In The

Court of Appeals of Maryland

September Term, 2011

No. 53

DOROTHY M. TRACEY

Appellant,

v.

ANTHONY K. SOLESKY and IRENE SOLESKY,
As the Parents, Guardians and Next Friends of
DOMINIC SOLESKY, a minor

Appellees.

APPELLEES' OPPOSITION TO PETITIONER'S MOTION FOR RECONSIDERATION

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INTRODUCTION

The Appellees submit this Opposition to Ms. Tracey's Motion for Reconsideration. *Tracey v. Solesky* was correctly decided and was a proper exercise of this Court's authority to change the common law.

The decision of this Court was a reasonable response to a major public health crisis in the United States. In *Shields v Wagman*, 350 Md. 666 (1998) and *Matthews v. Amberwood Assocs. Ltd. P'ship*, 351 Md. 554 (1998), this Court announced new law concerning landlord liability and wrote specifically and extensively on the dangers of pit bull attacks, as had been noted in judicial decisions across the United States. Regrettably, many pit bull owners and their landlords ignored those warnings, and victims like Dominic Solesky have been mauled and even killed without any recourse to have their hospital bills paid and injuries compensated.

Tracey v. Solesky is primarily a case about personal responsibility. Unfortunately, Ms. Tracey failed to demonstrate such responsibility when she knowingly rented property to the owners of two pit bulls in a residential area. Rather than accept responsibility, Ms. Tracey attempted to exculpate herself by including language in the lease reading: "The Lessee will be civically [sic] and financially responsible for their pets. Should their pet(s) harm anyone, it is the Lessee's financial responsibility to pay for the damage. The Lessor is in NO Way responsible." The lease demonstrated Ms. Tracey's knowledge of the dogs' breed, expressly allowing the tenants to keep "2 pit bulls."

Under these facts and circumstances, and with *Matthews* having been decided 14 years earlier, this Court was circumspect in limiting its holding to the facts before it; a pit

bull mauling a child with a landlord explicitly renting to pit bull owners while "disclaiming" liability for any harm caused by the pit bulls. The Appellees submit that it would be perfectly reasonable for all dog owners to be legally responsible for any injuries and damages caused by their pets. As set forth below, this is in fact the position taken in a majority of States. Further, a landlord who makes a business decision to rent his or her property to any tenant with a dog should also be responsible, secondarily after the owner, for any injuries inflicted by a dog which the landlord had the ability to preclude from living upon the rental property.

In this light, *Tracey v. Solesky* represents a moderate step in the common law. For that reason, and as set forth more fully below, the Appellees respectfully request that this Court deny Ms. Tracey's Motion for Reconsideration.

I. The *Tracey v. Solesky* Opinion Is a Proper Exercise of This Court's Judicial Authority.

The primary thrust of Ms. Tracey's Motion for Reconsideration[1] is that this Court has overstepped its constitutional role in holding that an owner of a pit bull or the owner's landlord will be strictly liable for attacks occurring on or from the leased premises. The Motion for Reconsideration, in fact, starkly states that this Court "gravely exceeded its judicial authority." *See* Motion at 1. Ms. Tracey's position ignores the legal history of this State. As reviewed below, the imposition of strict liability within limited

[1] The Appellees acknowledge that Ms. Tracey died on February 2, 2012 and the personal representative of her Estate has been substituted as a party in the case. The Appellees will nonetheless refer to "Ms. Tracey" in this Opposition for the sake of simplicity.

classes of behavior has traditionally been a judicial function. *Tracey v. Solesky* is in line with these cases, and is therefore unquestionably within this Court's authority.

Nearly 32 years ago, in *Phipps v. General Motors Corp.*, 278 Md. 337 (1976), this Court adopted Restatement (Second) of Torts § 402A, imposing strict liability in tort to the sellers of products causing physical harm or property damage to consumers. As in Ms. Tracey's Motion for Reconsideration, the Appellee in *Phipps* argued that the "adoption of strict liability would result in such a radical change of the rights of sellers and consumers that the matter should be left to the Legislature." *Id.* at 350. This Court rejected the Appellee's position in *Phipps*, concluding that "the theory of strict liability is not a radical departure from traditional tort concepts" and therefore the adoption of strict liability is properly a judicial function. *Id.* at 351-52. Strict liability, as noted in *Phipps*, "is really but another form of negligence per se, in that it is a judicial determination that placing a defective product on the market which is unreasonably dangerous to a user or consumer is itself a negligent act sufficient to impose liability on the seller." *Id.* at 351. This conclusion, that such a determination may properly be made by the courts, is further reflected in the long line of cases in which strict liability has been imposed for abnormally dangerous activities. *See, e.g., Susquehanna Fertilizer Co. v. Malone*, 73 Md. 268, 276 (1890) (adopting judicially the common-law rule of *Rylands v. Fletcher*).

There is no "strict product liability statute" in Maryland. Nor is there any "abnormally dangerous activities" statute in Maryland. Each doctrine has arisen from a judicial determination that within a certain band of activities the quantum of proof necessary to impose liability should be altered.

Perhaps for this reason Ms. Tracey's Motion ultimately concedes that "[t]he Court's *power* to alter common law is not at issue." *See* Motion at 5. After all, Ms. Tracey expressly asked that this Court consider this question, and Ms. Tracey herself advocated for a change in the common law. *See* Brief of Appellant at 3 (presenting as questions to the Court: (1) "Is the harboring of American Staffordshire Terriers (more commonly known as 'pit bulls') by tenants an inherently dangerous activity for which landlords may be held strictly liable"; and (2) "Should this Court's prior rulings in *Matthews v. Amberwood Associates Ltd. P'ship, Inc.*, 351 Md. 544 (1998) and *Shields v. Wagman*, 350 Md. 666 (1998) be overturned or significantly modified?"). That Ms. Tracey, after petitioning this Court to review these issues and to modify the common law, now denies this Court's power to do so is, to say the least, ironic.

Nor has the General Assembly properly spoken to this issue, as Ms. Tracey contends. Ms. Tracey implausibly cites to a definition of "dangerous dog" in a criminal statute as support that the legislature has somehow expressly rejected the consideration of a dog's breed in determining whether the dog is dangerous. *See* Motion at 13 (citing Md. Code Ann., Crim. Law § 10-619). This statute—which defines "dangerous dog" as one that has previously killed or seriously injured a person, or otherwise has been determined to be dangerous by unit of local government—does not establish the standard *in tort*.[2] If § 10-619 were binding on tort law, than even the pre-*Tracey* "vicious propensities"

[2] *Cf. Ellsworth v. Sherne Lingerie, Inc.*, 303 Md. 581, 602 (1985) ("Compliance with a statutory standard is evidence of due care, but compliance with the standard does not preclude a finding of negligence for failure to take additional precautions.") (citing W. Prosser & W. Keeton, *The Law of Torts* § 36 (5th ed. 1984)).

standard would be against public policy. The General Assembly has simply not spoken on this issue, and nothing in the Maryland Code is contrary to this Court's Opinion. If anything, the Legislature's failure to take note of the serious public health issues for Marylanders discussed in *Matthews v. Amberwood* surely suggests no public policy concern that the dictum in *Matthews* would become the law of Maryland. Fourteen years later, this Court took that step in Dominic Solesky's case

II. This Court's Decision Does Not Implicate *Stare Decisis* Issues.

a. *Tracey v. Solesky* Overturned No Prior Decision of This Court.

Having acknowledged this Court's power to change the common law, Ms. Tracey's Motion nonetheless requests reconsideration because, in her view, this Court failed to satisfy the test for overruling a prior opinion. Ms. Tracey is incorrect. While *Tracey v. Solesky* creates new common law, it does not overrule any prior opinion of the Court of Appeals. As set forth below, this Court has not in fact previously considered whether the unique dangers posed by the keeping of pit bulls warrant that owners and landlords be held strictly liable. *Tracey v. Solesky* does not overturn existing law, but is rather a moderate, logical extension of prior case law of premises liability that, in fact, does not go nearly as far as a majority of states have gone by statute.[3]

While *Tracey v. Solesky* unquestionably establishes a change in the common law, it is a natural extension of the common law set forth in *Shields* and *Matthews*. Ms.

[3] There are those who argue that strict liability should be imposed on all pet owners if their pets injure someone. The Court could have written an opinion moving the common law to that ground, as 32 other states in the U.S. have done, *see infra* n.7. Respectfully, the Court showed significant restraint in limiting its holding to the issues and facts presented in Dominic Solesky's case.

Tracey's Motion for Reconsideration cites *DRD Pool Service, Inc. v. Freed*, 416 Md. 46 (2010) as setting the test for *stare decisis*:

> We have recognized two circumstances when it is appropriate for this Court to overrule its own precedent. First, this Court may strike down a decision that is clearly wrong and contrary to established principles. Further, previous decisions of this court should not be disturbed . . . unless it is plainly seen that a glaring injustice has been done or some egregious blunder committed. Second, precedent may be overruled when there is a showing that the precedent has been superseded by significant changes in the law or facts.

Id. at 64 (citations and internal quotation marks omitted). The standard enunciated in *DRD Pool Service* expressly applies only to cases in which this Court "overrule[s] its own precedent." This is not such a case. This Court has never ruled that the fact that the dog is a pit bull,[4] or more generally a dog's breed, can never form the basis of strict liability for an owner or landlord.

Of the Maryland authority cited in the Briefs before this Court, in the Motion for Reconsideration, and in *Tracey v. Solesky* opinion itself, only one case—*McDonald v. Burgess*, 254 Md. 452 (1969)—even comes close to addressing this issue. In *McDonald*, this Court accepted the finding of a trial court that the fact that a dog was a *German*

[4] Ms. Tracey's Motion argues that "'[p]it bulls' are not a formal breed" and that therefore this Court's holding will be difficult to implement. The Appellees observe that a trial court could look to *Colorado Dog Fanciers v. Denver*, 820 P.2d 644, 650-52 (Colo. 1991)—cited with approval both in this Court's Opinion and in *Matthews*—for guidance. The *Colorado Dog Fanciers* case rejected a similar argument raised as a constitutional defense. The Colorado Supreme Court observed that "the standards for determining whether a dog is a pit bull are readily accessible to dog owners, and . . . most dog owners are capable of determining the breed or phenotype of their dog." *Id.* at 651. Whether a dog is a pit bull or pit bull mix may similarly be proven by expert or lay opinion testimony.

shepherd was not, in and of itself, sufficient evidence of vicious propensities to give rise to liability:

> "The Court does not accept the theory that because a German shepherd dog 'can and often does behave in a very vicious manner' an owner of a *particular* German shepherd dog knows or should know that his dog possesses these tendencies. There is nothing in the record to demonstrate that the particular dog alleged to have caused the injury herein was of a violent or oppressive nature."

Id. at 460. *McDonald* was not a pit bull case. *McDonald* does not even state that breed generally cannot form the basis of liability. The word "breed" does not appear anywhere in the holding. Rather, *McDonald* deals narrowly with the German shepherd. Neither *McDonald* nor any other opinion of this Court[5] formerly determined that the uniquely dangerous propensities of the pit bull breed—as fully enunciated in *Matthews*—did not call for a different liability standard. *Tracey v. Solesky* expanded upon the common law. *Tracey v. Solesky* did not overrule any prior Court of Appeals precedent. Accordingly, Appellant's *stare decisis* argument fails.

b. *Tracey v. Solesky* Represents a Logical Extension of Existing Law.

To be sure, *Tracey v. Solesky* is a fair extension of the common law, and represents the next logical step following *Shields* and *Matthews*. *Shields* altered the law of premises liability in Maryland to hold a landlord responsible for injuries caused in a common area by a dog with known dangerous propensities. 350 Md. 666, 690-91 (1998).

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[5] *Tracey v. Solesky* certainly overrules contrary language in *Slack v. Villari*, 59 Md. App. 462 (1984) and *Ward v. Hartley*, 168 Md. App. 209 (2006). Each is a decision of the Court of Special Appeals, however, and each therefore has no *stare decisis* effect on this Court.

Matthews continued in this line, specifically noting the uniquely dangerous propensities of the pit bull breed. 351 Md. 554, 562-63 (1998). The dissent in *Matthews* acknowledged the strong signal sent by the case, opining that "the majority opinion, in effect, makes ownership of a pit bull per se negligence . . . ." *Id* at 584 (Chasanow, J., dissenting). After *Matthews*, pit bull owners and their landlords were reasonably on notice of the direction of the law.[6]

Tracey v. Solesky—which (1) reaches only the breed known to cause the most frequent and severe injuries; (2) places liability on landlords only if they know or have reason to know of the presence of a pit bull and the right and/or opportunity to prohibit such a dog; and (3) extends liability only for attacks occurring on or from the owner's or lessor's premises—is a modest extension of the law established in *Shields* and *Matthews*. In the instant case, the majority opinion notes that at the time of the decision between ten and thirteen states have a statute imposing strict liability for dog attacks. *See* Opinion, at 23. This is not even the extent of those statutes. The Appellees' research reveals that a majority of states—no less than thirty-two—impose strict liability for dog bites, regardless of breed.[7] Ms. Tracey is therefore demonstrably mistaken in stating that

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[6] Notably, in an early news article following the *Tracey v. Solesky* opinion, Katherine Kelly Howard, general counsel for a Baltimore-based property management company, offered that her company had excluded pit bulls and pit bull mixes from their rental properties following the *Matthews* opinion. *See Top Court Gets Tough on Pit Bulls*, Md. Daily Record (Apr. 26, 2012). Ms. Tracey apparently took notice of her potential liability as well, as Ms. Tracey included a provision in her lease that attempted to exculpate her from any liability arising from a pit bull attack.

[7] *See* Ala. Code § 3-6-1; Ariz. Rev. Stat. Ann. § 11-1025; Cal. Civ. Code § 3342; Colo. Rev. Stat. § 13-21-124; Conn. Gen. Stat. § 22-357; 9 Del.C. § 913; D.C. Code § 8-1812;

"[this] Court thus has gone further than any court or any state legislature in the county." *See* Motion at 3.[8] Rather than a drastic or, as Ms. Tracey puts it, a "draconian rule," the *Tracey v. Solesky* opinion is a moderate step toward the majority rule that dog owners and landlords renting to dog owners should bear the cost of injuries inflicted by their dogs.

c. Ms. Tracey Herself Requested a Change in the Common Law.

Additionally, like Ms. Tracey's argument concerning this Court's power to change the common law, Ms. Tracey's argument that this Court should refrain from doing so under *stare decisis* principles is belied by Ms. Tracey's own actions. Ms. Tracey expressly presented the questions in her Brief whether landlords may be held strictly liable for pit bull attacks, and advocated for a change in the common law under *Matthews* and *Shields*. *See* Brief of Appellant, at 3. Ms. Tracey's counsel specifically stated at oral argument: "I will concede that the facts of this case are completely dissimilar to the facts

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Fla. Stat. § 767.04; Haw. Rev. Stat. §§ 663-9 & 663-9.1; 510 Ill. Comp. Stat. 5/16; Ind. Code § 15-20-1-3; Iowa Code § 351.28; Ky. Rev. Stat. Ann. § 258.235(4); Me. Rev. Stat. tit. 7, § 3961; Mass. Gen. Laws ch. 140, § 155; Mich. Comp. Laws § 287.351; Minn. Stat. § 347.22; Mo. Rev. Stat. § 273.036; Mont. Code Ann. § 27-1-715; Neb. Rev. Stat. § 54-601; N.H. Rev. Stat. Ann. § 466:19; N.J. Stat. Ann. § 4:19-16; Ohio Rev. Code Ann. § 955.28; Okla. Stat. tit. 4, § 42.1; 3 Pa. Cons. Stat. § 459-502; R.I. Gen. Laws § 4-13-16; S.C. Code Ann. § 47-3-110; Tenn. Code Ann. § 44-8-413; Utah Code Ann. § 18-1-1; Wash. Rev. Code § 16.08.040; W. Va. Code § 19-20-13; Wis. Stat. § 174.02. It is worth noting that Ohio is within this list. Ms. Tracey has observed that Ohio recently removed "pit bulls" from its definition of "vicious dog." *See* Motion at 3. This would not affect the owner's strict liability for a pit bull attack under Ohio law. In Ohio, the owner of any dog is strictly liable for an injury caused by the dog. Ohio Rev. Code Ann. § 955.28.

[8] Ms. Tracy is further mistaken that "[n]o court anywhere in this country has ever imposed such a rule." *See* Motion at 3. In 1985, the Supreme Court of South Carolina judicially adopted California's statutory strict liability rule. *Hossenlopp v. Cannon*, 329 S.E.2d 438 (1985). The South Carolina legislature later adopted a similar rule by statute. *See* S.C. Code Ann. § 47-3-110.

in [*Matthews* and- *Shields*], but I believe that as the Court of Appeals you have the opportunity to right a wrong and to correct a common law which is wrongheaded." This is precisely what the Court of Appeals has done in this case. Only after receiving a decision of this Court unfavorable to her position did Ms. Tracey embrace the narrowest construction of the *stare decisis* rule. Ms. Tracey's late invocation of *stare decisis* is without merit.

III. *Tracey v. Solesky* Properly Considered Scientific Literature and Case Law from Other Jurisdictions in Changing the Common Law.

Ms. Tracey's Motion takes issue with this Court's looking to scientific literature and case law from other jurisdictions for public policy guidance. Ms. Tracey's protests should not sway this Court.

Relying primarily on *Dashiell v. Meeks*, 396 Md. 149 (2006), Ms. Tracey argues that this Court should reconsider its decision because the Court improperly took judicial notice of certain scientific data cited in the Opinion. *Dashiell* recognizes that judicial notice may be taken of "matters of common knowledge or [those] capable of certain verification." *Id.* at 174-75. Respectfully, the scientific data cited in the Opinion is within that category. The Opinion does not rely upon biased or reasonably controverted policy pieces, but rather cites (1) a Report published in the Journal of the American Veterinary Medical Association; (2) a recent article published in the peer-reviewed Annals of Surgery; and (3) a report from the Center for Disease Control.

Recognizing this, Ms. Tracey's invocation of *Daubert* and *Frye-Reed* is misguided. The Center for Disease Control is not within the category of "junk science"

that *Frye-Reed* is intended to exclude. *See Blackwell v. Wyeth*, 408 Md. 575, 591 (2009). *Frye-Reed* is not even intended to keep legislative facts from the consideration of appellate judges. Rather, the gate-keeping function of *Frye-Reed* is to keep novel scientific evidence[9] not generally accepted in the scientific community from the jury.[10]

And, as above, Ms. Tracey's objection to this Court's taking judicial notice of scientific evidence is undermined by the fact that this is precisely what Ms. Tracey asked this Court to do. In her Petition for Certiorari, Ms. Tracey cited two such sources. *See, e.g., id.* at 7 nn. 1 & 2 (citing Delise: *The Pit Bull Placebo: The Media, Myths and Politics of Canine Aggression* (2007); O'Neil, *The Ultimate American Pit Bull Terrier* (1995)). Ms. Tracey cannot plausibly argue now that this Court has "gravely exceeded its

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[9] The Opinion relies on the three cited sources only for statistical data concerning the frequency and severity of pit bull attacks. The Appellee fails to see how basic statistical data can even be characterized as "novel scientific evidence." *See CSX Transp., Inc. v. Miller*, 159 Md. App. 123, 186 (2004) ("As Judge Eldridge made very clear for the Court of Appeals in *Reed v. State,* 283 Md. at 380, 391 A.2d 364, the *Frye-Reed* test does not apply to expert opinions generally. . . . It is only with respect to new and novel scientific techniques that a general, as opposed to case-by-case, assessment must be made.").

[10] The policy considerations behind Maryland's adoption of the *Frye-Reed* test concern solely proceedings before trial courts. *See Reed v. State*, 283 Md. 374, 386 (1978) ("'Lay jurors tend to give considerable weight to "scientific" evidence when presented by "experts" with impressive credentials.'") (citation omitted); *id.* at 387 (expressing concern that absent the *Frye* test "one jury might decide that a particular scientific process is reliable, which another jury might find that the identical process is not"); *id.* at 371-72 (noting that without the *Frye* test "the examination and cross-examination of expert witnesses will be . . . protracted and time-consuming . . . , and proceedings may well degenerate into trials of the technique itself").

judicial authority," *see* Motion at 1, by doing exactly what Ms. Tracey has asked it to do: consider the relevant scientific literature and formulate a change to the common law.[11]

IV. The Public Response to *Tracey v. Solesky* Does Not Warrant Reconsideration of the Decision.

Ms. Tracey refers to the protestations of certain segments of the public as an additional reason for reconsideration. These should not sway this Court, as the materials offered represent clear misinterpretations of this Court's ruling, or otherwise fail to appreciate the policy balance struck by the Opinion.

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[11] The authors of the Restatement (Third) of Torts (2005) have additionally suggested such a change in the common law to be proper. *See* § 23 comment e:

> [O]nly a limited number of households harbor certain breeds of dogs that might be regarded as inherently dangerous. Pit bulls, for example, may be somewhat more likely to attack persons than are other breeds; when a pit bull does attack a person, the attack is likely to be ferocious. Indeed, many localities, and a few states, have imposed significant regulatory controls on the possession of pit bulls. Overall, the common law has been satisfied with the generalization that livestock and dogs are not excessively dangerous and has applied this generalization to all livestock and dogs. In the future, courts might wish to give consideration to particular genders or breeds of a species that involve danger levels uncommon for the species itself. If so, it might be appropriate to impose strict liability, without individualized scienter, on the owner of such an animal. As for pit bulls, it can be observed that their danger level is due in significant part to the way in which pit bulls have been bred. Yet the degree of danger relating to a particular pit bull is to a significant extent a function of the training and supervision its owner has provided. The owner's substantial responsibility for the pit bull's danger level can be seen as an equity that supports a strict-liability standard.

(emphasis added).

Ms. Tracey appends two memoranda prepared by a law firm advising property owners and management companies of the impact of the *Tracey v. Solesky* Opinion, as evidence that attorneys are advising landlords to evict tenants immediately or otherwise seek indemnification from their tenants.[12] *See* Motion at 3. If Maryland landlords are evicting tenants mid-lease, this is based on a misinterpretation of the Opinion. The Opinion clearly holds, with prospective application, that a landlord "who has the right and/or opportunity to prohibit such dogs on leased premises" may be held liable. Slip. op. at 24. The Opinion clearly does not expressly apply to landlords who have not yet had the opportunity to comply by prohibiting these dogs.

Ms. Tracey further cites a Daily Record editorial stating that *Tracey v. Solesky* will affect "condominium and homeowner associations, veterinarians, dog handlers, dog walkers, dog sitters, kennels, shelters and breeders." *See* Motion at 3-4. The Opinion of this Court expressly reaches none of these entities. The holding is in fact limited to attacks occurring "on or from the owner's or lessor's premises."

Ms. Tracey additionally states that as a result of this decision dog owners will "face the Hobson's choice of abandoning their pets or vacating their homes." *See* Motion at 3. The Appellees fail to see how this represents a "Hobson's choice." If any class of Maryland residents has historically been left without a choice in this matter, it is the countless victims of pit bull attacks like Dominic Solesky. These victims, prior to this Court's newly announced rule, have been left to bear the risk of attack and the cost of

[12] One must ask why such memos were not generated in 1998 after *Matthews* was decided. At least one attorney grasped its meaning and the Court's indication on where the law was headed. *See supra* n.6.

injuries while owners and landlords have evaded responsibility. Ms. Tracey's characterization of the position of pit bull owners after *Tracey v. Solesky* as a "Hobson's choice" is as offensive as the statements in her Reply Brief and at oral argument likening a breed-specific rule to slavery or the Holocaust. At its core, Ms. Tracey's policy argument prioritizes the right to own a specific breed of dog without incurring additional liability over the safety of one's neighbors. Boiled down to its root, Ms. Tracey argues that dogs count more than humans.

V. Retroactive Application of the New Strict Liability Rule to the Parties Before the Court Is Constitutional.

Finally, Ms. Tracey's position that this Court cannot impose strict liability retroactively as to the parties before it is baseless. Ms. Tracey erroneously relies on *Allstate Insurance Co. v. Kim*, 376 Md. 276, 294 (2003) for the proposition that "a statute may be unconstitutional if it imposes 'severe retroactive liability on a limited class of parties that could not have anticipated the liability, and the extent of that liability is substantially disproportionate to the parties' experience'" (emphasis added) (citation omitted). The *Tracey v. Solesky* Opinion, notably, is not a "statute." *Kim* is irrelevant. As this Court properly stated in *Tracey v. Solesky*, "'[g]enerally, changes in the common law are applied prospectively, as well as to the case triggering the change in the common law.'" *See* Slip. op. at 13 (quoting *Palokoff v. Turner*, 385 Md. 467 (2005)). Ms. Tracey's argument that a different standard should be applied to her has no basis in the law.

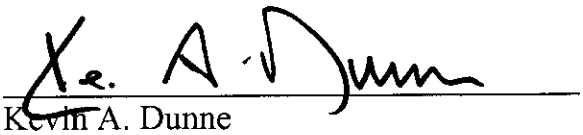
CONCLUSION

Tracey v. Solesky responds to a public health crisis, and will serve to advance owner responsibility, to protect Maryland residents from attacks, and to more fairly compensate victims. It is a modest change in the law, and it is one well within this Court's power and discretion. For this reason, and the reasons stated above, the Appellees respectfully ask that this Court deny Ms. Tracey's Motion for Reconsideration and issue its mandate in this case, to ensure that individuals like Dominic Solesky are properly protected under the law.

STATEMENT OF COMPLIANCE WITH MARYLAND RULE 8-504(a)(9)

Pursuant to Maryland Rule 8-504(a)(9), I HEREBY CERTIFY that the Appellees' Opposition to Petitioner's Motion for Reconsideration is proportionally spaced, has a typeface of 13 points and is in Times New Roman, a court-accepted font.

Respectfully,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of June, 2012, two copies of the foregoing Opposition to Petitioner's Motion for Reconsideration were mailed, first-class postage-prepaid, to:

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