

Monday, May 12, 2014

Toronto Dog Attack: Motion to Dismiss Denied

The Issue: In Ontario, dog owners have responsibility to manage their dogs in public and to ensure the safety of other people, primarily by leashing and controlling their dogs while outdoors. There is legislation, called the Dog Owners' Liability Act which imposes statutory responsibilities against owners.

Why This Matters

Dog owners should have a homeowner's insurance policy which protects them if their dog bites or attacks someone or, inadvertently while playing with another dog, causes injury or frightens another person.

This Case Situation

In the case of [*Elbaum v. York Condominium Corporation No. 67, 2014 ONSC 1182 \(CanLII\)*](#), a senior citizen, 89 years of age, was walking within her condominium building when the dog of another condo unit holder came up and surprised / scared her, causing her to fall. The dog was unleashed at the time, despite a bylaw requiring the dog to be leashed while in public areas. The plaintiff suffered serious injuries and sued both the dog owners and the condominium corporation.

Although not stated in this motion decision, the dog owners would be relying on their homeowner's insurance policy in this case both to pay for a lawyer to defend them in this lawsuit and also to cover the damages, if any, awarded against them arising from the plaintiff's injuries, damages and loss from this accident.



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The condo corporation relied on an aggressive interpretation of the provisions of the Dog Owners' Liability Act in support of this Rule 21 motion. Mr. Justice Perell dismissed the condo corporation's motion, meaning that the plaintiff's lawsuit for damages can continue against both the dog owners, as well as the condominium corporation.

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