

DOCKET NO. FBT-CV22-6118472-S

ALAN MORALES

V.

DANIEL DEFRANCO AND SARAH GALLO

OFFICE OF THE SUPERIOR COURT  
SUPERIOR COURT  
: J.D. OF BRIDGEPORT  
2024 MAY 20 P 1:52  
: AT BRIDGEPORT  
JUDICIAL DISTRICT  
OF BRIDGEPORT  
MAY 20, 2024

**MEMORANDUM OF DECISION RE:  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

A hearing on the defendants' motion for summary judgment was held before the undersigned on May 13, 2024.

The instant lawsuit results from an incident which allegedly occurred on September 23, 2020 at the defendants' premises located at 160 Teller Road in Trumbull, Connecticut.

The plaintiff alleges that he was a business invitee at the subject premises, where he was working on the roof, chimney and siding. He further alleges that while working, a dog owned by the defendants barked at him and pursued him, causing him to climb up a ladder hurriedly, from which he lost his balance and fell approximately 30 feet to the ground, thereby causing his injuries and damages.

The defendants filed the instant motion for summary judgment on the grounds that there exists no genuine issue of material fact in that the defendants were not the owners of the dog that allegedly caused the plaintiff to fall off the ladder.

The purpose of summary judgment is "to dispose of actions in which there is no genuine issue as to any material fact." *Batick v. Seymour*, 186 Conn. 632, 646-47, 443 A.2d 471(1982).

Summary judgment is a means by which to dispose of cases involving frivolous issues in a speedy manner, thereby conserving judicial resources. *Town Bank and Trust Company v.*

RJD  
JDNJ Notice Sent 5/20/24  
WLB Assist. Clerk

*Benson*, 176 Conn. 304, 306-07, 407 A.2d 971 (1978); *United Oil Company v. Urban Development, Commissioner of City of Stamford*, 158 Conn. 364, 375-76, 26 A.2d 596 (1969).

The only question before the court when considering a motion for summary judgment is whether there exists a question of fact. *Batick*, 186 Conn. at 646-67, 443 A.2d 471 (1982).

Connecticut Practice Book § 17-49 provides that:

“The judgment sought shall be rendered forthwith if the pleadings, affidavits, and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.”

It has been held that liability for injuries committed by a vicious animal is grounded in negligence... “It is the duty of the owner of such an animal, having knowledge of its vicious propensities, to give notice of the propensities or to restrain the animal, and failure to do so is negligence that makes the owner liable for its consequences...”

“The plaintiff must prove that the dog had vicious propensities and that the owner or keeper had knowledge, or the means of knowledge, of them...A vicious propensity is any propensity on the part of a dog that is likely to cause injury under the circumstances.” *Mann v. Regan*, 180 Conn. App. 566, 579-580, 948 A.2d 1075 (2008).

Further, “even a dog’s owner is not liable to persons injured by the dog, unless (1) the dog had vicious propensities (2) of which the owner was aware and (3) the owner failed to exercise reasonable care in restraining the dog.” *Murphy v. Buonato*, 42 Conn. App. 239, 253, 679 A.2d.

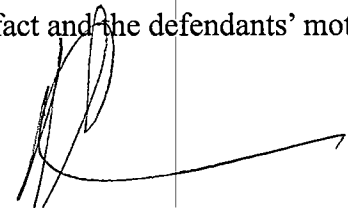
In support of their motion, the defendants offer the sworn deposition testimony of the defendant, which clearly establishes that the plaintiff was not only unable to identify or describe

the dog, but that he was less than certain that there even was a dog in the vicinity at the time of his fall.

Further, the defendants offer the sworn deposition testimony of one Michael Trotto, who was on their property at the time of the alleged incident. Trotto testified that not only did he not see or hear a dog chasing the plaintiff, but that he did not see any dog on the subject premises at the time of the incident.

Finally, the defendants offer their own sworn affidavits in which they indicate that they were both inside their home at the time of the incident, and that a dog owned by them was inside their home with them that day, and was never outside.

For those reasons, there is no genuine issue of material fact and the defendants' motion for summary judgment is granted.



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GOULD, J.