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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON

LUCIANA RIBEIRO; and DANUBIO)	Case No.
ALMEIDA,)	
)	COMPLAINT
Plaintiffs,)	(Negligence/Negligent Infliction of Emotional
)	Distress/Negligence Per Se/Strict Liability,
v.)	ORS §31.360)
)	
DANIEL LUSK; and RICHARD LUSK,)	Damages in the amount of \$9,350; filing fee
)	per ORS §21.160(1)(a)
Defendants.)	
_____)	SUBJECT TO MANDATORY
)	ARBITRATION

COMPLAINT

Plaintiffs, Luciana Ribeiro and Danubio Almeida (collectively hereafter referred to as "Plaintiffs") through counsel, allege as follows:

1.

Luciana Ribeiro ("Luciana") was seriously injured on or about June 21, 2015 in unincorporated Washington County, Oregon, due to the negligence, indifference, and reckless actions of Defendants Daniel Lusk ("Daniel", and Richard Lusk ("Richard" or collectively hereafter referred to as "Defendants").

2.

Luciana is a resident of Washington County, Oregon, and is married to Danubio Almeida ("Danubio").

1 3.

2 Plaintiff Danubio is a resident of Washington County, Oregon, and is married to Plaintiff
3 Luciana.

4 4.

5 At all relevant times mentioned herein, Richard Lusk, was the owner of a dog named
6 Sophie, a Border Collie mix.

7 5.

8 Daniel was at all relevant times a resident of Washington County, Oregon. On or about
9 June 21, 2015, Daniel was the keeper of Sophie.

10 6.

11 On or about June 21, 2015, Daniel, with permission from Richard, took Sophie to Rock
12 Creek Elementary School in unincorporated Washington County. While Sophie was not on a
13 leash, Sophie bit Luciana at Rock Creek Elementary School (“Incident”).

14 7.

15 All of the above enumerated actions by all of the defendants demonstrate the event
16 outlined in paragraph 6 above occurred without any fault or negligence attributable to any of the
17 Plaintiffs.

18 8.

19 Defendants, and all of them, failed to abide by the expectations of the community, which
20 exposed Plaintiffs to an unreasonable risk of harm.

21 9.

22 As a direct result of these breaches of duty and law described in paragraphs 6 through 8,
23 and due directly to the behavior by Defendants, both Plaintiffs suffered severe emotional distress
24 and mental anguish. Luciana also suffered physical injuries. The injuries suffered by Luciana

1 put a severe burden upon Danubio. These injuries to Luciana caused a loss of consortium
2 between Danubio and Luciana.

3 10.

4 Plaintiffs reserve the right to amend this complaint pursuant to ORS §31.725.

5 11.

6 As a direct result of the above described incident, Luciana has incurred and will continue
7 to incur substantial costs for doctors and health care providers, medications, medical imaging,
8 examinations, evaluations, and treatments. All of these medical expenses were, and are,
9 reasonable and necessary. Luciana has suffered interference with her normal and usual activities,
10 plus the loss of care, comfort, companionship and society, isolation, loss of consortium or loss
11 of the benefits of a family relationship. She also faces future medical costs and suffered a loss of
12 earnings. She also suffered property damage to her clothing. This was all to her economic
13 detriment and resulted in economic damages in an amount to be determined by the jury to fairly
14 and justly compensate them in accordance with Oregon law, not to exceed \$2,850.

15 12.

16 As a direct result of the above described incident, Luciana sustained serious, lasting and
17 persistent pain, mental and emotional suffering, scarring depression, anxiety, isolation,
18 inconvenience, and interference with his normal and usual activities, all to their non-economic
19 harm in an amount to be determined by the jury to fairly and justly compensate them in
20 accordance with Oregon law, not to exceed \$5,000.

21 13.

22 As a direct result of the above described incident, Danubio suffered a loss of consortium
23 to his marriage to his non-economic harm in an amount to be determined by the jury to fairly
24 and justly compensate him in accordance with Oregon law, not to exceed \$1,500.

1 14.

2 On August 27, 2016, Luciana mailed a demand upon both Defendants for damages in the
3 manner provided by ORS §20.080. The letter to Richard was delivered on August 29, 2016, and
4 no response has been received as of this filing of this action. The letter to Daniel was delivered
5 on August 29, 2016, and no response has been received as of this filing of this action.

6 15.

7 Luciana is entitled to recover attorney's fees incurred herein pursuant to ORS §20.080,
8 in addition to her damages and costs.

9
10 **FIRST CLAIM FOR RELIEF**

11 (Negligence)

12 16.

13 Plaintiffs re-allege paragraphs 1-15 above as though fully set forth herein.

14 17.

15 On or about June 21, 2015, Daniel was the keeper of a canine named Sophie, which was
16 owned by Richard. Daniel, with the permission of Richard, took Sophie to Rock Creek
17 Elementary School, where dogs are prohibited. While at the school, Daniel did not have the leash
18 on Sophie, and Sophie then attacked and bit Luciana, causing a serious injury.

19 18.

20 Defendants were negligent by failing to control Sophie. Defendants had a duty to control
21 Sophie and prevent any bites, and the bite was a breach of that duty. This lack of control was the
22 actual and proximate cause of the foreseeable injuries sustained by Plaintiffs.

23 19.

24 These negligent actions by Defendants directly caused the damages as described above

1 in paragraphs 11 through 13.

2
3 **SECOND CLAIM FOR RELIEF**

4 (Negligent Infliction of Emotional Distress alleged by Luciana)

5 20.

6 Plaintiffs re-allege paragraphs 1-19 above as though fully set forth herein.

7 21.

8 Defendants had a duty towards Luciana to control their dog to as not to harm anyone.
9 Daniel recklessly did not keep the dog on a leash, which led to the physical assault by the dog
10 upon Luciana in the park-like area of the school grounds. These actions and physical impact
11 directly caused Plaintiffs to suffer severe emotional distress. These actions and physical impact
12 directly caused Luciana to suffer emotional distress.

13 22.

14 This negligent, reckless act by Daniel directly caused the injuries to Luciana as described
15 above in paragraphs 11 through 12. This breach of duty was the legal and proximate cause of the
16 emotional injuries to Luciana.

17
18 **THIRD CLAIM FOR RELIEF**

19 (Negligence Per Se)

20 23.

21 Plaintiffs re-allege paragraphs 1-22 above as though fully set forth herein.

22 24.

23 During the Incident, the dog was not leashed in direct violation of Washington County
24 Ordinance 6.04.230, which prohibits the owner or keeper of a dog to run at large. Further,

1 Beaverton School District policy which applies to Rock Creek Elementary School prohibits dogs
2 on play areas at the school district's property, and leashes are required where dogs are allowed.
3 BSD, ING-AR. In committing such violations, defendants were negligent as a matter of law and
4 can be held liable on that basis.

5 25.

6 Luciana, as a person directly injured by the loose dog, and Danubio were members of the
7 class intended to be protected by such regulations, and the harms suffered were of the type and
8 kind such regulations were intended to protect against.

9
10 **FOURTH CLAIM FOR RELIEF**

11 (Strict Liability, ORS §31.360 against Richard)

12 26.

13 Plaintiffs re-allege paragraphs 1-25 above as though fully set forth herein.

14 27.

15 Pursuant to ORS §31.360, the owner of a dog is strictly liable, absent certain exceptions
16 not relevant, for the economic damages arising from the injuries caused by a dog. As such,
17 Richard is strictly liable for the damages outlined above in paragraph 11.

18
19 **PRAYER FOR RELIEF**

20 28.

21 **WHEREFORE**, Plaintiffs pray for judgment against all Defendants as follows:

22 I.

- 23 a) Economic damages in the amount to be determined by the jury to fairly
24 compensate Luciana in accordance with Oregon law, and not to exceed

1 \$2,850.00;

2 b) Non-economic damages in the amount to be determined by the jury to fairly
3 compensate Luciana in accordance with Oregon law, and not to exceed
4 \$5,000.00;

5 c) Non-economic damages in the amount to be determined by the jury to fairly
6 compensate Danubio in accordance with Oregon law, and not to exceed
7 \$1,500.00;

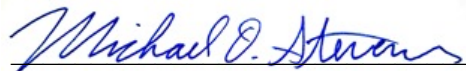
8 d) Reasonable attorney's fees under ORS §20.080 for those amounts claimed by
9 Luciana;

10 e) Their costs and disbursements incurred herein;

11 f) Other relief as the Court deems just and equitable.

12
13 Dated: October 25, 2016

Respectfully submitted,

14 

15 Michael O. Stevens, OSB No. 095198
16 Michael@HillsboroFirm.com
17 Attorney for Plaintiffs

18 Trial Attorney:
19 Michael O. Stevens, OSB No. 095198