

19-CV-2090
CAUSE NO. _____

PATTI HALPRIN
Plaintiff,

vs.

EUGENE PROTAS
Defendant.

§ IN THE DISTRICT COURT OF
§
§
§ GALVESTON COUNTY, TEXAS
§ Galveston County - 122nd District Court
§
§ _____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION, INTERROGATORIES,
REQUESTS FOR PRODUCTION, REQUESTS FOR ADMISSION,
REQUEST FOR DISCLOSURE, RULE 193.7 NOTICE & RULE 609 REQUEST**

Plaintiff files this Original Petition, Interrogatories, Requests for Production, Admission, and Disclosure, Rule 193.7 Notice, and Rule 609 Request against Defendant and alleges the following:

I. DISCOVERY-CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4, request the Court enter a Docket Control Order governing same, and affirmatively plead that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because Plaintiff seeks monetary relief over \$100,000.00.

II. RELIEF

2. Plaintiff seeks monetary relief over \$200,000.00 but not more than \$1,000,000.00.

III. PARTIES

3. Plaintiff, PATTI HALPRIN ("HALPRIN"), is an individual residing at 4414 Waynesboro Dr., Houston, Texas 77035. The last three digits of her driver's license and social security number are 125 and 457 respectively.

4. Defendant, EUGENE PROTAS (“PROTAS”), an individual and owner of the dog (“the dog”) that knocked down HALPRIN, may be served with process at his usual place of abode 3886 Summer Manor Dr., League City, Texas 77573 or wherever he may be found.

IV. JURISDICTION

5. The Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court’s minimum jurisdictional requirements.

V. VENUE

6. Venue is proper in Galveston County under Texas Civil Practice & Remedies Code section 15.002 because it is where all or a substantial part of the events or omissions giving rise to the claim occurred.

VI. FACTS – THE INCIDENT

7. On April 22, 2019, HALPRIN was an invited guest at PROTAS’ house. HALPRIN small dog accompanied her to PROTAS’ house with PROTAS’ permission. PROTAS also owned a large dog that resided at the house. During the day, HALPRIN took her dog outside to the backyard. Shortly thereafter, PROTAS came to backyard and while inexplicably holding his large dog in his arms. When HALPRIN asked PROTAS what he was doing, the dog jumped out of PROTAS’ arms and ran towards HALPRIN’S dog standing next to her. PROTAS’ dog knocked HALPRIN to the ground and caused her serious bodily injuries.

VII. COUNT 1 – NEGLIGENCE

8. PROTAS had a duty to exercise ordinary care as a reasonable and prudent person would have acted under the same or similar circumstances.

9. PROTAS breached his duty by failing to control, restrain, and/or sequester the dog while HALPRIN was an invited guest.

VIII. DAMAGES

10. PROTAS' aforementioned breach of duties proximately caused injury to HALPRIN, which resulted in the following damages:

- a. Medical expenses in the past and future;
- b. Physical pain and suffering in the past and future;
- c. Physical impairment in the past and future;
- d. Mental anguish in the past and future; and
- f. Disfigurement.

11. HALPRIN seeks damages within the jurisdictional limits of this Court.

12. Exemplary damages. HALPRIN'S injuries resulted from PROTAS' gross negligence, which entitles HALPRIN to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a)(3).

IX. JURY DEMAND

13. HALPRIN demands a jury trial.

X. REQUEST FOR DISCLOSURE

14. Under Texas Rule of Civil Procedure 194, HALPRIN requests that PROTAS disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

XI. INTERROGATORIES TO DEFENDANT

15. Pursuant to Texas Rule of Civil Procedure 197, Defendant must respond to the following interrogatories within 50 days of service:

- 1. Identify the person answering these interrogatories including their full legal name, home address, business address, occupation, work and home telephone numbers, date of birth, social security number, and Texas driver's license.
- 2. Identify every person who is expected to be called to testify at trial, including your experts.

3. State the legal theories and describe in general the factual bases for your defenses.
4. Please describe in as much detail as you can the manner in which the incident made the basis of this lawsuit occurred (as you understand it) or how and why you believe it did not occur. Identify each document, report, letter, expert opinion, lay opinion, or other source of information used by you to form the basis of your answer to this interrogatory.
5. State what you contend caused or contributed to the incident made the basis of this lawsuit.
6. Identify the dog, by name and breed, that was involved in the incident, and describe your relationship to same. Please also describe the physical characteristics of the dog including its size and sex.
7. What precautions do you take to prevent incidents of this type from happening?
8. If you contend HALPRIN was negligent in causing her own injuries, state the factual basis for your contention.
9. Describe in detail any conversation you had with HALPRIN regarding the dog before the incident occurred.
10. Describe any precautions you took at your house regarding the dog when guests would be present.
11. Do you still own the dog? If not, where is it and why did you get rid of it?
12. Did you ever take the dog to a veterinarian? If yes, identify the vet(s) and the reason(s) for the visit(s).
13. Did the dog have a bite history or cause bodily injury to any person or exhibit aggressive behavior towards people at anytime before the incident occurred? If yes, please describe the bite history, bodily injury caused, and/or aggressive behavior, and when and where it occurred.

XII. REQUESTS FOR PRODUCTION TO DEFENDANT

16. Pursuant to Texas Rule of Civil Procedure 196, Defendant must respond to the following requests for production within 50 days of service:
 - a. Any policy of insurance, including the declarations page, whether primary or excess that might satisfy any judgment against PROTAS in this cause.

- b. All non-privileged diagrams, models, charts, photographs, or videotapes of the persons and premises made the basis of this lawsuit.
- c. All medical records, reports, x-rays, or other documentation obtained by virtue of medical authorizations furnished by any Plaintiff to this litigation to PROTAS.
- d. Each and every non-privileged written or recorded report prepared by PROTAS or any other agent or representative of PROTAS pertaining to the facts made the basis of this lawsuit. This request is NOT a request to produce Defendants' attorney's privileged work product.
- e. All employment, tax, medical, and billing records obtained by virtue of any authorization provided to you by any Plaintiff to this litigation.
- f. All surveillance videos or photographs of Plaintiff.
- g. All surveillance videos of the incident occurring and the area where the incident occurred including one hour before the incident and one hour after the incident.
- h. All non-privileged sketches, drawings, diagrams, tables of measurements, maps or photographs of the premises or persons involved in the incident which forms the basis of this suit.
- i. All documents you intend to use for impeachment purposes at the time of trial.
- j. All communications and documents sent to or received from, or exchanged by and between you and, HALPRIN concerning the subject matter of this lawsuit.
- k. All documents that relate to the ownership of the dog.
- l. All photos of the dog.
- m. All videos of the dog.
- n. All documents in reference to any training the dog received.
- o. All documents in reference to any socializing the dog received.
- p. Copies of all communications between any resident of your house and HALPRIN concerning the dog.
- q. Copies of all communications between you and anyone regarding the dog.
- r. Copies of all communications between you and anyone regarding the incident.

XIII. REQUESTS FOR ADMISSION TO DEFENDANT

17. Pursuant to Texas Rule of Civil Procedure 198, Defendant must admit or deny the following requests for admission within 50 days of service:

- a. HALPRIN properly named you in Plaintiff's original petition.
- b. PROTAS owned the home where the incident occurred.
- c. PROTAS owned the dog involved in the incident.
- d. PROTAS owned the dog that HALPRIN alleges knocked her down during the incident.
- e. PROTAS had the duty to control of dog when the incident occurred.
- f. HALPRIN did not contribute to the incident.
- g. HALPRIN was an invited guest when the incident occurred.
- h. PROTAS did not issue any warning to HALPRIN regarding the dog at any time before the incident occurred.
- i. The dog knocked down HALPRIN on the day of the incident.
- j. The dog caused HALPRIN to fall on the day of the incident.
- k. HALPRIN should be fairly and reasonably compensated for the injuries suffered as a result of the incident.
- l. The dog is not an Akita.
- m. The dog is not an American Bulldog.
- n. The dog is not a Beaucerons.
- o. The dog is not a Belgian Malinois.
- p. The dog is not a Bull Mastiff.
- q. The dog is not a Catahoula Leopard.
- r. The dog is not Caucasian Mountain Dog.

- s. The dog is not a Chow.
- t. The dog is not a Coyote.
- u. The dog is not a Doberman Pinscher.
- v. The dog is not a Pit Bull.
- w. The dog is not a Presa Canario.
- x. The dog is not a Rhodesian Ridgeback.
- y. The dog is not a Rottweiler.
- z. The dog is not a Staffordshire Terrier.
- aa. The dog is not a Wolf.
- bb. The dog does not contain any mixture of any of the following breeds: Akita, American Bulldog, Beaucerons, Belgian Malinois, Bull Mastiff, Catahoula Leopard, Caucasian Mountain Dogs, Chow, Coyote, Doberman Pinscher, Pit Bull, Presa Canario, Rhodesian Ridgeback, Rottweiler, Staffordshire Terrier, and Wolf.
- cc. The dog has not been trained or used as a guard dog.
- dd. The dog has not been trained or used as an attack dog.
- ee. The dog has not been trained or used in military work.
- ff. The dog has not been trained or used in police work.
- gg. The dog has not been trained or used in policy work.
- hh. The dog does not belong to a breed that was historically bred for fighting.
- ii. The dog was disclosed on PROTAS' homeowner's insurance application for the policy in force at the time the incident occurred.
- jj. The dog was disclosed to PROTAS' homeowner's insurance agent at the time the policy in force at the time of the incident was purchased.

XIV. RULE 193.7 NOTICE

18. HALPRIN hereby put Defendant on notice that HALPRIN intends to use Defendant's discovery responses as evidence in any pretrial proceeding and/or trial in accordance with such

right and privileges established by Texas Rule of Civil Procedure 193.7.

XV. RULE 609 REQUEST

19. Pursuant to Texas Rule of Evidence 609, HALPRIN requests written notice of all convictions, if any, Defendant intends to introduce or offer into evidence at the trial of this matter concerning HALPRIN.

XVI. PRAYER

20. For these reasons, HALPRIN asks that the Court issue citation for PROTAS to appear and answer, and that HALPRIN be awarded a judgment against Defendant for the following:

- a. Actual damages.
- b. Exemplary damages.
- c. Prejudgment and postjudgment interest.
- d. Court costs.
- e. All other relief to which Plaintiff is entitled.

Respectfully submitted,

WEBER LAW FIRM



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