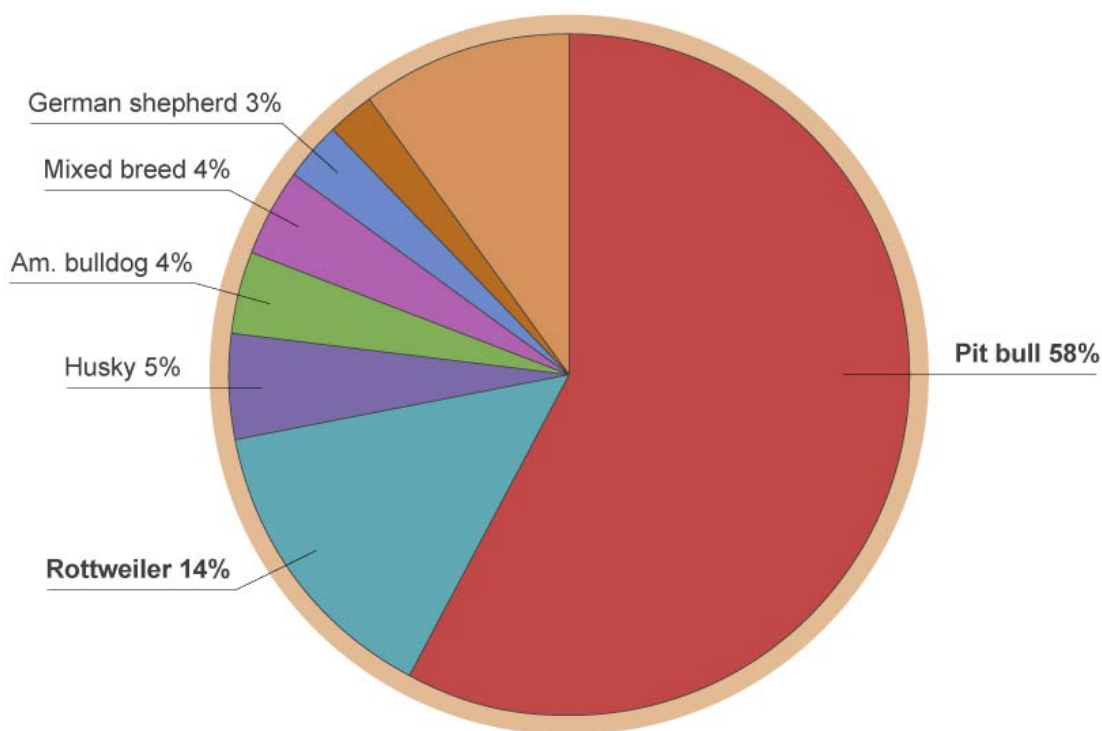


Chart Key

%	Deaths	Dog Breed
58%	(105)	Pit bull
14%	(25)	Rottweiler
5%	(9)	Husky
4%	(8)	American bulldog
4%	(8)	Mixed breed
3%	(6)	German shepherd
2%	(4)	Boxer
10%	(3 and less)	Combination*

*Multiple dog breeds contributed to the deaths of 3 or fewer persons during this period including, but no limited to: chow chow, bullmastiff, malamute, wolf hybrid, labrador retriever and doberman pinscher.

DogsBite.org contains verifiable information about U.S. citizens killed by dogs including the name and age of each victim, location of attack, dog breed and up to 12 other factors.



DogsBite.org

STATEMENT OF COMPLIANCE WITH MARYLAND RULE 8-504(a)(8)

Pursuant to Maryland rule 8-504(a)(8), I HEREBY CERTIFY that the Amicus Brief in Support of Appellees is proportionally spaced, has a typeface of 13 points and is in Times New Roman, a court accepted font.

Respectfully submitted,
Dogsbite.org

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CERTIFICATE OF SERVICE

This is to hereby certify that a copy of the foregoing Amicus Brief was sent by regular U.S. Mail, postage prepaid, this ____ day of October, 2011 to **Richard Schimel**, Budow and Noble, P.C., 7315 Wisconsin Ave., Suite 500 West-Air Rights Center, Bethesda, MD 20814; **Clifford Robinson**, H.Barritt Peterson, Jr. & Associates, 1 West Pennsylvania Ave, Suite 500, Towson, MD 21204-5025; **Kevin A. Dunne** and **Matthew T. Vocci**, Ober, Kaler, Grimes & Shriver, P.C., 120 East Baltimore, MD 21202; **Debora M. Bresch**, Esq., 520 8th Ave., 7th Floor, New York, NY 10018.

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