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DELAWARE DOG CONTROL PANEL

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Hearing taken before Pamela C. Herrmann,  
(formerly Pamela C. Washington), Registered  
Professional Reporter and Notary Public, at Sussex  
County Council Chambers, The Circle, Georgetown,  
Delaware, on May 12, 2014, beginning at 7:00 p.m.

- - - - -

APPEARANCES:

On behalf of the Dog ControlPanel:  
ANNE CAVANAUGH, Chairperson  
BETTY JANNUZZIO  
CRAIG STONESIFER  
TARA LAUSCH

On behalf of Delaware Animal Care & Control:  
CAPTAIN SHERRI WARBURTON  
STAFF SERGEANT DAVID HULSE

On behalf of Faithful Friends:  
Young, Conaway, Stargatt & Taylor  
ATTN: CURTIS J. CROWTHER, ESQ.

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Milford, Delaware 19963

1 CHAIRPERSON CAVANAUGH: Okay, it's  
2 7:00 o'clock, you want to get started everyone? This  
3 is the Delaware Dog Control Panel. My name is Anne  
4 Cavanaugh, and I'm the Chairperson for tonight. I'll  
5 ask the other Panel members to introduce themselves.

6 MS. JANNUZZIO: Betty Jean Jannuzzio, I  
7 represent the Delaware SPCA.

8 DR. STONESIFER: Craig Stonesifer, I'm  
9 a veterinarian for the Brenford Animal Hospital.

10 CHAIRPERSON CAVANAUGH: I'm going to  
11 read the proceedings and what we're hoping to  
12 accomplish, and then we'll get started.

13 Delaware Dog Control Panel deals with  
14 the Dangerous and Potentially Dangerous Dogs law.  
15 Delaware Code Title 9, Chapter 9, Subchapter II,  
16 Subsection 925(a) states that a dog who has inflicted  
17 physical injury upon a human or domestic animal,  
18 killed a human or domestic animal, pursued a person in  
19 an apparent attitude of attack, and/or who was used to  
20 facilitate animal cruelty or animal fighting is in  
21 violation of this Code and must be seized and  
22 impounded by Delaware Animal Care and Control until  
23 determination as to whether the dog's actions were  
24 dangerous or potentially dangerous.

25 The owner of such an impounded dog may

1 abide by the findings and conclusions of Animal Care  
2 and Control as per Subsection 925 of this code. If  
3 the owner disagrees with the conclusion, he or she may  
4 request a hearing before the Dog Control Panel to  
5 present evidence as to why the actions of the dog for  
6 which it was seized should not be considered dangerous  
7 or potentially dangerous as defined by the Code.

8 All hearings shall be informal, open to  
9 the public, and need not conform to standard rules of  
10 evidence. Hearsay evidence shall be allowed but may  
11 not be relied upon as the sole evidence in the Panel's  
12 determination.

13 This hearing is not a community  
14 meeting. There will be no public comment, and you  
15 will be asked to leave if you disrupt the proceedings.  
16 This hearing will open with instructions and brief  
17 statements from each party, noting what they intend to  
18 establish. For example, we're going to establish the  
19 dog is dangerous, potentially dangerous, or not  
20 dangerous. They also should state the number of  
21 witnesses and amount of time they expect to need for  
22 their presentation.

23 The members of the Delaware Dog Control  
24 Panel will hear evidence and testimony concerning the  
25 incident that caused the dog to be seized in

1 accordance with Delaware law. The Panel may exclude  
2 any evidence which is plainly irrelevant, immaterial,  
3 cumulative or unduly repetitive.

4 Each witness will clearly state and  
5 spell if requested their full name for the record and  
6 be sworn in prior to testimony. Following opening  
7 statements, each party shall produce witnesses and  
8 evidence on their own behalf, and have the opportunity  
9 to cross-examine witnesses. The Panel may examine the  
10 witness after testimony, cross-examination, and  
11 reserve the right to recall a witness to answer  
12 additional questions or clarify testimony.

13 After brief closing statements from  
14 both parties, deliberations of the Panel will be  
15 conducted in executive session. At that time, the  
16 Panel will determine based upon the preponderance of  
17 evidence and testimony provided during the hearing  
18 whether the dog's actions for which it was seized  
19 meets the level of public hazard as defined by  
20 Delaware law.

21 After returning, the Panel shall  
22 announce its decision by reading the conclusion into  
23 record. After this reading, the owner will then be  
24 provided with a copy of the written notice. The  
25 decision of the Panel is final.

1 MR. CROWTHER: May I be heard, Madam  
2 Chairman?

3 CHAIRPERSON CAVANAUGH: I'm sorry?

4 MR. CROWTHER: May I be heard for a  
5 moment?

6 CHAIRPERSON CAVANAUGH: Usually we  
7 start with opening statements from Animal Control.

8 MR. CROWTHER: I don't believe there's  
9 a quorum here that's proper under the code. Miss  
10 Jannuzzio is your alternate; there's not three  
11 separate representatives from three divisible groups  
12 on the dog panel.

13 CHAIRPERSON CAVANAUGH: I don't believe  
14 that's necessary.

15 MR. CROWTHER: There has to be three  
16 for a quorum of the five. Miss Jannuzzio is your  
17 alternative. If you weren't here, she could be here,  
18 but you're here and that means this system is not with  
19 the five -- or three separate representatives.

20 CHAIRPERSON CAVANAUGH: I don't believe  
21 that's necessary. I believe that any of the members  
22 of the Panel, as long as there are three, can hold a  
23 hearing.

24 MR. CROWTHER: I ask that the record be  
25 noted that I objected to the quorum, that it does not

1 exist and this meeting is invalid.

2 CHAIRPERSON CAVANAUGH: Okay, so now we  
3 have opening statements by Animal Control.

4 CAPTAIN WARBURTON: Good evening, Panel  
5 members, ladies and gentlemen. Tonight we're going to  
6 talk about a series of unfortunate and tragic events.  
7 What I mean by unfortunate events are when Tacia  
8 McIlvaine called Delaware Animal Care and Control to  
9 report two elderly homeless women who had three dogs  
10 in the back of a pickup truck at a motel. Unfortunate  
11 that the responding officer attempting to locate them  
12 was unsuccessful, however Tacia McIlvaine was and she  
13 took responsibility of Ricky and Lady Jane. You'll  
14 then hear how Tacia McIlvaine contacted Kathy Hughes,  
15 asking her to keep Ricky and Lady Jane for one  
16 evening, and how that one evening turned into four  
17 weeks.

18 You will hear from Kathy Hughes and  
19 Cindy Myers that when they took the two dogs over to  
20 Lisa St. Clair's place for evaluation, there was a  
21 miscommunication, and how she was not prepared for  
22 their arrival as she was outside with her dogs. Her  
23 senior lab, Daisy, who is deaf, did not hear her call  
24 to come inside. Kathy Hughes will tell you that Ricky  
25 launched himself from her SUV and, with no hesitation

1 in an apparent attitude of attack, and latched onto  
2 Daisy's neck.

3           You will hear from Lisa St. Clair how  
4 she grabbed Ricky's collar, pulling him away and  
5 tightening his collar, restricting his air while her  
6 dog was screaming. You will hear from Kathy Hughes  
7 that she attempted numerous times after the attack to  
8 contact Tacia McIlvaine, leaving her messages about  
9 the attack and how she can no longer keep the pair.

10           Finally, Hughes puts Ricky and Lady  
11 Jane in Tacia McIlvaine's shed with bedding, food, and  
12 water because she could no longer care for them. A  
13 series of unfortunate events indeed.

14           Flash forward to March 18th, a cool  
15 spring day, a woman is gingerly taking her small furry  
16 white dog out of her vehicle. Little Banks, who has  
17 Lyme's disease, is particular about who grooms him,  
18 and Todd Clyde is so gentle that she drives from  
19 Maryland to Delaware to have him groom her dog. You  
20 see her walking Banks toward the salon where she walks  
21 past a younger man who is taking a black and white  
22 pitbull with tan markings past her. You see her and  
23 Banks moving forward when a white and black blur  
24 speeds towards the woman and her dog. The woman looks  
25 down as her dog screams in pain as the bigger dog

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1 grabs the smaller dog with no hesitation and in an  
2 apparent attitude of attack, and in a violent manner  
3 starts shaking him back and forth.

4           You see a man appear, striking the  
5 bigger dog on the head of with wooden pole to no  
6 avail. The bigger dog finally releases the little dog  
7 and the man scoops up the bleeding dog and rushes him  
8 inside the building and then to the vet. Ricky is  
9 transported to Faithful Friends where Ricky and Lady  
10 Jane were turned over to Faithful Friends without full  
11 disclosure of Ricky's aggression.

12           A series of tragic unfortunate events,  
13 ladies and gentlemen. These events are supported by  
14 facts. And the facts, as facts sometimes are, will be  
15 sad. They will literally break our hearts, as sad  
16 facts sometimes do. And facts, unlike opinions, do  
17 not vary.

18           It's a fact that Ricky pursued and  
19 attacked a senior lab who was on her owner's property,  
20 unprovoked. It's a fact that Ricky pursued and  
21 attacked a senior Lhasa Apso who was merely walking  
22 past him. It's a fact that Ricky has inflicted  
23 serious physical injury upon a domestic animal in the  
24 immediate control of its owner, and it's a fact now  
25 that Banks has passed.

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1 My name is Captain Sherri Warburton,  
2 and together with my co-counsel, Field Sergeant David  
3 Hulse, it's our honor to stand here before you  
4 representing Delaware Animal Care and Control on  
5 behalf of Banks and Daisy.

6 The testimony you will hear tonight  
7 will prove Ricky, a black and white with tan markings  
8 American pitbull terrier, is a dangerous animal and  
9 should be deemed dangerous in accord with Delaware  
10 Title 9, Chapter 9, Subsection 2. Delaware Animal  
11 Care and Control requests about 90 minutes to call up  
12 to eight witnesses. Thank you.

13 CHAIRPERSON CAVANAUGH: Thank you.

14 MR. CROWTHER: What you're going to  
15 find when you hear the testimony is what they didn't  
16 tell you, what they won't tell you on their direct.  
17 But when they're crossed, you're going find out this  
18 information seems to all have come about after  
19 March 18th. That these so-called witnesses made  
20 contrary statements before March 18th. Why? You ask.  
21 Why would they do that?

22 Well, that's because this case started  
23 back when First State Animal Control was called, and  
24 they didn't report. They were called because two  
25 animals were suffering in the back of a pickup truck

1 in cages covered by a tarp with no food. They didn't  
2 show up. They were called again. Well, the person  
3 who had the original report isn't here, they'll get  
4 back to you later. But they don't.

5 So someone goes and does their job for  
6 them, and what do they do after that? They complained  
7 to Animal Control about not doing their jobs.  
8 Suddenly, on March 18th, focus is on that person.  
9 Now, my client is Faithful Friends. My client did not  
10 get involved at all until after February of 2014  
11 because they were asked if they could take these dogs;  
12 they had no space at the time, but they were building  
13 new space. And they said well, when we have space  
14 available, when our construction is complete, we'll  
15 let you know.

16 Well, the time came, and the space  
17 became available, and Faithful Friends said you can  
18 bring them here. And they arrived on March 18th, on  
19 the same day and after the incident involving Banks.  
20 What you will actually hear about what happened will  
21 not remotely sound like what Sergeant Warburton  
22 described.

23 CAPTAIN WARBURTON: Captain.

24 MR. CROWTHER: Sorry. It won't sound  
25 remotely like that. So when you're sitting here

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1 listening to testimony, wait until you find out what  
2 they didn't say to other people, wait until you find  
3 out what they did say that's completely inconsistent,  
4 and then ask yourselves is this really about trying to  
5 get back at one individual, going through a dog?  
6 Because that's what it really is.

7 CHAIRPERSON CAVANAUGH: Hetti?

8 HETTI BROWN: Madame Chair, I'm sorry,  
9 I know this is out of order. But we do have an  
10 additional Panel member here tonight because of some  
11 of the concerns of the defendant; if you'd like to  
12 call that Panel member. I don't know if you want to  
13 speak to her first or convene off to the side.

14 CHAIRPERSON CAVANAUGH: That would be  
15 good, yeah. Excuse us for one second.

16 (Whereupon, a short recess was taken.)

17 CHAIRPERSON CAVANAUGH: So we have a  
18 new Panelist, this is Tara Lausch. Tara is an animal  
19 behaviorist, she was part of the group of people that  
20 volunteered to be on the Panel. And Betty will remain  
21 but she will not vote. Does that --

22 MR. CROWTHER: I need to ask for  
23 Miss Lausch to be recused. Part of my case will  
24 involve a group that she is a member of, Delaware  
25 Animal Advocacy Guild.

1 MS. LAUSCH: I am not a member of that  
2 group.

3 MR. CROWTHER: My understanding is that  
4 she has an affiliation with that group.

5 CHAIRPERSON CAVANAUGH: My  
6 understanding is that she says she does not.

7 MR. CROWTHER: She says she's not a  
8 member; she didn't answer the question whether she was  
9 affiliated with that group.

10 MS. LAUSCH: I am friends with people  
11 that are in that group, but I'm not a member of that  
12 group.

13 MR. CROWTHER: Are any of those people  
14 in the room today?

15 CHAIRPERSON CAVANAUGH: Is that  
16 relevant? It's not relevant.

17 MR. CROWTHER: Are they going to be  
18 witnesses?

19 CHAIRPERSON CAVANAUGH: I do not know.  
20 I'm just trying to get this Panel going.

21 MR. CROWTHER: Well, I need to preserve  
22 my client's rights, and that involves determining  
23 whether or not a member should be recused, especially  
24 when the member's added after the meeting is already  
25 convened.



1 that's the case, I need to recuse myself.

2 MR. CROWTHER: Absolutely right,  
3 because you don't have a close working relationship  
4 with that person or something that's going to happen  
5 here where you have to establish whether or not you're  
6 impartial, that's all we're asking. I don't know who  
7 she knows in this group, I just know of her  
8 affiliation with the group.

9 CAPTAIN WARBURTON: I call to the stand  
10 Staff Sergeant Palacio.

11  
12 WHEREUPON:

13 MARY PALACIO,  
14 having first been duly sworn by the court reporter,  
15 thereupon testified upon her oath as follows:

16 BY CAPTAIN WARBURTON:

17 Q Staff Sergeant Palacio, how long have  
18 you been with Delaware Animal Care and Control?

19 A Eight years.

20 Q And do you have any animal experience  
21 prior to working with Delaware Animal Care and  
22 Control?

23 A Yes, I was a vet tech at Rehoboth  
24 Animal Hospital for two years.

25 Q Okay. Coming to the incident that

1 we're here for, on 4/10 you received a complaint about  
2 two dogs that belong to a rescue that may have been  
3 involved in some dog attacks; could you expand on  
4 that?

5 A Yes. I was notified by the director  
6 that we had an anonymous email that there was a  
7 possible aggressive dog that may be going to be  
8 adopted into the community, and the dog was now at  
9 Faithful Friends and they would like us to investigate  
10 an incident that happened at Mrs. St. Clair's house  
11 with a dog that was attacked there.

12 Q This is Plaintiff's Exhibit 1. Through  
13 your investigation, is this the dog identified in the  
14 attacks?

15 A Yes, that's Ricky.

16 Q Okay. And Ricky is a?

17 A He's a male. He's neutered now, he  
18 wasn't neutered at the time, I don't believe, American  
19 pitbull terrier.

20 CAPTAIN WARBURTON: Okay, I'd like to  
21 enter this into evidence Plaintiff's Exhibit 1.

22 (Plaintiff's Exhibit 1, marked for  
23 identification.)

24 BY CAPTAIN WARBURTON:

25 Q Okay, so you had contacted Savannah



1 Animal Hospital; did they have any information on the  
2 dog attack?

3 A No. That was one of the pieces of  
4 information we were given, is that the dog that was  
5 under the attack may have been taken there for  
6 treatment. I consulted with them, and it was not  
7 taken there. They would not give me the information  
8 for the owner, but they did contact Mrs. St. Clair for  
9 me, and she did call me and we had a conversation as  
10 to what happened on that attack.

11 Q And just quickly, what was the  
12 conversation?

13 A That Kathy Hughes had come to her house  
14 with two pitbulls, they were going to try to do like a  
15 meet and greet to see if the pitbulls could be engaged  
16 for their -- you know, to be adopted, to see if they  
17 could get along with other animals. And there was an  
18 attack that happened on her elderly dog, Daisy was  
19 attacked by Ricky.

20 Q Plaintiff's Exhibit 2 is another size  
21 of Ricky, did you take this picture?

22 A Yes, I did.

23 CAPTAIN WARBURTON: And that was  
24 Plaintiff's Exhibit 2.

25 (Exhibit 2, marked for identification.)

1 BY CAPTAIN WARBURTON:

2 Q So after speaking with Kathy Hughes,  
3 did you go to her residence?

4 A Mrs. St. Clair?

5 Q I'm sorry, yes, after speaking with  
6 Miss St. Clair --

7 A Yes.

8 Q -- did you go to her residence?

9 A Yes, I did go to her residence.

10 Q Okay. And can you explain what this  
11 picture is?

12 A Yes, that's her driveway right outside  
13 her home, and that's where the location of the attack  
14 took place.

15 CAPTAIN WARBURTON: Okay, this is  
16 Plaintiff's Exhibit 5.

17 (Exhibit 5, marked for identification.)

18 BY CAPTAIN WARBURTON:

19 Q And can you explain quickly, did you  
20 take this picture?

21 A Yes, I did.

22 Q Okay, and can you explain the details  
23 of the --

24 A Well, that's Mrs. St. Clair right  
25 there. Actually, that is her other dog right there,

1 approximately in the same location that Daisy would  
2 have been. The van is parked where the SUV was that  
3 had the two pitbulls in it.

4 Q Okay, and the dogs were inside of the  
5 SUV?

6 A Yes, yes.

7 Q Okay, thank you. And you took this  
8 picture when you were at Miss St. Clair's?

9 A Yes.

10 Q And this is just basically a wider  
11 view --

12 A Yes.

13 Q -- of the area?

14 A When they arrived, actually Mrs. --  
15 Mrs. St. Clair has invisible fence so her dogs stay  
16 out, and they can only go so far to the driveway. And  
17 Daisy was laying out in the front yard by the porch.  
18 She doesn't hear and she doesn't see well so they have  
19 to use hand gestures to bring her in, so she was  
20 unaware of the dogs in the van at the time.

21 Q So at the time of the attack, it sounds  
22 like Daisy was not being tethered or restrained by her  
23 owner?

24 A No, no, because --

25 Q Is that against the law in Sussex

1 County?

2 A No, because she's restrained by the  
3 invisible fence.

4 Q Okay.

5 A That's her restraint.

6 CAPTAIN WARBURTON: And that was  
7 Plaintiff's Exhibit 7.

8 (Exhibit 7, marked for identification.

9 BY CAPTAIN WARBURTON:

10 Q And Plaintiff's Exhibit 8, whose leg is  
11 that?

12 A That's Mrs. St. Clair's leg.

13 Q And did you take this picture?

14 A Yes, I did.

15 Q And what's the picture of?

16 MR. CROWTHER: Objection. The picture  
17 is what the picture is.

18 BY CAPTAIN WARBURTON:

19 Q Is it a picture of her leg?

20 A Yes, it's a picture of her leg.

21 Q And is she pointing to scars?

22 A Yes, there's puncture wounds that she  
23 was bitten during the attack with Ricky and Lady Jane  
24 and her dog, Daisy.

25 CAPTAIN WARBURTON: Okay, that's

1 Plaintiff's Exhibit 8.

2 (Exhibit 8, marked for identification.)

3 BY CAPTAIN WARBURTON:

4 Q When you met with Miss St. Clair, did  
5 you take a written statement from her?

6 A Yes, I did.

7 Q Is this her statement?

8 A Yes, it is.

9 Q And is that your signature at the  
10 bottom?

11 A Yes, it is.

12 CAPTAIN WARBURTON: Okay, I'd like to  
13 enter this into evidence.

14 BY CAPTAIN WARBURTON:

15 Q After speaking with Miss St. Clair, did  
16 she provide the vet where she took Daisy to?

17 A Yes, she took Daisy to Nonantum Vet  
18 Clinic, it's in Langburg, Pennsylvania, that's where  
19 Daisy has gone pretty much all her life. Being an  
20 older dog, you know, she's been taking her there so  
21 she felt it was best to take her back to the vet that  
22 knew her for treatment.

23 Q And is this the fax you received from  
24 Nonantum Vet Clinic?

25 A Yes, I contacted them and they faxed

1 that to me.

2 Q Okay. This is in the Panel's packet  
3 and on there is a date of 12/4.

4 A Uh-huh.

5 Q Does that coincide with what you  
6 learned about the dog attack --

7 A Yes.

8 Q -- on that date? After speaking with  
9 Miss St. Clair, did you also speak with anybody else  
10 who witnessed the attack?

11 A Yeah. I had -- she had given me  
12 information of two ladies that had brought the two  
13 pitbulls to the residence, it was Kathy Hughes and  
14 Cindy Myers. So I contacted them and was able to meet  
15 with both of them, get statements from them and  
16 information.

17 Q So you met with them physically to  
18 obtain their statements?

19 A At their residence, yes, I did.

20 Q And with Miss Hughes, did she tell you  
21 what happened during the attack?

22 A Yeah. She -- she actually was a little  
23 bit shocked at the way Ricky responded to the dogs  
24 because, with her, he was great. And he can be great  
25 with people, but not with other dogs.

1 Q Okay.

2 A Not always. And she was -- she  
3 expressed to me the concern she had about how he just  
4 goes off, and she wasn't prepared for that when she  
5 took him there. And I'm sure she wouldn't have if she  
6 thought that. But she expressed that how aggressive  
7 he was and how he was -- would not let go of the dog.

8 Q And did you get a statement from her?

9 A Yes, I did.

10 Q Okay. Along with -- let me see this --  
11 Miss St. Clair and --

12 A Cindy Myers.

13 Q -- yes, Cindy Myers, did you meet with  
14 Cindy Myers as well?

15 A Yes, I did.

16 Q Did Cindy Myers -- you took a statement  
17 from her, and did anything stick out at you when you  
18 took her statement?

19 A Yeah, she is a retired veterinarian  
20 from the State of Maryland, and she knows dogs pretty  
21 well, she's been around dogs a while. And she  
22 expressed to me that she really felt that this was  
23 truly an aggressive dog that was very unpredictable,  
24 and she encouraged Miss Hughes to not keep him at her  
25 home any more because of the liability she would

1 assume by doing so. That is why she tried so hard to  
2 get ahold of Miss McIlvaine to return the dog; she did  
3 not want that responsibility.

4 Q And these are the two statements that  
5 you took from the two women?

6 A Yes.

7 Q Are these your signatures at the  
8 bottom?

9 A Yes. Yes, they are.

10 Q Okay, thank you.

11 CAPTAIN WARBURTON: We have two  
12 separate incidences of attacks, and if the Panel is  
13 okay, I would rather just deal with this one instead  
14 of recall Staff Sergeant Palacio for the second  
15 incident.

16 CHAIRPERSON CAVANAUGH: Okay.

17 CAPTAIN WARBURTON: Okay.

18 CHAIRPERSON CAVANAUGH: Do you have  
19 questions?

20 MR. CROWTHER: Yes.

21 BY MR. CROWTHER:

22 Q Is Palacio your married name?

23 A Yes.

24 Q Your maiden name was Genetti?

25 A Yes, it was.



1 Q And you were the animal control officer  
2 that was originally called to report to pick up a --

3 A No, I was not. I was not.

4 Q You never spoke with Miss McIlvaine?

5 A I spoke with her on the phone, I took  
6 her complaint, but I was not the responding officer.

7 Q Would it surprise you if your office  
8 said that you were, and that you were not available to  
9 follow up later, would that surprise you?

10 A Yes, it would.

11 Q Thank you.

12 A Because they would have it on the  
13 computer.

14 MR. CROWTHER: Thank you.

15 CHAIRPERSON CAVANAUGH: Questions from  
16 the Panel?

17 (No response.)

18 CHAIRPERSON CAVANAUGH: You are  
19 excused.

20 THE WITNESS: Thank you.

21 CAPTAIN WARBURTON: Delaware Animal  
22 Control would like to call Lisa St. Clair.

23

24

25

1 WHEREUPON:

2 LISA MARIE ST. CLAIR,  
3 having first been duly sworn by the court reporter,  
4 thereupon testified upon her oath as follows:

5 BY MR. HULSE:

6 Q Miss St. Clair, you just gave me some  
7 pictures; what are they?

8 A This was Daisy when she was feeling  
9 better. And then this is Daisy after -- about two  
10 months after the attack, right before she passed away.

11 Q So this is before the attack?

12 A Yes.

13 Q And this was after?

14 A This was after.

15 Q On December 4th, were you aware of the  
16 dog Ricky coming to be shown?

17 A I didn't -- there was a  
18 miscommunication, we had discussed the possibility of  
19 doing a meet and greet because she didn't know if they  
20 were good with other dogs, and she didn't know if they  
21 were good with cats, and she was trying to find homes  
22 for them. And I said well, I have a pack of six dogs  
23 and they're great with other animals, and that if she  
24 ever wanted to arrange a time where we could go not on  
25 my property but to like have them meet on leash and

1 stuff like that. But they arrived unexpectedly around  
2 4:00 o'clock in the afternoon.

3 Q Is Daisy normally one of the dogs that  
4 you have with the meet and greet?

5 A No, I would never, she's too old, in  
6 case something could happen. She's super mellow, but  
7 I would never take a chance.

8 Q Are your other dogs around Daisy?

9 A Yeah, they're always around her.

10 Q Has she ever shown aggression towards  
11 other dogs?

12 A No. She didn't even have teeth. She  
13 was a rescue that she didn't have teeth, she ...

14 Q How old was Daisy?

15 A At the time, 12. 12 years old.

16 Q Can you tell us exactly what took place  
17 that day?

18 A Around 4:00 o'clock, Kathy Hughes  
19 arrived at my property and she was just all of a  
20 sudden on my porch. And I live like back off the road  
21 on five-and-a-half acres, I don't get unexpected  
22 guests. And --

23 Q Were you inside or outside when she  
24 arrived?

25 A I was inside. And my dogs, half of

1 them were inside, half of them were outside, the  
2 younger ones were running around. I have an under-  
3 ground fence in my front area all the way around my  
4 property, and then I have an enclosed fenced yard as  
5 well.

6 So they typically go out the front door  
7 and greet people when someone arrives at my door. And  
8 Kathy was there, and I was like, "Kathy, what are you  
9 doing?" And she was like, "I thought this would be a  
10 good time to have Ricky and Lady Jane meet your dogs."  
11 And I was like, "This is a bad time." I was still  
12 working, I worked from home at the time.

13 And now I look out and there's two dogs  
14 going ballistic in the car, they're not leashed,  
15 they're not caged, they're just in the car. And Cindy  
16 Myers was in the car, and she was looking overwhelmed,  
17 and she like got out of the car. And I was like,  
18 "Don't get out of the car, I have loose dogs right  
19 now, let me get my dogs in the house."

20 So I got my -- like four of my dogs in  
21 the house, but Daisy and Oscar were still out. And  
22 Daisy -- Daisy had gone out the front door, and she  
23 can't hear when she's walking away. So she goes, "Oh,  
24 there's a truck down the driveway," so she goes  
25 waddling down to say hi, and she was going around the

1 back of the truck.

2 And Kathy had opened the back, and I

3 was screaming -- I had screamed at her not to open the

4 truck. And she opened the back to get their leashes,

5 I guess. And at the time, Ricky just dove out of the

6 truck and locked onto Daisy's face. And he had her

7 totally -- he had her skin here, but he had her

8 totally here, and he had his whole mouth was around

9 her head she couldn't even open her mouth.

10 And I grabbed ahold of his choke

11 collar, but it wasn't -- it wasn't on choke, so I was

12 just holding him up as high as I could. And she was

13 screaming, like this sound like you would think a

14 human being would make, it wasn't a dog sound at all,

15 it was just terror. And Cindy Myers tried to help me

16 like bash his face in, and we were doing everything, I

17 was -- I was choking him out, I was trying to kill

18 that dog.

19 Q Were you using an object to bash his

20 face in?

21 A No, my hand; I couldn't let go. But I

22 was telling her to go grab a rock, I was saying grab a

23 rock, to grab something. And then right around

24 then -- it seemed like it went on forever and ever.

25 And all of a sudden, Lady Jane jumped out of the car,

1 because that's right when Daisy just stopped making  
2 any noise, and then I was freaking out because I  
3 thought she was dead, like, or either she was dying or  
4 she was dead.

5                   And Lady Jane jumped out of the car,  
6 and my leg was between -- I was here, and Lady Jane  
7 just started malling my leg; from here to here, I was  
8 black and blue for three months.

9                   And then one of the other dogs -- the  
10 dog that was out, all he did was keep barking about  
11 it. And one of the other dogs came out, and I think  
12 he must have bit Ricky from behind on his butt or  
13 something and startled him. And I think between that  
14 and me -- I had the collar completely wrapped by that  
15 point, and he couldn't have been getting any air, but  
16 he wasn't stopping until right then, and then he let  
17 go.

18                   And I had so much adrenaline in me, I  
19 just threw him up into the car. I shoved Kathy Hughes  
20 in the back of the car with him, I didn't care if he  
21 ate her, I just wanted him off my property. So I shut  
22 the door and told them get off my property.

23                 Q           You described Daisy, what she was doing  
24 and how she was acting; how was Ricky acting at that  
25 point and any noises he may have been making?



1 it's okay, I mean you love your dogs. And I know that  
2 Daisy died on February 12th, correct?

3 A Yes.

4 Q Do you recognize that document?

5 A Yes.

6 Q That's your post, right?

7 A Yes.

8 Q And that's talking, February 22nd of  
9 this year, talking about Daisy and that you lost two  
10 of your family members within -- well, within a couple  
11 of days of each other in February of 2014. Daisy's  
12 death, what was it caused by, what did she have?

13 A Daisy was an older dog, so she was -- I  
14 gave her fluids once a week for kidney failure, she  
15 was in kidney failure but she was fine. I mean she  
16 had arthritis, and just all old dog things. But after  
17 the attack, she just changed. I mean she was so in  
18 shock that day and she just -- it was like something  
19 just changed in her.

20 Q How long prior to December had you been  
21 giving your dog fluids because of kidney problems?

22 A It had just started not -- it's  
23 probably in my vet records, but not that long, hadn't  
24 been that long. But after that, it increased in the  
25 amount that I had to give it to her, it started being



1 daily.

2 Q And it's possible her kidney failure  
3 just got worse, right?

4 A Yes.

5 Q She wasn't bit on the kidneys, right?

6 A No.

7 MR. CROWTHER: Faithful Friends 1.

8 (Faithful Friends Exhibit 1, marked for  
9 identification.)

10 BY MR. CROWTHER:

11 Q Do you recognize this, Miss St. Clair?

12 A Yes.

13 Q That's your post?

14 A Yes.

15 Q And this is from December 5th and  
16 December 2nd, correct?

17 A I guess.

18 Q Take a look at it, go ahead.  
19 December 5th and December 2nd, 2013, right? There's  
20 no mention of any injury to your dog between  
21 December 2nd and December 5th, is there?

22 A No, I did not -- I purposely did not  
23 mention anything about that.

24 MR. CROWTHER: Faithful Friends 2.

25 (Faithful Friends Exhibit 2, marked for

1 identification.)

2 MR. CROWTHER: No further questions.

3 MR. HULSE: May I ask her a few more  
4 questions?

5 CHAIRPERSON CAVANAUGH: Yes.

6 BY MR. HULSE:

7 Q What was Daisy's behavior like before  
8 the attack?

9 A She was like an old dog, but she was  
10 the pack leader, she was the mommy of everybody so she  
11 was a really -- just a mellow old lady.

12 Q Did she have any different behavior  
13 starting the day after the attack?

14 A She had different behavior from the  
15 minute it happened. She was very -- in a lot of pain  
16 that week or so following.

17 Q Did she have injuries from the attack?

18 A She had puncture wounds, and she had to  
19 be on antibiotics.

20 Q All right. And have you ever posted  
21 any injuries to any of your animals on the internet  
22 before?

23 A No. I never had anything like that.

24 MR. HULSE: No further questions.

25 CHAIRPERSON CAVANAUGH: Any questions

1 from --

2 MR. CROWTHER: I have follow-up.

3 BY MR. CROWTHER:

4 Q You do post about your animals, don't  
5 you, Miss St. Clair? That's a March 21st posting  
6 about a disease your German Shepherd had because  
7 you're seeking funding for that disease, right?

8 A I wasn't seeking any funding.

9 Q That's not you?

10 CHAIRPERSON CAVANAUGH: I'm not sure  
11 exactly what --

12 MR. HULSE: That's not an injury,  
13 that's a disease.

14 CHAIRPERSON CAVANAUGH: I'm not sure  
15 exactly what the relevance of this is to this case.

16 MR. CROWTHER: Oh, it will become  
17 crystal clear, I ask for some indulgence.

18 THE WITNESS: This is not my dog. My  
19 dog had just passed away from that same disease. So I  
20 read about this dog, and they had a go-fund-me, so I  
21 donated money to their go-fund-me account. And if you  
22 read the post, it says, "This is one of the diseases  
23 my German Shepherd was suffering from, that and EPI.  
24 Please help these people keep their dog and treat  
25 their dog."

1 BY MR. CROWTHER:

2 Q You posted your dog had these diseases  
3 and you were trying to get some help for them, right,  
4 and this disease?

5 A I was not posting that, sir. I posted  
6 information --

7 MR. CROWTHER: No further questions.

8 THE WITNESS: Am I allowed to continue  
9 or no?

10 CHAIRPERSON CAVANAUGH: If you want to  
11 answer the question, go ahead.

12 THE WITNESS: All that I did was  
13 educate people about a disease that's -- predominantly  
14 German Shepherds get, and my dog had suddenly passed  
15 away from a horrible disease. And then I read about  
16 this family that was not going to be able to afford  
17 the treatment.

18 CHAIRPERSON CAVANAUGH: I understand.

19 THE WITNESS: And so I gave money to  
20 them, and then I just reposted it.

21 CHAIRPERSON CAVANAUGH: Are there any  
22 questions from the Panel?

23 (No response.)

24 CHAIRPERSON CAVANAUGH: You are  
25 excused, thank you.

1 MR. HULSE: I call Miss Myers, Cynthia  
2 Myers.

3 WHEREUPON:

4 CYNTHIA LEE MYERS,  
5 having first been duly sworn by the court reporter,  
6 thereupon testified upon her oath as follows:

7 BY MR. HULSE:

8 Q Miss Myers, going back to  
9 December 4th --

10 A Yes.

11 Q -- what were you doing that day?

12 A Okay, I was under the misunderstanding  
13 that Kathy and Lisa had arranged for a meet and greet  
14 with their dogs.

15 Q Who communicated that to you?

16 A I can't remember. We were at a little  
17 dinner the night before, and I said I would help if  
18 they wanted -- you know, because I'm a retired  
19 veterinarian, I thought I would see some subtle signs  
20 of something if there was a meet and greet where it  
21 was a controlled environment, that I could maybe help  
22 them assess if there could be any future problems.

23 And other than that, I was out of the  
24 decision to go there. And I was under the  
25 understanding that it was all prearranged. All the

1 details -- I was not involved in any of the details.  
2 So with that in mind, I went.

3           Originally, we were going to go in  
4 Kathy's car which was a Pilot, and mine's a High  
5 Lander and I was -- she asked me to change cars at the  
6 last minute and asked me to drive. So I ended up  
7 driving, even though that wasn't the original plan.  
8 So she got directions to where Lisa lived, and we  
9 ended up going to her house. And I guess it was  
10 around 4:00 o'clock.

11           Q     You say you have experience with  
12 animals, what kind of experience do you have?

13           A     I'm a veterinarian.

14           Q     For how many years?

15           A     I practiced for 15 years.

16           Q     And I guess you were left in the  
17 vehicle alone with the dogs?

18           A     Yes. What happened was we arrived and  
19 Lisa wasn't outside. And I thought because it was  
20 prearranged, she would be outside, so I said to Kathy,  
21 please call. And Kathy said, "No, I'll go up and  
22 knock on the door."

23                         So Lisa answers the door, and her dogs  
24 come pouring out the door. And Lady Jane and Ricky  
25 are in the back of the car, and both of them come up

1 to -- up to the front, they're charging to the front  
2 of my car. And I'm getting a little freaked out  
3 already because I want this to stop right now, because  
4 what has happened is they're acting -- especially  
5 Ricky was actually like getting over into the --  
6 actually to the glass of the front door of the car,  
7 and I was concerned for my safety.

8           So I was trying to signal to Kathy to  
9 get back in the car. And I got out I think at one  
10 point, I really can't even remember the sequence, but  
11 I think I got out and I think Lisa said to get back  
12 in. Kathy got in.

13           And then Lisa went back in the house,  
14 and then came back out, and I don't remember if Daisy  
15 was with her at that point. And before we could stop  
16 her, Kathy opened the hatch of the car, and we were  
17 both screaming no. And Ricky just dashed out the car,  
18 and apparently Daisy was there. Lisa and I rushed and  
19 pinned him to the back bumper of my car and Lisa --

20           Q       Before you go any further, you said he  
21 was acting very mean and everything in the car and you  
22 were scared for your life?

23           A       I wasn't scared for my life, I was just  
24 worried about like if there was any -- I had never  
25 seen him -- I have seen him three times including that

1 day, all brief periods, and he seemed fine. I never  
2 saw any sign of aggression with him whatsoever, and  
3 this was the first time he was acting aggressive. It  
4 wasn't a tail wag, it wasn't excitement; it was, you  
5 know, he saw dogs.

6 Q So he was acting very aggressive at  
7 that point?

8 A He was acting aggressive. And I was  
9 just worried for myself at that point.

10 Q Can you describe what aggressive  
11 behavior would be like?

12 A He was going back and forth in the car.  
13 And, you know, I was worried he was going to start  
14 stepping on me. He's a big dog, and I'm small, and I  
15 was -- and he was looking at the dogs that were with  
16 her, and it wasn't like a nice -- I can't describe it.

17 Q Did he have hair standing up on his  
18 body?

19 A No, I didn't see anything like that  
20 but --

21 Q Was he growling, was he --

22 A He wasn't growling at all, and he never  
23 growled the entire time. He never barked, he never  
24 growled, nothing. That was the spooky part of this,  
25 he was completely silent during the attack, during



1 everything.

2 Q Okay. So back to where the hatch was  
3 opened, he jumped out, and then you jumped out of the  
4 car as well?

5 A I was out already at that point, and  
6 had screamed no, don't let him out. And Lisa and I  
7 pinned him to the back bumper. And Lisa had the front  
8 near his head, and I was at -- sort of at his abdomen  
9 and his rib cage area. And she was trying -- and  
10 Daisy was just -- this horrible screaming was going on  
11 and on, and we couldn't -- we couldn't dislodge him.

12 Lisa was doing everything up front, I  
13 was actually literally with my hiking boots kicking  
14 him in ribs, I was pounding on his head. And Lisa had  
15 asked me to go get something to hit him on the head,  
16 and I know that that doesn't work with pitbulls.

17 And I also was very concerned at this  
18 point for her safety as well as mine, and I thought if  
19 we could pin him there, at least have him pinned.  
20 Because this was so out of the ordinary for any  
21 behavior I had seen before, I actually in my mind was  
22 concerned that we could all be in a blood bath and  
23 nobody would know it. Because we were in the woods;  
24 there were dogs out, we were in the woods, there's  
25 nobody around, and I was concerned for our safety as

1 well.

2 Q You have a statement that you wrote?

3 A Yes.

4 Q Is this your signature on that?

5 A Yep, uh-huh.

6 Q Did you recommend anything after the  
7 meet and greet?

8 A Well, after it was all over with, and  
9 the dog was in the car, I raced back to Kathy's house  
10 and pretty much said he needs to be euthanized and he  
11 needs to be not at your property anymore because of  
12 liability and risk to other dogs in her neighborhood.

13 I know that she had told me she had  
14 been walking him every day in her neighborhood, which  
15 has a lot of dogs, and it was just by the grace of God  
16 that nobody -- this had not happened yet, because he  
17 is strong, and she would not have been able to control  
18 him.

19 Q As a veterinarian, animals undergoing  
20 treatment, liver issues or anything like that, if they  
21 were attacked, is that a great possibility of possibly  
22 hurting that animal even further?

23 A Absolutely, it decreases their immune  
24 system, just common sense. You know, not even as a  
25 veterinarian, just common sense, you know, it's going

1 to impact.

2 MR. HULSE: I have no further  
3 questions.

4 BY MR. CROWTHER:

5 Q It sounds like Kathy misled you about  
6 the entire thing on December 4th, didn't she?

7 A She did, but it really has no bearing  
8 on the behavior of the dog, because whether she misled  
9 me or not, that dog was going to attack another dog.

10 Q And sounds --

11 A And it did.

12 Q It sounds like Kathy was a little bit  
13 reckless in letting the dogs out of the truck when in  
14 fact everyone was telling her not to, right?

15 A Yeah.

16 Q You'd agree with that, right?

17 A Yeah.

18 Q So you never actually examined Daisy,  
19 did you, as a vet?

20 A Nope.

21 Q You never reviewed her medical records,  
22 did you, as a vet?

23 A Nope.

24 Q So basically you just threw out some  
25 opinion on something you never actually saw or read?

1 A What are you talking about?

2 Q The last question to you about the  
3 injury that would be sustained if she was already  
4 sick; you didn't see --

5 A No, he asked me a general question  
6 about immunity.

7 Q But you don't know anything about  
8 Daisy, right?

9 A No, I don't, but I do know medicine, I  
10 do veterinarian medicine.

11 Q You don't know Daisy's injuries?

12 A I don't know Daisy as a particular dog,  
13 but I do know about her wellness and I know about  
14 immunity.

15 Q So you were simply saying generally  
16 this could be a problem, does that summarize it?

17 A Yep.

18 Q Okay. Did you once ask that a dog be  
19 euthanized because it knocked you over?

20 A Huh?

21 Q Did you once ask that a dog be  
22 euthanized because it knocked you over?

23 A Oh, yeah, yeah. That was a dog,  
24 Corkie, yes.

25 Q Thank you.



1 BY MS. JANNUZZIO:

2 Q You said the other dog or the mother  
3 dog? Were these two dogs related, Lady Jane and --

4 A Yes, she was the mother dog and he was  
5 the son.

6 Q Okay.

7 A Now, that's per what I heard from Kathy  
8 what she heard from Tacia.

9 MS. JANNUZZIO: Okay.

10 CHAIRPERSON CAVANAUGH: Thank you.

11 THE WITNESS: You're welcome.

12 MR. HULSE: Dog Control would like to  
13 call Kathy Hughes.

14 WHEREUPON:

15 KATHY HUGHES,  
16 having first been duly sworn by the court reporter,  
17 thereupon testified upon her oath as follows:

18 BY MR. HULSE:

19 Q Kathy, December 4th.

20 A Yes.

21 Q Do you recall that day?

22 A I certainly do.

23 Q Okay. Did you make prior arrangements  
24 to meeting there?

25 A I did. I'd just like to make a short

1 statement about that. There were -- they say there  
2 were no prior arrangements; there were. I don't even  
3 go to my neighbor's house without calling first. We  
4 were supposed to be there at 4:00 o'clock. In fact, I  
5 have a text where Cindy says, you know, something  
6 about 3:30 picking them up and so forth.

7 But the reality of the situation is  
8 whether there was a prearrangement or not, there are  
9 certain facts that occurred. So the fact is is that  
10 those dogs were supposed to be at my house for one  
11 night. I was told -- Tacia McIlvaine called me up --

12 CHAIRPERSON CAVANAUGH: Can I interrupt  
13 for one minute?

14 THE WITNESS: Yes.

15 CHAIRPERSON CAVANAUGH: It's all very  
16 interesting, and I know there's a lot of background  
17 here, but we have a lot of material to get through.  
18 So I'm sorry, but we really need to stay focused on  
19 this incident that happened, and all the other  
20 miscommunication is really not involved.

21 THE WITNESS: Right, and that's why I  
22 don't want to go into who shot John, it's absolutely  
23 irrelevant at this point.

24 CHAIRPERSON CAVANAUGH: It's  
25 irrelevant. So we need to know what happened with the

1 dogs.

2 BY MR. HULSE:

3 Q So again, your right there, how were  
4 the dogs' behaviors?

5 A They were fine, you know, until we got  
6 there.

7 Q How long have you been around animals?  
8 Do you have any kind of certifications or anything  
9 with dealing with animals?

10 A I have no certification. I have always  
11 had animals. And after I retired from the Federal  
12 Government, I worked at Annapolis Animal Hospital for  
13 six years. I'm just currently not in a technical  
14 position, although I am certainly involved with the  
15 animals. And I am now employed part time at Rehoboth,  
16 also not in a technical.

17 I'm also the transport coordinator for  
18 the English Cocker Spaniel Club of America the rescue.  
19 I have had minimal dealings with pitbulls; the ones  
20 that I knew in Annapolis were very friendly. I have  
21 never experienced anything like this before.

22 Q Okay. And prior to this, the dogs had  
23 never shown any sign of aggression or anything with  
24 each other?

25 A No.



1 Q Okay. And after you had gotten out of  
2 the vehicle and you apparently knocked on the door --

3 A Right.

4 Q -- everybody has said so far, you went  
5 back to the vehicle; why did you open up the hatch?

6 A Well, what had happened, and again as  
7 Cindy said, it was a horror show, and everything is so  
8 mixed up that, you know, to be absolutely precise  
9 about what happened I think is impossible.

10 But I knocked on the door, hi, how are  
11 you and all this kind of stuff. And I was introduced  
12 by Lisa to her dogs, and we thought they were going  
13 back in. And I got back into the car and one of the  
14 little dogs was there, and I quickly shut the door.

15 And so I don't remember what happened  
16 next but, anyway, in any event, I got outside of the  
17 SUV again. I was under the impression that all the  
18 dogs had gotten in, they were called a second time.  
19 And in the meantime, I was in the back of the SUV so I  
20 didn't see any of the dogs.

21 And Cindy was screaming, you know, get  
22 these dogs away, whatever. And the leashes were in  
23 the back. So the two dogs were at the front of the  
24 SUV, and I opened the hatch that went up a small  
25 amount to -- and I got rushed. I guess Ricky

1 obviously heard the door being -- and I mean he  
2 barreled, the two of them, but I caught Lady Jane  
3 before she went out.

4 Q Is there a middle seat in this second?

5 A It was flat. It was flat with the --  
6 yeah.

7 Q But they were completely in the front  
8 seat of the vehicle?

9 A They were -- I don't know if they were  
10 actually in the front seat; they were --

11 Q Toward the front?

12 A Toward the front, yeah. They were way  
13 in the front; I don't know if they were sitting on the  
14 seat or not. And they were barking, and I had no  
15 idea, really, and this could be reckless, stupid, call  
16 it whatever you want. But I had no idea they were  
17 carrying on because of the dogs, because I didn't know  
18 the dogs were there.

19 Q Did you try to keep the hatch down once  
20 you saw him barreling at you?

21 A Oh, my God, yeah.

22 Q And you were not able to put the hatch  
23 back down?

24 A No. I mean he went right through me.

25 Q All right. And during the attack, did

1 you hear Ricky make any kind of noises?

2 A No.

3 Q Fur standing up?

4 A No. I didn't notice any.

5 Q Didn't notice any. Did you notice any  
6 injuries to the lab, Daisy, after the attack?

7 A He had his teeth inside of her face,  
8 and it was the most horrific thing I have ever seen in  
9 my life. And he just -- and I was trying to open his  
10 teeth; impossible. And they were doing exactly what  
11 they were saying. And she just stood there and she  
12 was in total shock. And I couldn't get him.

13 And then Lady Jane, I had her on the  
14 leash, and I was thinking about Daisy. And then Lady  
15 Jane -- and Lisa said get her out of here. So I don't  
16 know how I did it, but I threw her back in.

17 Q What do you think would have happened  
18 to Daisy if you three weren't there at that time?

19 A Oh, dead, I'm sure.

20 Q And why did you get rid of the dogs?

21 A I had asked Tacia several times before,  
22 one day turning into four weeks. And she said oh, no,  
23 can't do it, can't do it, can't do it. As you can  
24 tell, I mean this is a long time later, I came home,  
25 and thank God my husband was there, because the only

1 thought was to get rid of these dogs. I have a 15-  
2 year-old English Cocker at home, and I was keeping  
3 them all separate, and God forbid something happen to  
4 him like it did to Daisy.

5 Q So you got rid of them due to the fact  
6 that you had another dog at home, a senior dog, and  
7 you were scared something would go wrong?

8 A Oh, my God, yeah.

9 Q Okay. How long did it take you to get  
10 rid of the dogs?

11 A As soon as I got home, I ran in and I  
12 said to my husband, "You've got to get rid of them."  
13 And I called Tacia, and she didn't answer, wouldn't  
14 answer her phone. And I told her what happened, and I  
15 said I'm bringing them over.

16 Q You said you told her what happened, I  
17 think you said you left a message telling her what  
18 happened?

19 A I left a message. And we put a crate  
20 in the car, and I put the two of them in with food,  
21 water, everything, bedding. And I tried to get ahold  
22 of her another time, and then I texted her -- I have a  
23 horrible headache -- I texted her, telling her. She  
24 wasn't home and we put them in the shed.

25 And we felt terrible, quite frankly,

1 both of us, because to people, they were so loving and  
2 so sweet, but obviously that doesn't include other  
3 dogs.

4 Q All right. You have filled out a  
5 statement form --

6 A Yes, I did.

7 Q -- for Officer Palacio? Is that your  
8 signature at the bottom?

9 A Yes.

10 MR. HULSE: I have no other questions.

11 BY MR. CROWTHER:

12 Q Your Cocker Spaniel, is that Simon?

13 A Yes.

14 Q He's 15?

15 A Yes.

16 Q He was in the same yard with Ricky,  
17 wasn't he?

18 A There was one time where -- we have a  
19 doggie door, and Simon can't see and he can't hear.  
20 He was 14 when this happened, he was 15 in January.  
21 And at this point when I was giving him -- Lady Jane  
22 was in season, which complicated and -- and anyway, I  
23 opened the back gate and took them in there, you know,  
24 to get some exercise.

25 Q It's a very simple question. They were

1 in the same yard together, right?

2 A It's a simple question, but it's a  
3 misleading question if you're going someplace to say  
4 well, everything was fine and ducky. The reason it  
5 was fine and ducky is because Ricky was all the way  
6 around the corner, okay? And Lady Jane happened to  
7 see Simon, and he's going like -- because he can't see  
8 a thing. And Lady Jane starts humping Simon, and I  
9 grabbed him and threw him through the doggie door and  
10 got him the hell out of there because I was afraid of  
11 what would happen. So Ricky was totally unaware of  
12 Simon.

13 Q So they were in the same yard?

14 A They could have been in the same  
15 country, yes.

16 Q Nothing happened?

17 A Nothing happened because Ricky did not  
18 see Simon. I don't know what would have happened, but  
19 I can pretty much guess that he wouldn't be around.

20 Q On December 1st, you sent the following  
21 email to Tacia.

22 A Yes.

23 Q "It will be three weeks tomorrow that  
24 the homeless kids are here. It's been very difficult  
25 to handle logistically, and while we love them, they

1 can't continue to stay here. I think you need to  
2 figure out a plan as soon as possible. Ed has been  
3 asking when they will be leaving. He loves them, too,  
4 but we can't make them members of the family with  
5 Simon." Right?

6 A Right.

7 Q So you loved the dogs?

8 A Yeah, I said with people, they were  
9 great. And we did love them, and I think this is a  
10 tragedy.

11 Q On December 3rd, you sent an email to  
12 Al Mollica at Delaware SPCA. And you say, "The  
13 homeless people called her sometime later and she  
14 tried ac again and no help. She then called me to see  
15 if I could house them for one night," you capitalized  
16 that.

17 A Yeah, because that's one night, not  
18 four weeks.

19 Q "Well, one night turned into more than  
20 three weeks. Ownership of Lady Jane and Ricky was  
21 transferred to Tacia. We had them vetted and they are  
22 now up to date on vacs, heart worm tested, et cetera.  
23 We have tried to find someone to adopt or foster and  
24 no luck. They are great dogs, 11 year old female, 7  
25 year old male pitbull mixes. They are well mannered

1 and very loving."

2 A With people.

3 Q That's what you wrote, right?

4 A That's my experience; with people. I  
5 had no experience with these dogs with other dogs.

6 MR. CROWTHER: Numbers 4 and 5.

7 (Faithful Friends Exhibits 4 and 5,  
8 marked for identification.)

9 BY MR. CROWTHER:

10 Q Now, your statement said that you fed  
11 the dogs and gave them water before you left them in  
12 the shed, doesn't it?

13 A No. What it says -- I don't know -- I  
14 can tell you what happened, I don't have the statement  
15 in front of me. We brought food, we brought a water  
16 bucket which I filled up at Tacia's house, we had  
17 bedding that we gave them, and made sure that they  
18 were warm. It was a mild night, they were perfectly  
19 wonderful.

20 Q On December 2nd, Tacia sent you a text  
21 message that said, "Kathy, I am on the phone calling  
22 all rescues within a 100 mile radius. Please stop  
23 calling and leaving voice messages, I don't check  
24 them." December 2nd, 2013, she said it right in this,  
25 correct?



1           A       Yeah, so?

2           Q       And your next text message to her was,  
3 "I left you two messages.  LJ and Ricky are in your  
4 shed.  They have water but have not been fed yet."

5           A       Right.  That we sent the food with  
6 them.

7           Q       Where is any message, because Tacia's  
8 already told you she doesn't check her messages, where  
9 is the text message that says they had any involvement  
10 in any dog attack?

11          A       There was no text message.

12          Q       Where is the email that says, because  
13 you're certainly prolific at emailing, where is the  
14 email that says they were involved in any dog attacks?

15          A       You know what?  I'm prolific at telling  
16 the truth, too.  And the fact of the matter is that I  
17 was hysterical after this happened, and I called her  
18 on the phone and I told her what had happened, that I  
19 could not possibly have them in my home anymore.  And  
20 Tacia carries her cell phone around like it's attached  
21 to her body, and she refused to answer the calls.

22                   CHAIRPERSON CAVANAUGH:  Again, I really  
23 don't see the relevance here of what happened with  
24 Facebook, et cetera, and text messages.

25                   THE WITNESS:  Thank you.

1 CHAIRPERSON CAVANAUGH: We're here to  
2 talk about the dogs' behavior --

3 THE WITNESS: And the fact that they  
4 attacked.

5 CHAIRPERSON CAVANAUGH: -- not the  
6 people's behavior.

7 MR. CROWTHER: The voracity of the  
8 witnesses testifying is very important. The absence  
9 of any mention of an attack is very telling.

10 CHAIRPERSON CAVANAUGH: I think we have  
11 heard several other witnesses that witnessed the  
12 attack.

13 THE WITNESS: And I have, under  
14 perjury, stated that I called Tacia and left a message  
15 telling her about the attack.

16 CHAIRPERSON CAVANAUGH: And that's  
17 great, and it's irrelevant to what we're talking about  
18 now.

19 BY MR. CROWTHER:

20 Q And that's your posting on March 18th  
21 about Lady Jane and Ricky, too, correct?

22 A Correct.

23 Q It doesn't describe any dog attack,  
24 does it?

25 A If you want to hand it back to me and

1 I'll be able to answer your question --

2 CHAIRPERSON CAVANAUGH: No, it's not  
3 relevant.

4 THE WITNESS: -- or you don't want any  
5 answers?

6 MR. CROWTHER: No further questions.

7 THE WITNESS: Yeah, thank you.

8 CHAIRPERSON CAVANAUGH: Excuse me,  
9 Kathy. Does anyone from the Panel have a question  
10 that's relevant to the attack of the dog on the other  
11 dogs?

12 BY MR. HULSE:

13 Q I have one quick question. Did Daisy  
14 show any sign of aggression --

15 A None.

16 Q -- before, prior to the attack?

17 A Before, after, anything, none; she's a  
18 sweet, gentle dog. Thank you.

19 CHAIRPERSON CAVANAUGH: You can step  
20 down.

21 THE WITNESS: Thank you.

22 CAPTAIN WARBURTON: I ask to re-call  
23 Staff Sergeant Palacio.

24

25

1 WHEREUPON:

2 MARY PALACIO,

3 having previously been duly sworn by the court  
4 reporter, thereupon testified upon her oath as  
5 follows:

6 BY CAPTAIN WARBURTON:

7 Q Staff Sergeant, on 3/18 when you were  
8 doing your research, did you find an incident in  
9 regards to a dog attack?

10 A Yes. There had been a dog-on-dog  
11 attack and it was phoned in by the dog owner, Paula  
12 Purcell, and evidently it involved Ricky when he was  
13 staying at Delmarva Pet Resort.

14 Q Okay. Were there any case notes in the  
15 case?

16 A Yes, there was.

17 Q And what did they say?

18 A Sergeant Jester had gone out and spoke  
19 to -- he's the owner of Delmarva Pet Resort, and he  
20 was asked what happened. And it was the day that  
21 Tacia McIlvaine and a gentleman friend of hers had  
22 arrived to remove the dogs. Ricky broke loose and  
23 there was an incident between him and another dog.

24 Q So after discovering this, did you  
25 contact Todd Clyde?

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1 A Yes, I did.

2 Q And in speaking with him, did he also  
3 give you victim information?

4 A Yes, he did.

5 Q Okay. So after speaking with him, did  
6 you contact Miss Purcell?

7 A Yes, I did.

8 Q And what was your conversation with  
9 her?

10 A She was explaining to me that her Lhasa  
11 Apso named Banks has lyme disease, and he's real funny  
12 about how he gets groomed or when he gets groomed;  
13 he's very achy and has a lot of issues. So the only  
14 person that seems to be able to groom him and do well  
15 with him is Mr. Clyde, so she does take him there,  
16 traveling to Maryland to groom him.

17 Q And did she describe what happened  
18 while at Delmarva Pet Resort on 3/18?

19 A Yeah. When she arrived with Banks to  
20 be groomed, she noticed a gentleman coming out of the  
21 building with Ricky, the black and white pitbull. She  
22 saw him proceed up the driveway with the pitbull, so  
23 she put Banks on his leash and they were going in.  
24 And she told me she just was not ever aware, just all  
25 of a sudden he was there and had Banks by the neck and

1 was shaking him. And she started screaming, and  
2 Mr. Clyde came out and assisted her in trying to get  
3 Ricky off the dog.

4 Q And did she take the dog to a vet for  
5 treatment?

6 A Yes. Actually, Mr. Clyde did, once  
7 they got Ricky off, he brought Banks inside the  
8 building and tried to wash him off. And when he saw  
9 the wound severity, he started calling around, and the  
10 only veterinarian that could see him right away was in  
11 Ocean City, so they took Banks over there immediately.

12 Q And did she send you pictures?

13 A Yes. Actually when I spoke to her,  
14 they had met -- her whole family, actually her  
15 daughter and husband and everything had been there at  
16 the vet's, and they did take pictures and I did  
17 acquire the pictures from them.

18 Q Plaintiff's Exhibit Number 11, can you  
19 describe what this is?

20 A They're trying to show I believe that  
21 there's hemorrhaging in the eye. You can see the  
22 blood vessels are broken.

23 Q And this dog is Banks?

24 A Yeah, that's Banks.

25 (Plaintiff's Exhibits 11 and 12, marked

1 for identification.)

2 BY CAPTAIN WARBURTON:

3 Q This is Plaintiff's Exhibit Number 12,  
4 the same view. As a vet tech, is that injury  
5 something that he would just get from a little bite or  
6 is that --

7 A No, no. A lot of times when -- I have  
8 seen it with hit-by-car dogs, even when they have  
9 pressure or a blow to the head or anything like that,  
10 their eyes will -- you're a vet so you know -- but  
11 they can get bleeding in the eye, the blood vessels  
12 get broke. I'm not sure even if he may have had, you  
13 know, teeth in the eye, I don't know.

14 Q And this is still Banks in the picture  
15 that you received --

16 A Yes.

17 Q -- Plaintiff's Exhibit 13?

18 A Yes.

19 (Plaintiff's Exhibit 13, marked for  
20 identification.)

21 BY CAPTAIN WARBURTON:

22 Q Plaintiff's Exhibit 14, can you  
23 describe what this is?

24 A Yeah, that's the neck wound that he  
25 sustained.

1 Q And would you call that just a physical  
2 injury or would that be a severe physical injury?

3 A That's definitely a severe injury and,  
4 from what I understand, it was rather deep.

5 Q And why would you call it a severe?

6 A It required two surgeries and a drain;  
7 they couldn't close it because of how deep it was and  
8 infection could set in.

9 CAPTAIN WARBURTON: Okay, that's  
10 Exhibit 14.

11 (Plaintiff's Exhibit 14, marked for  
12 identification.)

13 DR. STONESIFER: Can you pass 13  
14 around? The copy we have is black and white.

15 CAPTAIN WARBURTON: Sure. Would the  
16 Panel just like these?

17 DR. STONESIFER: I just want to see the  
18 ones of the eyes. Thank you.

19 BY CAPTAIN WARBURTON:

20 Q And Plaintiff's Exhibit 15; same  
21 injury, just a different view?

22 A Yes, yes. Where they actually have it  
23 opened up and you can see how deep it goes.

24 MR. HULSE: Would you like that one as  
25 well?



1 DR. STONESIFER: I don't need those.  
2 (Plaintiff's Exhibit 15, marked for  
3 identification.)

4 BY CAPTAIN WARBURTON:

5 Q After speaking with Miss Purcell, did  
6 you go down actually to Delmarva Pet Resort?

7 A Yes, I did.

8 Q And did you take these pictures?

9 A Yes, I did, of the location.

10 Q And can you describe what this picture  
11 is?

12 A That is the parking lot outside the  
13 building. Where the ACV is parked right there is  
14 actually where Miss Purcell was parked.

15 CAPTAIN WARBURTON: And that's  
16 Plaintiff's Exhibit 16.

17 (Plaintiff's Exhibit 16, marked for  
18 identification.)

19 BY CAPTAIN WARBURTON:

20 Q Plaintiff's Exhibit Number 17, can you  
21 describe the person in the picture?

22 A Yeah, that's Mr. Clyde, he's the owner  
23 of the kennels, and he's showing me where Banks was  
24 and Ricky at the time of the attack.

25 CAPTAIN WARBURTON: Okay.

1 (Plaintiff's Exhibit 17, marked for  
2 identification.)

3 DR. STONESIFER: Was Ricky on a leash  
4 when this happened?

5 THE WITNESS: Ricky, what I understand,  
6 was on a leash, he broke free from the gentleman, I'm  
7 not sure if he pulled the leash out of his hand or he  
8 slipped, I'm not sure how he got loose but he was  
9 loose at that point.

10 BY CAPTAIN WARBURTON:

11 Q And can you describe what this picture  
12 is?

13 A Yeah. I asked Mr. Clyde to show me  
14 where Ricky was when this happened. And Ricky had  
15 already walked up the lane to this point, and that's  
16 approximately where he was.

17 (Plaintiff's Exhibit 18, marked for  
18 identification.)

19 BY CAPTAIN WARBURTON:

20 Q And then Plaintiff's Exhibit Number 19?

21 A That's another view of where it  
22 happened.

23 Q Okay.

24 (Plaintiff's Exhibit 19, marked for  
25 identification.)

1 BY CAPTAIN WARBURTON:

2 Q And Plaintiff's Exhibit Number 20?

3 A That would be standing up where Ricky  
4 was, looking down to the building where Banks was  
5 going in.

6 Q And you said Banks was approximately  
7 over in this area --

8 A Correct.

9 Q -- and Ricky was up in here?

10 A Correct.

11 Q Okay.

12 (Plaintiff's Exhibit 20, marked for  
13 identification.)

14 BY CAPTAIN WARBURTON:

15 Q Did you also get a statement from  
16 Mr. Clyde?

17 A Yes, I did.

18 Q Is this the statement?

19 A Yes, it is.

20 Q Is that your signature --

21 A Yes, it is.

22 Q -- at the bottom? And basically what  
23 did Mr. Clyde tell you he did when he was at --

24 A He -- okay, Mrs. Purcell was so  
25 distraught over her dog, he was just shaking

1 violently. And she just was like paralyzed, she  
2 didn't know what to -- I don't know if she didn't know  
3 what to do or --

4 Q It was unexpected?

5 A Yes, definitely, because she did not  
6 see him coming. From what she told me, she was  
7 walking this way, and he came from this way and just  
8 picked up the dog. Mr. Clyde came out and tried to  
9 separate them, he ended up picking up that ice breaker  
10 right there and hitting Ricky with that to try to get  
11 him to release the dog. He would not release the dog.

12 Q This is Plaintiff's Exhibit 27, an ice  
13 breaker.

14 (Plaintiff's Exhibit 27, marked for  
15 identification.)

16 THE WITNESS: But he hit him with the  
17 wooden end. He told me that he couldn't get Ricky to  
18 release, so his next move was to go in and get a taser  
19 that he had. But by the time he came out, I believe  
20 the gentleman and Miss McIlvaine were there, and they  
21 were able to get the dogs apart. He immediately  
22 scooped up Banks and took him into the building  
23 because he has a grooming center in there, and he put  
24 him in the tub and started washing all the blood off,  
25 and realized the severity of the wounds. And they,

1 like I said, they called around and found a vet that  
2 would see him immediately and took him in.

3 CAPTAIN WARBURTON: Plaintiff's Exhibit  
4 22.

5 (Plaintiff's Exhibit 22, marked for  
6 identification.)

7 BY CAPTAIN WARBURTON:

8 Q Did you receive these from Mr. Clyde?

9 A Yes.

10 Q And what is the first page?

11 A It is billing for the couple months  
12 that Lady Jane and Ricky were there.

13 Q And were they housed separately or  
14 together?

15 A In the beginning, they housed them  
16 together, they said that they grew up together, it was  
17 a mother and a son. He put the -- he has a couple  
18 extra large kennels there that can house two dogs.  
19 You know, when he has families go on vacation and  
20 stuff, they can bring their dogs in and house them  
21 together.

22 He started out housing them together,  
23 but his kennel manager, John, told him that they had  
24 an incident one day where Ricky became very aggressive  
25 with Lady Jane over food, and they were fighting, and

1 he separated them. And after that, he started billing  
2 them for separate kennels, which he was doing special  
3 for them I guess it's \$10 a night, because it's \$20  
4 now for two dogs. And he did tell Miss McIlvaine that  
5 she would be paying for two kennels at this point  
6 because of, you know, them not being able to be fed  
7 together.

8 Q And also there were some vet bills?

9 A Yes. Mr. Clyde, beings that it  
10 happened at his establishment, was helping Miss  
11 Purcell pay some of the vet bills for Banks.

12 Q Okay. And did you contact the vet  
13 where Banks went to?

14 A Yes, I did.

15 Q And did they send you a vet report?

16 A Yes, they did, they sent me a  
17 preliminary vet report. And then recently, I had  
18 contacted the vet again and asked her for her personal  
19 statement as far as how she felt about, you know, the  
20 incident, all the things that Banks had gone through,  
21 and she did send me her own personal report.

22 Q And is Plaintiff's Exhibit 9 the vet  
23 report --

24 A Yes.

25 Q -- of the injuries?

1           A     Yes.

2                     (Plaintiff's Exhibit 9, marked for  
3 identification.)

4 BY CAPTAIN WARBURTON:

5           Q     And then Plaintiff's Exhibit 10 is the  
6 letter that she wrote --

7           A     That she wrote to me yes.

8           Q     -- in regards to Banks' injuries?

9           A     Yes.

10                    (Plaintiff's Exhibit 10, marked for  
11 identification.)

12 BY CAPTAIN WARBURTON:

13           Q     How did you get possession of Ricky?

14           A     We contacted Faithful Friends, their  
15 director, Jane Pierantozzi, and said that we were  
16 going to take Ricky and, due to the severity of the  
17 attacks, we wanted to do a dangerous dog on him. So  
18 we went up there the one day to acquire him from them.

19           Q     And when you were at Faithful Friends,  
20 was he on the property?

21           A     No, he was not.

22           Q     Did they eventually bring Ricky to you?

23           A     They did bring him back eventually,  
24 yes.

25                    CAPTAIN WARBURTON:   Okay, I believe I

1 have no further questions.

2 BY MR. CROWTHER:

3 Q You never saw Banks' wounds, right?

4 A No, I never personally saw them.

5 Q Right. So everything you're talking  
6 about from his injuries was from somebody else's  
7 observations or records, right?

8 A I just went by the vet report and what  
9 the pictures were.

10 Q Right, because you have no personal  
11 knowledge about any of the injuries, right?

12 A No, but I was a vet tech for several  
13 years.

14 Q My question was you have no personal  
15 knowledge about any of the injuries, correct?

16 A I spoke to the owner, so -- and I spoke  
17 to Mr. Clyde.

18 Q We'll do it again --

19 A But I did not see them personally, but  
20 I do have knowledge of them, yes.

21 Q You did not see them, you did not  
22 examine them?

23 A No, but I have knowledge of them, yes,  
24 I do.

25 Q Everything you know is from somebody



1 else, correct?

2 A Correct.

3 Q Okay, very good. Now, the records you  
4 have at Plaintiff's 9 actually start out before the  
5 attack, March 14th, correct?

6 A Well, they sent me everything; I asked  
7 them to send me a complete report. That has nothing  
8 to do with what the incident says happened to the dog.

9 Q I understand. I'm just saying the  
10 first entry says not eating or moving on March 14,  
11 2014?

12 A That still has nothing to do with the  
13 attack.

14 Q That's still what it says, though,  
15 right?

16 A Right. But from how long ago was that?

17 Q Four days.

18 A All right, well --

19 Q I'm glad that you don't think it's  
20 important, but we do. Now, on the note on the 18th is  
21 about the actual exam and everything going on, right?

22 A Uh-huh. Yes.

23 Q Now, the 20th, it says, "Re-check.  
24 Owner says doing better. Moving around better. Owner  
25 doesn't want to come in. Owner mentions something

1 about pulling drain tube." That's what it says,  
2 correct?

3 A Okay.

4 Q So two days after the incident, owner  
5 doesn't want to come in the vet anymore, right?

6 A No, she did want to come in and he  
7 relapsed several times and had to have two surgeries.

8 Q The note on the 20th, his owner doesn't  
9 want to come in, right? So two days later --

10 A Well, I'm sure the vet left it up to  
11 her if he was feeling well, is that she --

12 Q This is a very simple question, ma'am.  
13 Two days after the 18th attack, as you described it,  
14 the owner did not want to go back to the vet?

15 A I don't think they were planning --

16 Q Is that what it says right here --

17 A That's what it says.

18 Q -- owner doesn't want to come in?

19 A That's right.

20 Q Thank you. Oh, by the way, you didn't  
21 actually speak with Faithful Friends before you showed  
22 up on that Friday, did you?

23 A No, actually my captain did.

24 Q Right. So when you're talking about  
25 what we did, you weren't --

1 A I was with her.

2 Q -- you weren't even on the phone?

3 A I was there with her.

4 Q But you weren't on the phone, were you?

5 A I was right there with her, sir.

6 Q So if someone testifies the whole  
7 discussion went somewhere different --

8 A I was sitting right there with her,  
9 sir.

10 CAPTAIN WARBURTON: Objection.

11 CHAIRPERSON CAVANAUGH: We're going to  
12 talk about the dog attack. We're not here to talk  
13 about who said what about who. We're here to talk  
14 about the actions of the dogs.

15 THE WITNESS: Thank you.

16 MR. CROWTHER: The voracity of these  
17 witnesses is very important. We have one witness say  
18 one of the witnesses already lied.

19 CHAIRPERSON CAVANAUGH: We will make  
20 our judgement about the voracity.

21 BY CAPTAIN WARBURTON:

22 Q Staff Sergeant Palacio, do we have the  
23 full vet report that shows Banks' injuries prior to  
24 the attack and after the attack?

25 A Yes, I asked for them to send me the

1 full report of everything the dog's ever been through.  
2 He's had lyme disease, he's had several issues. He's  
3 a nine-year-old Lhasa, he's had issues. It still has  
4 nothing to do with how he was after the attack.

5 Q And did Miss Purcell, did she say that  
6 Banks provoked the attack in any way?

7 A No. Banks was not aware of the dog  
8 even -- she was unaware of the dog even coming.

9 CAPTAIN WARBURTON: No further  
10 questions.

11 THE WITNESS: Okay.

12 CHAIRPERSON CAVANAUGH: Any questions  
13 from the Panel?

14 DR. STONESIFER: No.

15 MS. JANNUZZIO: I do not.

16 CAPTAIN WARBURTON: Delaware Animal  
17 Care and Control calls Todd Clyde.

18  
19 WHEREUPON:

20 TODD CLYDE,  
21 having first been duly sworn by the court reporter,  
22 thereupon testified upon his oath as follows:

23 BY CAPTAIN WARBURTON:

24 Q Good evening. Did Staff Sergeant  
25 Palacio come to your location and take pictures?

1 A Yes.

2 Q Okay. And is this a picture that she  
3 had taken when you were there?

4 A Uh-huh.

5 Q Does that show basically where Miss  
6 Purcell's vehicle was?

7 A Yes.

8 Q Okay. And looking from this  
9 perspective, is that about where Ricky was?

10 A Yeah.

11 Q And over here approximately was where  
12 Banks was?

13 A I didn't see Banks get out of the car.  
14 When I came out of the kennel, that's about where the  
15 incident, where Ricky had Banks.

16 Q And what's the procedure when somebody  
17 gets a dog out of your kennel, when they're going to  
18 take the dog out?

19 A We bring the dog up and we give it to  
20 them.

21 Q Okay. Do you have the dog on your lead  
22 when you take it out?

23 A Yeah, we have them on our leads, and  
24 the owner puts them on their's.

25 Q So the owner takes their collar and

1 their leash, and puts it around the dog?

2 A Yeah. We never keep collars, we never  
3 keep leads.

4 Q Okay. So when Miss McIlvaine was  
5 walking Ricky -- or Ricky was being walked outside by  
6 her friend, was Ricky on a leash?

7 A Yes.

8 Q Okay. So he was under the control of  
9 his owner?

10 A Uh-huh.

11 Q Okay. And then what happened? Were  
12 you outside?

13 A No, I was inside. I mean I saw  
14 Mrs. Purcell pull up in her car, and pull into the  
15 thing. And then I saw him walking down the driveway.  
16 And I went into the grooming room which is in the  
17 second room in the building, just because I knew it  
18 was Banks, he was coming in for grooming, what cage  
19 was I going to put Banks in.

20 And then I heard Mrs. Purcell scream  
21 out in the parking lot. And I came out, and I saw  
22 Ricky had Banks. And just happened it was when we had  
23 all that snow, and the ice chipper was right next to  
24 the door.

25 Q When you say you saw Ricky had Banks,

1 what do you mean by that?

2 A Ricky had Banks in his mouth, his head  
3 in his mouth. So I grabbed the ice chipper and went  
4 over and beat -- literally jumped down on the dog and  
5 beat him about five or six times --

6 Q Is this the ice chipper you used?

7 A -- with the ice chipper.

8 Q Would you show me how you went?

9 A Okay, say Ricky's there, I went  
10 (demonstrating).

11 Q And did he release?

12 A No.

13 Q He did not?

14 A No.

15 Q So then what did you do?

16 A Dealing with pitbulls I have had over  
17 the years, we have a taser in the back of the kennel  
18 just for incidents like that. We've never had to use  
19 it, but I've always told my kennel help if any of them  
20 ever get in a fight, do not put your hands in the  
21 middle of it, you'll get eaten, use the taser. We've  
22 never had to do it, but it's there, but -- and  
23 that's -- we couldn't get him, two big men trying to  
24 get them apart and it wasn't working. So I ran back  
25 to the kennel to get the taser, and by the time I came

1 back out, he had released.

2 Q And were you aware that Ricky was  
3 aggressive towards other dogs?

4 A No. We were never told of any  
5 incidents before he came in. The only incident we had  
6 was sometime in the middle of January, they had a  
7 fight over food, Ricky and Lady Jane. They had lived  
8 together, we had them in the same cage because we were  
9 told mother and son, they have lived their whole life  
10 together, there wouldn't be -- there shouldn't be a  
11 problem. And we didn't have a problem with them, but  
12 we had -- they had the one fight over food, so we  
13 separated them and put them in two cages instead of a  
14 double run.

15 Q Did you contact Tacia when that  
16 incident occurred?

17 A Yeah, we told her we had separated  
18 them, that it wasn't really a problem, Ricky got  
19 aggressive over food so we put them in side-by-sides.

20 Q Okay. Is this the invoice that you  
21 gave to Staff Sergeant Palacio?

22 A Yeah.

23 Q And on here, it shows December 5th is  
24 when the dogs went in?

25 A When the dogs came in, December 5th.



1 Q And then March 18th --

2 A Is when they left.

3 Q -- is when they left? Okay. And you  
4 did charge for two kennels for the dogs?

5 A Well, we charge by the dog. We charge  
6 them \$10, our normal boarding rate is \$20 a night.  
7 But we've dealt with rescues before and I always give  
8 them a break, I charge them about what it costs me.  
9 It costs me about \$10 a night to house a dog, so I  
10 just do it for -- I've done it for the Airedale  
11 Terrier Club of America, the Irish Terrier Club of  
12 America, and probably half a dozen others.

13 Q That's very generous. Is this your  
14 statement?

15 A Uh-huh.

16 Q Is this your signature?

17 A Yep.

18 CAPTAIN WARBURTON: Okay, I have no  
19 further questions.

20 BY MR. CROWTHER:

21 Q Sir, would it be fair to describe the  
22 screaming you heard as sustained?

23 A Yeah.

24 Q It went for a long period of time,  
25 didn't it?

1           A     Well, by the time I got, maybe three --  
2 I don't know, through a room, 20 feet; five, ten  
3 seconds.

4           Q     So you didn't see the actual initial  
5 contact --

6           A     No.

7           Q     -- between Ricky? And you also didn't  
8 see the end of the contact with Ricky?

9           A     No.

10          Q     During the time that Ricky had Banks,  
11 were you trying to separate by pulling Banks and they  
12 were trying to pull Ricky?

13          A     No. I was trying to beat him over the  
14 head with a stick.

15          Q     Did you have Banks in your hands?

16          A     I had one hand on the back of his neck  
17 and the stick in my hand.

18          Q     And when that didn't work, you didn't  
19 try to pull him out?

20          A     No; that wouldn't work, you're not  
21 going to open that.

22          Q     Did you happen to pass an Animal  
23 Control officer on your way out?

24          A     On my way to the vet hospital, yes.

25          Q     Yes. What happened?

1           A       I told them what had happened --  
2 quickly what had happened and I was off to the vet to  
3 get Banks stitched up.

4           Q       And do you know if Tacia in the vehicle  
5 behind you stopped to talk to him?

6           A       No, I didn't see it.

7           Q       Do you recognize that, sir?

8           A       Yeah.

9           Q       That's your text messages to Tacia and  
10 her's to you, right?

11          A       Uh-huh.

12          Q       And it says, "Tacia, do you have a  
13 rabies certificate on Ricky?" And she said, "Sending  
14 now." She wrote, "Todd, is the dog okay?" You wrote,  
15 "Dog will be fine stitched up with drain." You wrote  
16 that on March 18th, didn't you?

17          A       Uh-huh.

18          Q       That's what you thought, too, didn't  
19 you?

20          A       That's what I thought. I mean I  
21 figured the vet would stitch it on up, there would be  
22 a drain in it for about a month or so, and he would  
23 heal.

24          Q       These are other messages between you  
25 and Miss McIlvaine, correct? A few weeks later in

1 April of 2014?

2 A Yeah.

3 Q And she's saying that she's hearing  
4 from other people that you're complaining because you  
5 haven't been paid, isn't that right?

6 A No -- well, yeah, somebody --  
7 Mrs. Lefthouse called about taking them. And no,  
8 actually what happened was somebody called about  
9 wanting to bring in two more rescue dogs, and I said  
10 no. And they wanted to know why, and I said because I  
11 haven't -- between Safe Haven, the other rescue dog I  
12 have in the kennel, and these two, I haven't been  
13 paid. So I was not doing any more rescue.

14 MR. CROWTHER: Thank you. No further  
15 questions.

16 BY CAPTAIN WARBURTON:

17 Q When you were outside with Ricky and  
18 Banks, was Ricky on a leash.

19 A No. He went out the door on a leash,  
20 but I was told he slipped the leash.

21 Q So when you grabbed him, there was no  
22 tether around his neck?

23 A No, nothing.

24 CAPTAIN WARBURTON: No further  
25 questions.

1 CHAIRPERSON CAVANAUGH: Does the Panel  
2 have questions?

3 (No response.)

4 CHAIRPERSON CAVANAUGH: Thank you.

5 CAPTAIN WARBURTON: Delaware Animal  
6 Control would like to call Miss Paula Purcell.

7  
8 WHEREUPON:

9 PAULA MARIE PURCELL,  
10 having first been duly sworn by the court reporter,  
11 thereupon testified upon her oath as follows:

12 BY CAPTAIN WARBURTON:

13 Q Hi, Mrs. Purcell. You brought pictures  
14 in tonight; would you identify this picture?

15 A It's -- sorry -- it's Banks as a puppy  
16 and my lab and collie at -- you know, they were other  
17 dogs that I had.

18 Q So he gets along with other dogs?

19 A Yeah. When I brought Banks to get  
20 groomed that day, I had my two Golden Retrievers at  
21 home and my daughter's two rescue dogs that lived in  
22 Philly, I was watching them for two weeks. So, yeah,  
23 yeah, he gets along.

24 Q And Exhibit 26?

25 A Just Banks before he was groomed.

1 Q Before he was groomed?

2 A Yeah.

3 Q Okay. How long have you owned Banks?

4 A Nine years.

5 Q And on March 18 when you went to  
6 Delmarva Pet Resort, when you got out of the vehicle  
7 was Banks on a leash?

8 A Yes.

9 Q And did you see Ricky?

10 A When I pulled in the driveway and  
11 parked, the gentleman and the dog had come out of the  
12 groomer and were walking up the lane, so I thought he  
13 was taking his dog to go to the bathroom. So I just  
14 had to go straight across in to be groomed, so that's  
15 what we were doing was just going straight across to  
16 be groomed. And that dog came from nowhere, I didn't  
17 see it, I didn't even -- just next thing I know, my  
18 dog was hanging from the dog's mouth.

19 Q So he didn't pause by your leg?

20 A No.

21 Q He didn't bark at all?

22 A No. It was immediate. I mean Banks  
23 was just -- he's short, he's 35 pounds, and he's  
24 bow-legged and has an underbite and -- he was just  
25 dangling from this dog, so I was screaming.

1           And then he ran to try to get his dog,  
2 and Todd came out, because we're both pulling, trying  
3 to get them apart. And Todd just kept beating him  
4 with that dog -- I mean with the stick. And he -- he  
5 wouldn't let Banks go, so I really just thought I was  
6 watching my dog get killed right in front of me. But  
7 he -- I don't know how he got -- but he did let him  
8 go, and Todd scooped Banks up and brought him in the  
9 back.

10           Q       Okay. And then after Todd brought him  
11 into the back, what happened then?

12           A       I mean I was hysterical, I was  
13 traumatized. I was just in the front waiting room,  
14 and Todd's trying to deal with Banks and me, and with  
15 them, and try to call a vet, and he was doing the best  
16 he could under the circumstances. But I -- I was  
17 hysterical, I was hysterical. And the people did try  
18 to say they were sorry, but I didn't -- I didn't -- my  
19 dog was just viciously unprovoked attacked for no  
20 reason.

21           Q       And when you took him to the vet, how  
22 many times have you been to the vet with Banks?

23           A       Well, Todd took him initially, I don't  
24 even know how I drove home, I was in shock. And I  
25 have been to that vet two or three times a week for

1 the last two months; he had the initial surgery, he  
2 came home. And, yes, the officer did talk to me two  
3 days later, and I was grateful my dog was fricking  
4 alive.

5 So that's what you heard, I was  
6 grateful that Banks was okay, but we were by no means  
7 done with vets. He still had to get staples out, he  
8 was on a form of morphine, he was on four different  
9 pills, he had a drain. And when he went to get his  
10 drain out, the drain -- all the staples were gone, and  
11 they had to redo the surgery because it was infected.  
12 So I had two solid months of being in and out of the  
13 vets, and Banks had a few nights spending the nights  
14 there. And they did all that they could. And Banks  
15 did have the lyme disease prior, he's an older dog,  
16 Banks -- we had to have put Banks down on Saturday.

17 Q I'm sorry.

18 A And, yeah, I mean it wasn't  
19 ultimately -- he didn't die from the dog attack, but  
20 his whole life was spent on -- I mean his immune  
21 system was compromised, he was on drugs for the whole  
22 two months.

23 Q So after this, using your words,  
24 vicious attack, did Banks ever fully recover?

25 A No.



1 Q He did not?

2 A No.

3 CAPTAIN WARBURTON: I have no further  
4 questions. Thank you, ma'am.

5 MR. CROWTHER: I have no questions.

6 CHAIRPERSON CAVANAUGH: Does the Panel  
7 have questions?

8 DR. STONESIFER: No.

9 CHAIRPERSON CAVANAUGH: Thank you.

10 MR. HULSE: Delaware Animal Control  
11 would like to call Tacia McIlvaine.

12

13 WHEREUPON:

14 TACIA McILVAINE,  
15 having first been duly sworn by the court reporter,  
16 thereupon testified upon her oath as follows:

17 BY MR. HULSE:

18 Q Tacia, were you aware of any of the  
19 attacks that Ricky had been involved in?

20 A March 18th when he attacked Banks.

21 Q You were not aware of the other attack  
22 prior in December?

23 A No.

24 Q Were you there present when the attack  
25 occurred?

1 A The attack at Delmarva Pet Resort?

2 Q Yes.

3 A I was in the truck when the attack  
4 occurred.

5 Q Did you try to get out to help as well?

6 A I did, after I realized what was going  
7 on.

8 Q All right. How far were you parked  
9 from the incident?

10 A There's a picture of where he showed  
11 where Miss Purcell was parked. Okay, right here, I  
12 think. On this one, okay, we would have been here or  
13 in this area. Sorry.

14 Q All right. Why did he walk all the way  
15 down the lane with the dog?

16 A I don't know, I didn't have the dog.

17 Q Was the dog -- did you have a leash for  
18 the dog, a collar for the dog?

19 A He did have a leash. Todd had put a  
20 collar on it, I guess, because we didn't leave him  
21 with a collar. It was a collar from the kennel, and  
22 he just said to take it, because I asked him if he  
23 wanted his collar back when we were inside.

24 Q So you guys did not put the collar on  
25 the dog?

1           A       No; it was put on in the kennel when he  
2 brought him out.

3           Q       All right, but you don't know that for  
4 sure because you were weren't inside as well either?

5           A       I was in the building when John took  
6 Ricky out, I was talking to Mr. Clyde.

7           Q       So you were not in the vehicle, you  
8 were inside?

9           A       When we left, I had gotten in the truck  
10 with the other dog, and John was putting the dog into  
11 the truck.

12          Q       All right. Do you post things for  
13 Faithful Friends or for animals that you have, you try  
14 to rescue?

15          A       I post, I share posts.

16          Q       You share posts?

17          A       Uh-huh.

18          Q       Is this a post that you were doing for  
19 Ricky?

20          A       Yes.

21                   CHAIRPERSON CAVANAUGH: Again, I hope  
22 these are relevant to the attack in some way --

23                   MR. HULSE: Yes.

24                   CHAIRPERSON CAVANAUGH: -- and not  
25 human attacks on humans.

1 BY MR. HULSE:

2 Q When you posted this one, what does it  
3 say there on for Ricky?

4 A Which part? Seven years old and up to  
5 date, neutered male, no other male dogs, prefers  
6 laid-back home, sweet and loving, beautiful.

7 Q No other male dogs, why did you put no  
8 other male dogs?

9 A That's what his previous owners had  
10 indicated to me.

11 Q All right, so you always post dogs that  
12 have attacked other dogs and saying they need loving  
13 homes and they're beautiful?

14 A Let me see that. You see the date on  
15 that, sir?

16 Q Do you see the print date on the paper?

17 A Well, when you print something out,  
18 that's generally the day that it's printed out up  
19 there.

20 Q Right. So is it still posted that this  
21 is a loving dog, great for a new home?

22 A I guess it could be, if it was still  
23 there; I didn't -- I don't know exactly on the 18th.

24 Q But was it a good dog for adoption for  
25 anybody besides anybody with male dogs?

1           A       As far as I knew, yes, as long as there  
2 were no other male dogs around.

3                   MR. HULSE:   Okay.   I have no other  
4 questions for her.

5 BY MR. CROWTHER:

6           Q       Did you ever speak with Mr. Clyde about  
7 Ricky and Lady Jane?

8           A       Yes.

9           Q       Did you inquire about how they were  
10 doing?

11          A       I did.

12          Q       When was the first time you inquired?

13          A       I had spoken with him a couple of times  
14 in January because of they were going to be spayed and  
15 neutered. We had some snow, so appointments were  
16 rescheduled. But on the 29th of January,  
17 specifically, we spoke.

18          Q       And what did he tell you, what did you  
19 ask and what did you tell him?

20          A       I asked him about the temperament of  
21 the dogs, how they were behaving because I wasn't  
22 there, I didn't have any interaction really with the  
23 dogs. And he said that they were really sweet; there  
24 had been an incident of some food aggression when they  
25 first came in; he expected it because they appeared to

1 be starving and it was normal.

2 Q When you first came in contact with  
3 Ricky and Lady Jane, were they in fact starving?

4 A They were. They were very  
5 mal-nourished, their skin condition was bad, it was a  
6 bad situation.

7 Q Did Todd ever mention that he was  
8 separating the dogs?

9 A No.

10 Q He never mentioned it?

11 A No.

12 Q Did you have any further conversations  
13 with him about the dogs?

14 A I spoke with him a few times in  
15 between, but on March 18th, we spoke again  
16 extensively, we were actually late going up to  
17 Faithful Friends because there was an extended  
18 conversation.

19 Q Was this before the Banks incident?

20 A Before the incident, yes.

21 Q And what did he tell you about Ricky  
22 and Lady Jane then?

23 A He told me the same thing, you know, we  
24 discussed the same thing, that there had been some  
25 food aggression in the beginning, and that that was

1 it, that they were sweet dogs.

2 Q Did you pass an Animal Control officer  
3 on the way out from Delmarva Pet Resort?

4 A We stopped behind the Animal Control  
5 officer and Mr. Clyde, and then we stopped and spoke  
6 with the Animal Control officer.

7 Q Do you know what his name was?

8 A Officer Holland.

9 Q And did anyone tell Officer Holland  
10 what had just transpired?

11 A I believe Mr. Clyde did, because  
12 Officer Holland stopped and we stopped. And he said  
13 it's no big deal, it's a dog-gone dog bite. He said  
14 the worst thing that can happen is Ricky will have a  
15 ten-day quarantine. He said go on line to the  
16 Department of Agriculture, I think he said, and  
17 there's a way to fill out a bite report on line.

18 Q Is that all he said?

19 A That was it. It was no big deal.

20 Q Did he just continue on his way up?

21 A He never even got out of the truck. He  
22 just rode past us and we went on up and went to  
23 Faithful Friends to take the dogs up.

24 MR. CROWTHER: I don't know how the  
25 Panel wishes to proceed. I can do my whole

1 examination of her because I was going to call her as  
2 a witness, too.

3 CHAIRPERSON CAVANAUGH: In the interest  
4 of time, maybe you could do that.

5 MR. CROWTHER: Okay, I'll try to  
6 expedite it a little bit.

7 BY MR. CROWTHER:

8 Q How much contact did you actually have  
9 with Ricky and Lady Jane?

10 A Well, I met Ricky and Lady Jane on  
11 November 10th when we went to Dewey Beach and pulled  
12 the dogs out of the situation. And then I had them at  
13 my house on -- from December 4th when they were  
14 dropped in the shed until December 5th when I took  
15 them to Todd Clyde's at Delmarva Pet Resort.

16 Q On December 4th, we showed you the text  
17 message you received; did you receive any other  
18 messages from Kathy Hughes on that day?

19 A No.

20 Q Have you ever been told by Kathy Hughes  
21 that Ricky or Lady Jane were involved in any  
22 aggressive incidents before --

23 A No.

24 Q -- before March 18th?

25 A No.



1 Q Was it ever explained to you that the  
2 Lisa St. Clair situation?

3 A No.

4 Q At the time on March 18th when you  
5 brought the dogs to Faithful Friends, did you tell  
6 them that something had happened?

7 A Faithful Friends?

8 Q Yes.

9 A Yes.

10 Q Did you think it was a serious  
11 situation?

12 A No. I mean it didn't seem like it was  
13 that serious at the time, just because it was an open  
14 gash, and I had texted Mr. Clyde, I had spoken with  
15 the vet that they had taken Banks to, and everybody  
16 seemed to indicate that everything was going to be  
17 fine.

18 Q So you thought it was a cut, be sewed  
19 up, and that would be the end of it?

20 A Right.

21 Q Did you have any reason to believe it  
22 was anything other than that?

23 A No.

24 Q Now, the Animal Control officer wanted  
25 to make a big deal about you putting down not with

1 male dogs; did you have any experience with Ricky not  
2 being with male dogs?

3 A No. Actually, I had seen him in the  
4 back yard with Kathy Hughes' elderly dog, Simon.

5 Q Well, she said that they weren't even  
6 near each other.

7 A Well, that's not true, because I had  
8 went up one Sunday, and she said to go ahead and let  
9 Ricky loose in the back yard, she had a nice gated  
10 back yard. I was concerned because there was a dog  
11 door, and I asked her if Simon was in, she said  
12 everything was fine.

13 I let Ricky loose, I walked around the  
14 back, and Simon was there by the rocks and Ricky was  
15 standing over him. And I was concerned obviously, so  
16 I walked over to Ricky and I grabbed his collar and  
17 just led him away. He was standing over him, he could  
18 have done something, he didn't. But he didn't give me  
19 any indication, he wasn't growling at the dog, he  
20 wasn't doing anything like that.

21 Q Is it possible Miss Hughes didn't even  
22 know that that had happened?

23 A It's a good possibility that, but I  
24 thought I told her after the fact that Simon was in  
25 the back yard and that's why I was bringing Ricky back

1 out.

2 Q Did she ask you if anything happened?

3 A No.

4 Q Did you tell her nothing happened?

5 A I just said it was fine, he, you know,  
6 he just came right with me when I directed him away.

7 Q On March 18th during the incident  
8 involving Banks, tell us what you witnessed, what you  
9 saw.

10 A Well, I had gotten in the vehicle with  
11 Lady Jane. John was on one side of the truck, I'm not  
12 sure exactly because I was making a phone call to  
13 Faithful Friends to let them know that we were going  
14 to be late because we were getting held up, talking to  
15 Mr. Clyde.

16 Q This is before anything happened?

17 A This is before anything happened.

18 Q Go ahead.

19 A And I turned around to look to see what  
20 was taking so long. John had went around to the other  
21 side of the truck to put the dog in. And apparently  
22 Ricky had slipped his collar and was walking over to  
23 another dog. And I didn't see the attack happen so I  
24 don't know; I did walk up on it, you know, after the  
25 fact. I got off the phone and went out to see what

1 they needed.

2                   And Mr. Clyde said go get John, the  
3 kennel manager. And I ran into the building, trying  
4 to find whoever he was. And it just was a lot of  
5 confusion. I went around looking for him, I couldn't  
6 find him. Then when I went out, he was coming from  
7 like around down the lane.

8                   Q     When the dogs were separated, did you  
9 see Ricky after that?

10                  A     Yes.

11                  Q     And how was he?

12                  A     He seemed fine.

13                  Q     Was he trying to get back to Banks?

14                  A     No.

15                  Q     Was he trying to pull towards Banks?

16                  A     You're talking about Ricky, correct?

17                  Q     Yes, was he trying to pull towards  
18 Banks?

19                  A     No. John had ahold of Ricky. I mean  
20 he didn't have anything on, he had to, you know, hold  
21 him, and he put him in the truck.

22                  Q     He just held him like this and put him  
23 in the truck?

24                  A     Well, however he held him, I mean he's  
25 a big guy.

1 Q Right.

2 MR. CROWTHER: Thank you, no further  
3 questions.

4 BY MR. HULSE:

5 Q I have a few more questions. You're  
6 saying it wasn't nothing serious that you felt at that  
7 point in time?

8 A No. When I saw Banks inside, because  
9 Mr. Clyde had shaved the hair from where he had been  
10 bitten --

11 Q So you're saying seeing him beating  
12 your dog with a stick was nothing serious?

13 A I did not see that.

14 Q You didn't see that right next to your  
15 vehicle?

16 A That stick was laying there when I came  
17 out. It wasn't near the vehicle, it was near the  
18 building. I saw the cattle prod, I didn't see him  
19 hitting with that.

20 Q And when you're saying he put the dog  
21 into the vehicle, you're saying he was holding him; he  
22 wasn't just holding him like a puppy dog, I'm sure he  
23 had his arms wrapped around, restraining him and  
24 putting him in the vehicle, correct?

25 A He didn't have to restrain him because

1 Ricky wasn't trying to do anything at that point.

2 Q How big is Ricky?

3 A I don't know.

4 Q Approximately?

5 A Maybe 65 pounds.

6 Q 65 pounds? So he just lightly had the  
7 dog in his hands, a 60 pound dog?

8 A Yes.

9 Q All right. Now knowing what we know  
10 that he's been involved in two different attacks, one  
11 male, one female, would you still say he's a great dog  
12 for the public to go out and to adopt?

13 A I wouldn't know personally, because I'm  
14 only familiar with one incident.

15 Q Right, but you were with Ricky, you  
16 had --

17 A He's not a dog apparently that would be  
18 doing well with male dogs is the information that I  
19 have.

20 Q Right, but what you do know now, you  
21 know he has been involved in two attacks --

22 A Well, I don't know that he was involved  
23 in two attacks; I know that he was involved in one dog  
24 attack.

25 MR. HULSE: No further questions.

1 CHAIRPERSON CAVANAUGH: Excuse me.

2 Wait just one minute.

3 THE WITNESS: Oh, I'm so sorry.

4 CHAIRPERSON CAVANAUGH: Questions from  
5 the Panel?

6 MS. JANNUZZIO: I do. Can you tell me  
7 on what date Ricky was neutered?

8 THE WITNESS: It was January 29th of  
9 2014.

10 MS. JANNUZZIO: Thank you.

11 THE WITNESS: You're welcome. I'm  
12 sorry, anything else?

13 DR. STONESIFER: When was it?

14 THE WITNESS: I'm sorry?

15 DR. STONESIFER: When was he neutered?

16 THE WITNESS: January 29th of 2014. We  
17 had had some snow, and we went and picked him up from  
18 Delmarva Pet Resort.

19 DR. STONESIFER: And who performed the  
20 procedure?

21 THE WITNESS: Doctor Popas at I believe  
22 it's called Delmarva Pet Medical Center.

23 DR. STONESIFER: Okay.

24 CHAIRPERSON CAVANAUGH: Any other  
25 questions?

1 (No response.)

2 CHAIRPERSON CAVANAUGH: Thank you.

3 CAPTAIN WARBURTON: We would like to  
4 call John Lathbury.

5  
6 WHEREUPON:

7 JONATHAN WADE LATHBURY,  
8 having first been duly sworn by the court reporter,  
9 thereupon testified upon his oath as follows:

10 BY CAPTAIN WARBURTON:

11 Q Good evening, Mr. Lathbury. Can you  
12 state your occupation, please?

13 A I am the current acting manager for  
14 Delmarva Pet Resort.

15 Q And what are your duties?

16 A Range from taking care of the dogs to  
17 feeding them, watering them, sometimes bathing them.  
18 I'm pretty much involved with their life the whole  
19 stay at the kennel.

20 Q So when somebody comes to get their dog  
21 from Delmarva Pet Resort, what's the normal procedure  
22 that you follow?

23 A I ask them to remove the leash that  
24 they have on, we put on our slip leads because no way  
25 a dog's going to get off the slip lead. And then I





1 A Well, yeah, if there's a --

2 MR. CROWTHER: Okay, no further  
3 questions.

4 CHAIRPERSON CAVANAUGH: Any questions  
5 from the Panel?

6 MS. JANNUZZIO: No.

7 DR. STONESIFER: No.

8 CHAIRPERSON CAVANAUGH: You're excused,  
9 thank you.

10 CAPTAIN WARBURTON: We rest.

11 CHAIRPERSON CAVANAUGH: Thank you. If  
12 you want to, you may proceed.

13 MR. CROWTHER: Call John Nusbaum.

14 CHAIRPERSON CAVANAUGH: One of our  
15 Panelists needs a break.

16 (Whereupon, a short recess was taken.)

17 MR. CROWTHER: I'll call Mr. Nusbaum,  
18 John Nusbaum, he's back.

19 WHEREUPON:

20 JOHN W. NUSBAUM,  
21 having first been duly sworn by the court reporter,  
22 thereupon testified upon his oath as follows:

23 BY MR. CROWTHER:

24 Q I guess by looking at you, we now know  
25 how you carry 65 pound dogs, supposedly, right?

1           A     Right.

2           Q     Mr. Nusbaum, on March 18th, were you  
3 with Tacia at Delmarva Pet Resort?

4           A     Yes.

5           Q     And did you enter the actual building  
6 to pick up Ricky?

7           A     Yes.

8           Q     Who put the collar on Ricky?

9           A     The collar was on, as far as I know.  
10 It was on him in the kennel wherever he had him in the  
11 back.

12          Q     Did you attach a leash?

13          A     No.

14          Q     Who did?

15          A     Todd.

16          Q     Did you take the leash from him?

17          A     I took the leash.

18          Q     Where did you go then?

19          A     And I walked out the door. And I seen  
20 the lady with her dog, she was pulling in, and I seen  
21 right off she was nervous, she's like oh, pitbull. So  
22 I tried to walk him -- I never walked down the lane.  
23 I walked around the front of my truck which is where  
24 Tacia showed we parked. I walked around the long way  
25 instead of the driver's side, to the passenger door.

1 Well, I was going to let him in that passenger door  
2 but Lady Jane jumped over there, so --

3 Q So Lady Jane was already in the truck?

4 A She was already in the truck.

5 Q Then what did you do?

6 A I walked around to the driver's side  
7 and opened the door -- well, I had to walk around and  
8 open the door, and I turned my back to him, had the  
9 leash, and I felt the leash go limp.

10 Q And what did you see when you turned  
11 around?

12 A I seen Ricky, and she was walking her  
13 dog like heading towards the door. And I thought I  
14 said something, maybe I didn't, I'm pretty sure I did,  
15 because it was shocking that -- Ricky is old, his  
16 hips, I mean he's a big boy but his whole back hips,  
17 he has no back strength, but he just walked, he walked  
18 towards her dog.

19 Q Did he run?

20 A At a trot, at a fast trot; he didn't  
21 walk slow, he walked at a fast trot. And when he  
22 walked over, he bit right ahold of her dog.

23 Q Now, what was the owner doing before  
24 Ricky even got to the dog?

25 A She started -- when she seen him

1 coming, she did start screaming.

2 Q So she started screaming before Ricky  
3 even got to Banks?

4 A Yes, before he got -- she started to  
5 scream.

6 Q What exactly did you see from that  
7 point, forward? Tell us what you saw.

8 A Well, I walked over as fast as I could,  
9 I have these -- and these are the same boots, I think,  
10 I have on, they're slick, and there was ice and snow,  
11 I walked over and I took control, got behind Ricky and  
12 pulled him up in a Nelson, and I had him here. And I  
13 tried to pull his jaws off, it was just me.

14 Q You had your fingers in his mouth?

15 A I put my fingers in his mouth, which  
16 you never -- I would never do that. This pitbull --  
17 but he wasn't being aggressive like everybody is  
18 saying. Yeah, if it was my little dog, I guess he was  
19 aggressive, because I felt her pain, I ain't going  
20 to -- you know, I felt that.

21 Q Sure. When you say he's not being  
22 aggressive, did he shake?

23 A He wasn't shaking. He just bit and  
24 would not let go.

25 Q Did he pick the dog up?

1           A     I don't -- no, because I had him. I  
2 had ahold of him right -- you know, and when it first  
3 happened he -- I think when he walked over, he bit and  
4 he -- he's a big dog, and he pushed that little dog  
5 down and just bit, I mean ...

6           Q     Now, there was some rumor in the report  
7 saying that he threw the dog, did that happen?

8           A     No, he didn't throw the dog.

9           Q     Now, we heard the situation involving  
10 the giant tool over there; how did -- did you and Todd  
11 try to separate the dogs?

12          A     I was the only one with the dog.  
13 Finally I guess he did hear the scream, he came out,  
14 and I had Ricky already, and I kind of told him, I  
15 said get a shovel. Because I've had pitbulls before,  
16 and I wanted him to take the spade and the flat spot,  
17 and you got to bust them as hard as you can like  
18 you're hitting a 300 pound man. I'd rather him hit  
19 the pitbull, the poodle wouldn't take it --

20          Q     Right.

21          A     -- obviously, but the pitbulls are  
22 hard-headed. He didn't -- he only had an ice scraper,  
23 and obviously you couldn't hit him with that end,  
24 you know, that it would cut the pitbull and maybe make  
25 him even bite the poodle harder. So he whacked him

1 with the handle.

2                   And we both had him, I think -- we  
3 both -- we tried to get them apart. Not saying he was  
4 pulling, but we were trying to get them apart. And we  
5 weren't yanking, you know.

6           Q        Could you see the bite wound while they  
7 were still connected?

8           A        It was so stressful, painful watching  
9 her scream, I really -- yeah, I could see his tooth in  
10 his fur the whole time because that's what I kind --  
11 it was his -- one side of his canines were right on  
12 that one side where the cut is.

13          Q        How did you ultimately separate them?

14          A        That kept going, and finally he  
15 realized that wasn't working, he was getting ready to  
16 hit him with the sharp end, I was like no, no, because  
17 if he would have did that, he probably would have bit  
18 down harder on the poodle, and that's when he ran in  
19 to get the prod.

20                   And I was like I'm using all my  
21 everything. And I was like, man, he's going to leave  
22 me alone, I'm thinking to myself I'm going to have a  
23 heart attack, trying to -- he goes in, and by the time  
24 he came out, which wasn't long, I seen -- I'm sitting  
25 there watching, and I got Ricky, and I had him at this

1 point now and I'm pulling him back, and I'm looking  
2 and his tooth was right there where it ready to slip,  
3 and when it was, I yanked at this point.

4 Now, Ricky wasn't -- I got him off, the  
5 poodle was laying there in shock and pooped itself,  
6 the Lhasa Apso, it was a horrible thing, I felt bad  
7 for the dog, you know. I don't know what Ricky was  
8 thinking, why it happened.

9 And I had to yell -- actually, Tacia is  
10 the one who got her dog initially away, I'm pretty  
11 sure, because he was just coming back with the prod.  
12 And we had them apart, and I had to yell for somebody  
13 to get the collar, get the collar because now all I  
14 had was his greasy fur, he had been in the kennel.

15 So I'm holding him, and I need to get  
16 that collar on him. And at that point I grabbed the  
17 collar and gave it a twist so it was tight, and walked  
18 him to the car, and tossed him in with one arm because  
19 I could pick that dog up with one arm; especially  
20 after that, my adrenaline was pumped. And I really  
21 felt bad for her, it was horrible; I've had Lhasa  
22 Apsos, I've had pitbulls, I've had -- it's just  
23 horrible. They're you're children, doesn't matter  
24 what kind of dog they are.

25 Q You don't want them bitten at all.



1           A     You don't want them bitten at all.

2           Q     Now, did you go in and see when Banks'  
3 wound was cleaned up by Todd?

4           A     Yes.

5           Q     Tell us about that.

6           A     I walked in, and I knew -- I wanted to  
7 say I was sorry to her, but I knew her feelings would  
8 be like -- you know, it probably wasn't best. So I  
9 kind of walked in and walked past. And Todd had just  
10 shaven Banks, and he was sitting there. And Todd had  
11 to -- he went out and helped her I think make a phone  
12 call, she was really shook up.

13                     And Banks, obviously he was shook up.  
14 So I sat there and pet him, and told him -- you know,  
15 I was talking to him, I said, "I'm sorry, Buddy."  
16 Because neither dog was mine, I was just helping and  
17 caught in the situation, and tried to keep calm and  
18 make the best of it.

19                     But Banks was there, you know, it was  
20 about a three-inch, it basically -- it wasn't deep, he  
21 never got his muscle or neck bone or the dog would  
22 have killed him.

23           Q     What do you mean it wasn't deep?

24           A     It wasn't deep; it was long.

25                     CAPTAIN WARBURTON:  Objection.  You're

1 not a vet.

2 MR. CROWTHER: He personally witnessed  
3 the wound.

4 CHAIRPERSON CAVANAUGH: We do have a  
5 vet report here.

6 MR. CROWTHER: He personally witnessed  
7 the wound so he can describe what he saw.

8 CHAIRPERSON CAVANAUGH: I would rather  
9 have the vet's opinion.

10 THE WITNESS: I was just trying to  
11 answer.

12 CHAIRPERSON CAVANAUGH: I understand.

13 BY MR. CROWTHER:

14 Q So what exactly did you see?

15 A About a three-inch gash, it looked like  
16 someone took a knife and cut the membrane in the skin  
17 to where you could see the muscle tissue. And, you  
18 know, it wasn't pretty, the poor dog was shaken.

19 Q Was the wound cleaned while you were  
20 there?

21 A Todd had -- did a pretty good job, he  
22 shaved it and cleaned it up, and I guess he rubbed it  
23 with some gauzes and alcohol. Well, he had it pretty  
24 clean when I got there because I stayed out and ...

25 Q Was the wound still bleeding when you

1 got in there?

2           A       There was some blood there but it  
3 wasn't like -- it wasn't on an artery that I know of.  
4 And because of the dog's mouth, you know, they had to  
5 tube it, obviously. If a dog bites, you know, it  
6 doesn't matter how far, once it breaks your skin,  
7 you've got to have a drain in it or you better be  
8 taking big strong antibiotics for a while because it's  
9 dirty. Even a human mouth's dirty. It's just dirty  
10 when you get bit. Ricky's an old dog so his mouth was  
11 probably really dirty.

12           Q       Did you see Ricky charge Banks to  
13 attack him?

14           A       Ricky can't really run, he don't have  
15 no back legs. He did walk at that dog at a fast pace.  
16 I have one, it would attack on him like an NFL pro  
17 ball player. It was the wierdest way I've ever seen a  
18 dog, a pitbull go after a dog, because he just like he  
19 walked real quick and bit. And there wasn't no  
20 shaking, and usually a pitbull would have grabbed  
21 that, he would have shook it, it would have been dead  
22 quick, but it wasn't like that.

23                    It was like he just walked over to that  
24 dog fast as he could because, like I said, his hips  
25 are bad, and he just bit. And it was like the calmest

1 attack for a pitbull, which was lucky for all of us,  
2 because I wouldn't have been able to reach in his  
3 mouth. Normally I would never have reached in his  
4 mouth but when I seen that he was just there, and he  
5 just bit, and he wouldn't move. And I was just like,  
6 well, the hell with it, let me try. But he was too --  
7 I couldn't even budge his jaws, they say it's  
8 1300 pounds and that's ...

9 Q Was he growling?

10 A No growling. I think Banks was crying.  
11 There wasn't no growling or snarling or, you know,  
12 nothing, or I wouldn't have stuck my hands in his  
13 mouth. And I stuck them in through the side, too, and  
14 this way, and he would have broken my fingers.

15 Q Did you get bit?

16 A No, I didn't get bit. Scratched,  
17 clawed. No, Ricky never acted -- like actually when  
18 we took him to the vet to get neutered, we walked him  
19 by Irish Setters right in the vet, and they had cats  
20 in there.

21 Q Anything happen?

22 A Nothing.

23 Q Did he try to pull towards them, lunge  
24 towards them?

25 A He never tried to pull. But, you know,

1 that breed, if you ain't an alpha, you got to be more  
2 alpha than that dog and kind of let them know that.  
3 Which I did let him know that with the way I handled.  
4 I handled a bunch this past summer for Safe Haven, All  
5 Aboard, and you can feel out the ones that like, you  
6 know what? You don't want to walk them even near  
7 another dog, even know though I could out-power them,  
8 you don't want to do it, but Ricky wasn't like that.

9 MR. CROWTHER: No further questions.

10 BY CAPTAIN WARBURTON:

11 Q Good evening. When you were taking  
12 Ricky out of Delmarva Pet Resort, was he jumpy and  
13 active --

14 A No.

15 Q -- or was he just walking?

16 A Docile. He was docile.

17 Q Docile?

18 A I mean he's -- he seems old to me,  
19 especially his hips seem arthritic, very skinny.  
20 Maybe it was from being locked in the kennel for  
21 months.

22 Q Sure. So when he saw Banks, how did he  
23 slip his collar?

24 A Well, see, that's the thing. When I  
25 walked around to the -- I walked around the front of

1 the truck -- can I do this? I walked around, I opened  
2 the door. When I opened this door, I walked around  
3 and went like this. The only thing I felt was as I  
4 went to pull and there was slack, and I turned around,  
5 and he's from there to the bench, and he was walking  
6 fast to her dog, that way.

7 Q So he was pursuing the dog?

8 A Yeah, and I -- I think I tried to yell,  
9 but I tried to go as quick as I could but it was ice,  
10 and these are nothing --

11 Q Oh, yeah, I see that.

12 A -- but slick, so ...

13 Q So what you saw is when Ricky slipped  
14 his collar, he didn't go to you, he didn't -- did he  
15 jump in the truck?

16 A No.

17 Q No. So he went straight --

18 A When he slipped it --

19 Q So he went straight to Banks?

20 A -- he went straight to Banks.

21 Q So you would call that pursuing?

22 A Yeah, if that's what you want to say,  
23 yes, it was pursuing.

24 Q Did he bark or did he do --

25 A Wasn't no bark, wasn't no growl.

1           Q     And you said this was the calmest  
2 attack you ever saw?

3           A     For a pitbull.  If you have been around  
4 pitbulls --

5           Q     So he was stealthy, he knew what he was  
6 doing?

7           A     In all reality, if a pitbull would bite  
8 a Lhasa Apso, usually one bite, one shake, and you're  
9 burying the Lhasa Apso, or a cat.

10          Q     So Ricky knew he was pursuing that dog  
11 and he knew --

12          A     He might have been.  Lady Jane, you  
13 know, I thought of Lady Jane was right about where  
14 Banks walked to when I first brought her out, and  
15 maybe it was something like that.  But I mean he -- if  
16 you want to say pursue, okay.  He walked to it, is how  
17 I'm saying.  He didn't pursue it like an attack.  Yes,  
18 once he got it --

19          Q     Well, if he was walking towards the  
20 dog, then he is pursuing?

21          A     Yeah, he walked right to that.  He  
22 wasn't going nowhere else, he walked right to Banks  
23 and bit and held.

24          Q     So you would call that an unprovoked  
25 attack?

1 A Yeah.

2 Q Yes?

3 A If you want to say.

4 Q Yes. When you were behind Ricky  
5 picking him up, were you able to see Banks or were you  
6 focusing more on Ricky's back?

7 A No, I could see him but I was focusing  
8 on Banks more than Ricky, trying to get that tooth  
9 to -- get it out of his fur, you know.

10 Q Okay, so he had a good hold of him?

11 A Oh, yeah, I had a good hold.

12 Q No, Ricky had a good hold of Banks in  
13 his mouth?

14 A Yeah, he had a hold of Banks with  
15 actually the one side of his canines is where he broke  
16 through the skin, that's the one I was working on.  
17 Once I seen it was there, I gave it a little -- just a  
18 tight jerk, and I got him away, and I needed help, no  
19 one was around.

20 Q So that was just the calmest attack you  
21 ever saw?

22 A It sure was.

23 CAPTAIN WARBURTON: No further  
24 questions.

25 THE WITNESS: Okay.



1 CHAIRPERSON CAVANAUGH: Does the Panel  
2 have questions?

3 (No response.)

4 CHAIRPERSON CAVANAUGH: You're excused,  
5 thank you.

6 THE WITNESS: You're welcome.

7 MR. CROWTHER: Call Jane Pierantozzi.

8 CAPTAIN WARBURTON: We object. Miss  
9 Pierantozzi did not see any of the attacks and thereby  
10 cannot provide any witness testimony to the attacks.

11 CHAIRPERSON CAVANAUGH: So can you  
12 please make sure that this testimony is about the  
13 attacks involved with Ricky and Banks?

14 MR. CROWTHER: It's about the dog.  
15 This is a dangerous dog panel.

16 CHAIRPERSON CAVANAUGH: We're talking  
17 about the specific attacks of Ricky on dogs; if that's  
18 what this is about, okay.

19 MR. CROWTHER: Are you saying I can't  
20 ask my witness questions about the dog?

21 CHAIRPERSON CAVANAUGH: If they're  
22 about Ricky attacking the dogs, you can ask her  
23 questions.

24 MR. CROWTHER: But what if Ricky didn't  
25 attack the dogs?

1 CHAIRPERSON CAVANAUGH: I have heard  
2 many, many witnesses say that they witnessed a dog  
3 attack of Ricky on other dogs.  
4

5 WHEREUPON:

6 JANE PIERANTOZZI,  
7 having first been duly sworn by the court reporter,  
8 thereupon testified upon her oath as follows:

9 BY MR. CROWTHER:

10 Q When were you first contacted about  
11 getting Ricky and Lady Jane?

12 A I think it was about early December  
13 when Lynn Lofthouse called me and said that there were  
14 two dogs that were homeless and in bad conditions, and  
15 that people had pitched in and were boarding them at a  
16 boarding facility in Sussex and they wanted to get  
17 them into a shelter for adoption and to get them in  
18 better condition, she was worried about the stress and  
19 the conditions there.

20 I told her at the time we didn't have  
21 room because we were renovating, and that we basically  
22 were moving many of our dogs out into foster care or  
23 adoption while we renovated our kennels, but when we  
24 had room and completed, we would try to bring them in.

25 I asked her if they were nice dogs, she

1 said that they were nice dogs, they lived -- there  
2 were three dogs in the home but one I think was  
3 staying with the family, and these two dogs she said  
4 had been in carriers and were in poor conditions.

5 So then she called a couple more times  
6 maybe while we were renovating, and finally I said we  
7 will call you when we're done, and I let her know we  
8 were done and we had room in March.

9 Q And was Ricky and Lady Jane planning on  
10 coming there on March 18th?

11 A Yes, they were planning on coming on  
12 March 18th. I wasn't sure exactly who was bringing  
13 them, but one of the rescue individuals, it ended up  
14 being Tacia ended up bringing them there. And we had  
15 a kennel for both of the dogs prepared for them.

16 Q Were you told that they lived together?

17 A Yes, and we prepared a kennel for them  
18 to live together, and they did live together at  
19 Faithful Friends.

20 Q Now, the first time you heard from  
21 Animal Control was when?

22 A Let's see. I heard from Animal Control  
23 when Sherry called me -- well, Sherry called me, left  
24 me a message, then she called Lou; it was on 4/11, I  
25 believe or that's when I picked up the message. And

1 her message to me was I could call back on Monday  
2 because it was a Friday. Lou had spoke to her and she  
3 wanted to specifically speak with me, and she had  
4 concerns about Ricky but we didn't know the specifics  
5 at that time.

6 Q Did you speak to her on that Monday?

7 A Yes, I did.

8 Q So you did not know anything about  
9 these supposed incidents in December or November or  
10 whenever they claimed to have occurred?

11 A No. Lou had said that Tacia mentioned  
12 there was an incident with another dog, that it was  
13 minor, and that was really all we knew. And on the  
14 surrender forms, she listed that they were not good  
15 with dogs or kids or cats, so we put them on the  
16 website that way to start until we got to know them.

17 Q Now, when you put dogs on your website,  
18 does that mean they're ready for adoption?

19 A No; we usually put them up there within  
20 the first couple days to a week. And then if we don't  
21 know their behavior, we may put still learning about  
22 them or something like that.

23 MR. CROWTHER: No further questions.

24 THE WITNESS: Okay.

25

1 BY MR. HULSE:

2 Q Just a few questions. So you didn't  
3 know these animals when they were first brought to  
4 your facility?

5 A No.

6 Q Did they show any signs of aggression  
7 while they were at your facility?

8 A No, they didn't. I mean they were very  
9 nice; nice, easy-going dogs. They did well in the  
10 kennel while they were with us. We didn't have any  
11 food fight incidences like I think Todd mentioned; we  
12 didn't have any of that happen. They were just kind  
13 of calm, mild-mannered dogs.

14 Q Then why is it Ricky was not at your  
15 facility when we went to get Ricky?

16 A Because we take the dogs on walks. The  
17 dogs go on walks three times a day in our kennel, and  
18 he was on his afternoon walk.

19 Q So he didn't come out from a vehicle;  
20 he was on the premises the whole time?

21 A No, he was on the walk with someone  
22 else, but Lou went to get him to make sure he came  
23 back when the officer wanted him back.

24 Q So he was out of your facility, he was  
25 gone from your facility?

1           A     Right, right.

2           Q     So you don't walk your dogs on your  
3 facility?

4           A     We don't have -- our property is on  
5 Germay Drive, so we have to walk them at the local  
6 park, or up and down Germay Drive, in the  
7 neighborhood, so they're walked in the area.

8           Q     Okay. Now that you know these dogs  
9 have attacked, you have heard testimony from witnesses  
10 that have been there, including the person that helped  
11 I guess with the dog bring him to your facility, do  
12 you think these are great dogs to put out in the --

13          A     I think --

14          Q     -- public, Ricky?

15          A     I think right now, Lady Jane's in a  
16 foster home, she's doing good. I think knowing what  
17 we know about Ricky is that we would reassess him with  
18 dogs, and we would have a behavior trainer that we  
19 work with work with him more, and go from there,  
20 reassess him and go from there.

21          Q     So you don't believe Ricky to be an  
22 endangerment right now to the public?

23          A     Obviously he can't be off leash and be  
24 around other dogs.

25          Q     But right now, is he a danger to the

1 public?

2 A Not while he's on a leash. In the  
3 shelter, he's fine; on a leash, fine. He walked by  
4 other dogs, showed no aggression. He didn't even act  
5 reactive in the kennel walking by other dogs. So I  
6 would say we would work with him with a trainer and  
7 reassess him.

8 Q So if you're saying you have to work  
9 with him, you're saying that he's not ready to go out  
10 into the public?

11 A Some of the dogs in our care can be in  
12 rehabilitation or training before they get adopted.

13 Q I understand that he's been in your  
14 care, correct?

15 A Right.

16 Q But you're saying right now, he needs  
17 to be reassessed?

18 A I would have someone reassess him,  
19 knowing what we know, and have a trainer behaviorist  
20 work with him with other dogs first before we put him  
21 back out in the public.

22 MR. HULSE: Okay, no further questions.

23 THE WITNESS: Okay, sure.

24 CHAIRPERSON CAVANAUGH: Does the Panel  
25 have questions?

1 (No response.)

2 CHAIRPERSON CAVANAUGH: Thank you,  
3 Jane.

4 MR. CROWTHER: Call Lou Henderson.

5  
6 WHEREUPON:

7 LOUIS HENDERSON,  
8 having first been duly sworn by the court reporter,  
9 thereupon testified upon his oath as follows:

10 BY MR. CROWTHER:

11 Q Mr. Henderson, what do you do, or  
12 what --

13 A I'm the dog department manager at  
14 Faithful Friends.

15 Q Are you familiar with Ricky?

16 A Yes.

17 Q Did you have contact with Ricky from  
18 March 18th to the time that he was taken away by  
19 Animal Control?

20 A On a daily basis.

21 Q How much time did you spend with Ricky?

22 A Every day, I seen him. Some days, I  
23 would walk him. Some days, just interact through the  
24 kennel.

25 Q How was he when you walked him through



1 the kennels?

2 A He walked through fine.

3 Q Did he lunge at cages?

4 A No.

5 Q Did he try to go after a dog?

6 A No. I walked him through with his mom  
7 usually.

8 Q Did he exhibit any aggressive behaviors  
9 in your presence?

10 A Not that I ever saw.

11 Q And you had daily contact?

12 A Yes.

13 Q Let's talk about the day that Animal  
14 Control came; you had Ricky and Lady Jane out for  
15 walks?

16 A Yes.

17 Q Now, when you came back, you were told  
18 that Animal Control was going to take him, right?

19 A Yes.

20 Q And did you come by another dog on your  
21 way back towards the Animal Control vehicle?

22 A I was taking him in the shelter, yeah.

23 Q Tell us what happened there. Well, I  
24 should probably say what didn't happen? How close  
25 were you to that other dog?



1 be.

2 Q Did he exhibit any aggressive behavior  
3 at all?

4 A No.

5 Q When you picked him up and put him in  
6 the back of the small cage in the back of the truck,  
7 did he try to get back out?

8 A No.

9 Q Did he act in any aggressive way then?

10 A No.

11 Q Did he bark?

12 A No. I never heard him bark, actually.

13 Q Now, you had to let him back out of it  
14 to have him checked by the vet, right?

15 A Yes.

16 Q Did he lunge out of his cage?

17 A No. I had to help him down.

18 Q And did you bring him back out later  
19 on?

20 A Yes.

21 Q Was it about the same old thing --

22 A Yes.

23 Q -- acting calm?

24 A Fine.

25 MR. HULSE: Basically you're saying the

1 animal showed no sign of aggression, the question you  
2 already asked. Is there anything else besides the  
3 aggression of the dog questioning?

4 CHAIRPERSON CAVANAUGH: You're out of  
5 order.

6 DR. STONESIFER: You had your two  
7 cents, let him have his two.

8 MR. HULSE: Sorry.

9 BY MR. CROWTHER:

10 Q How many dogs does Ricky have to pass  
11 from where he was in Faithful Friends to where he goes  
12 out for a walk?

13 A At least 10 to 12, I would say.

14 Q And do those dogs change every once in  
15 a while?

16 A All the time.

17 Q And never a sign of aggression?

18 A Not once.

19 MR. CROWTHER: No further questions.

20 BY MR. HULSE:

21 Q Were either these two dogs present when  
22 you walked by with Ricky?

23 A No.

24 MR. HULSE: No further questions.

25 CHAIRPERSON CAVANAUGH: Questions from

1 the Panel?

2 (No response.)

3 CHAIRPERSON CAVANAUGH: Thank you.

4 MR. CROWTHER: No further witnesses.

5 CHAIRPERSON CAVANAUGH: Thank you.

6 Now we're going to have closing  
7 statements by Animal Control, and closing statements  
8 by the dog's owner.

9 CAPTAIN WARBURTON: Tonight, Panel  
10 members, ladies and gentlemen, you have heard  
11 eyewitness testimony of two separate incidents  
12 involving Ricky and how each of those facts were  
13 supported by evidence, not only witness testimony, but  
14 statements, vet records, and pictures.

15 The facts that Delaware Animal Care and  
16 Control has proven are it's a fact that Ricky pursued  
17 and attacked a senior lab who was on her owner's  
18 property, unprovoked. It's a fact that Ricky pursued  
19 and attacked a senior Lhasa Apso who had merely walked  
20 past him. It's a fact that Ricky has inflicted  
21 serious physical injury upon a domestic animal in the  
22 immediate control of its owner.

23 Through all these facts, there's only  
24 one conclusion, and that conclusion the Dog Panel can  
25 make is that Ricky is a dangerous animal and should be

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1 found dangerous as per Section 925. Thank you.

2 MR. CROWTHER: Animal Control has  
3 thrown around words and phrases as if they don't have  
4 any meaning, but in this statute they have actual  
5 definitions. So we should probably look at those  
6 definitions to see whether or not they have actually  
7 established the proof by a preponderance of the  
8 evidence that's necessary, because a dog bite isn't  
9 enough.

10 It's not a dog bites another dog and  
11 therefore they're either potentially dangerous or  
12 dangerous; that's not the standard. If that were the  
13 standard, every dog park would be the subject of about  
14 three dog bite complaints a day. They bite all the  
15 time. But that's not what this Panel is supposed to  
16 look at. Let's take a look at what the definitions  
17 actually say, and let's compare that to what the  
18 evidence that's actually allowed here shows.

19 In order to establish a dangerous dog,  
20 the statute is pretty clear; it has to have found that  
21 a dog killed or inflicted serious physical injury upon  
22 a domestic animal. Serious physical injury is what  
23 they keep saying, but they actually haven't proven it  
24 and they have the burden of proof.

25 Now, the first rule is this Panel

1 cannot rely upon hearsay evidence for that  
2 determination. There is no testimony, and the medical  
3 records are not allowed because they're hearsay. So  
4 this Panel cannot --

5 CHAIRPERSON CAVANAUGH: It can. We can  
6 consider hearsay.

7 MR. CROWTHER: Not to make the  
8 determination because they don't establish an element,  
9 there's no evidence of an element of an injury at all.  
10 Now, serious physical injury is actually a defined  
11 term. Now, remember, the records show that Banks was  
12 okay two days afterwards. The records show and the  
13 testimony was that it was no big deal. It was all  
14 going to be done -- you saw Todd's text message,  
15 stitches and a drain and he'll be fine. That's what  
16 he said, he saw the injury; stitches and a drain and  
17 he'll be fine.

18 Just because the dog itself doesn't  
19 respond well to treatment doesn't mean the injury  
20 itself was serious. You can get a cut and get MRSA;  
21 it doesn't mean the cut was serious, it means the  
22 results later on were serious because you got  
23 something else. If they took the drain out and they  
24 shouldn't have, that could be a problem, that could  
25 create a worse injury. If it wasn't done correctly or

1 cleaned correctly the first time, that could create a  
2 worse injury.

3           The question is whether the injury  
4 inflicted by the dog was serious, not whether the  
5 treatment was extensive. Because here, there's a  
6 little bit of a contradiction between what happened  
7 originally, what was -- what people were saying about  
8 the injury originally. Every dog bite is going to  
9 result in a laceration of some sort; does that mean  
10 every dog bite satisfies the criteria for serious  
11 injury? The answer is no.

12           Serious physical injury shall be  
13 physical injury which creates a substantial risk of  
14 death or which causes serious and prolonged  
15 disfigurement, prolonged impairment of health, or  
16 prolonged loss or impairment of the function of any  
17 bodily organ. That's not the case here. It simply  
18 isn't the case here.

19           What we have is a laceration. There's  
20 no organ damage, no impairment or disfigurement; it's  
21 a laceration. It is what every dog bite results in,  
22 unless this Panel's going to declare every single dog  
23 potentially dangerous or dangerous that's involved in  
24 a dog bite when there's a puncture or laceration.  
25 That's not what the definition means or what the



1 legislation intended it to mean, that's why it's  
2 defined in particular. The Panel has no evidence to  
3 support a finding of a dangerous dog because it does  
4 not meet the criteria of the statute.

5 Now, potentially dangerous dog is  
6 slightly different. It almost overlaps where the  
7 Panel could make a decision even on a dangerous dog  
8 that's only potentially dangerous, but it does  
9 overlap. And the provision that's applicable is  
10 attacked or inflicted serious physical injury upon a  
11 domestic animal, provided the domestic animal is on  
12 the property of the owner or in the control of its  
13 owner.

14 Now, the word attack is defined by the  
15 Code. And that's important because attack isn't just  
16 what we say is an attack. Because any time a dog  
17 bites other dog, it's an attack. Under general  
18 vernacular or general terms, any behavior that results  
19 in a bite is an attack. But that's not what the  
20 legislature says.

21 The legislature says that an attack  
22 shall be the deliberate action of a dog whether or not  
23 in response to a command by its owner to bite, seize  
24 with its teeth or pursue any human being or domestic  
25 animal with the obvious intent to kill, wound, injure

1 or otherwise harm the human being or domestic animal.  
2 Now, are we to presuppose that a dog knows that biting  
3 is going to harm an animal, or is that just a dog's  
4 instinctive reaction?

5 Remember, the evidence today shows that  
6 Ricky bit; didn't shake, didn't do anything else but  
7 hold. And in the context, the owner was screaming  
8 before he even got there. What impact did that have  
9 on his behavior? Did he think she was being harmed  
10 and he was protecting her? We don't know, we don't  
11 speak dog. But she was screaming before Banks even  
12 got bit.

13 Attack doesn't mean a bite. And this  
14 Panel needs to be very careful, because if you say  
15 that a dog is potentially dangerous because it  
16 attacked because that's a bite, you're going to be  
17 having a lot of these hearings, because dog bites  
18 occur all the time in the public, and the vast  
19 majority of those dogs are not remotely dangerous.  
20 But dogs bite; that's how they communicate in ways.

21 This dog, it's interesting that the  
22 incidents involving earlier than March only came to  
23 light in April. And in between, no one heard a peep  
24 about these. Nothing. Interestingly, there's no  
25 evidence of an injury there, none. There is not a

1 single bit of evidence of anything leading to either  
2 the injury or serious physical injury status of the  
3 statute, not one piece of evidence. So even if the  
4 bite occurred, there is no non-hearsay evidence in the  
5 record, none.

6           While we certainly have concerns about  
7 Ricky, and I think you have a concern about every new  
8 dog that enters your facility, that's why you assess  
9 them and draw up plans for them. You just don't adopt  
10 them out to anybody you want; you have to work with  
11 dogs, that's what Faithful Friends does. They will of  
12 course assess Ricky and they will have their behavior  
13 people on staff who do that, and they'll have people  
14 who work with him to the extent he has any issues and  
15 to the extent he's available and ready for adoption,  
16 which may or may not ever be a time. But when he is,  
17 he will be placed in an appropriate home.

18           You heard some discussion about Lady  
19 Jane, but you also heard Jane talk about Lady Jane  
20 being in a foster home and doing just fine. She's  
21 fine. But she was aggressive, too, according to the  
22 testimony of the witnesses who witnessed these  
23 attacks. She's doing just fine.

24           The statute's here for a reason, it has  
25 its definitions for a reason, and it's not just

1 throw-around phrases and words that they don't mean  
2 anything. They have the burden of proof by competent  
3 evidence; they simply haven't met it.

4 So to the extent that this Panel  
5 disagrees, and I hope it doesn't, but if it should,  
6 the findings should be a potentially dangerous dog,  
7 and then the safeguards that go with that would be  
8 automatically triggered. But there is no way that the  
9 evidence supports a dangerous dog finding, not even  
10 remotely. Thank you.

11 CHAIRPERSON CAVANAUGH: The Panel is  
12 going to go into Executive Session to make our  
13 determination and we will be back shortly.

14 (Following Deliberations in Executive  
15 Session, the hearing concluded as follows:)

16 CHAIRPERSON CAVANAUGH: Dear Faithful  
17 Friends Animal Society, as noted in our opening  
18 statement, the Delaware Code Title 9, Chapter 9  
19 Subchapter 2, Subsection 925 states that a dog who has  
20 inflicted physical injury upon a human or domestic  
21 animal, killed a human or domestic animal, pursued a  
22 person in an apparent attitude of attack and/or who is  
23 used to facilitate animal cruelty or animal fighting is  
24 in violation of this code and is a dangerous or  
25 potentially dangerous dog.

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1                   According to Code, such a dog must be  
2 seized by Animal Care and Control agency and impounded  
3 until a final decision is determined. The owner of  
4 the seized and impounded dog may abide by the findings  
5 and conclusions of the Animal Control Officer as per  
6 subsection 925(c) of this code. If the owner  
7 disagrees with the conclusion, a hearing before the  
8 Dog Control Panel may be requested to present evidence  
9 as to why their dog's actions and behavior for which  
10 it was seized should not be considered dangerous or  
11 potentially dangerous as defined by this Code.

12                   Your dog, Ricky, described as a black  
13 and white American pitbull terrier, was just seized  
14 and impounded on April 18, 2014 due to an incident  
15 which took place on December 4, 2013 at 24500  
16 Hollyville Road, Millsboro, Delaware, and due to an  
17 incident which took place on March 18, 2014 at  
18 Delmarva Pet Resort, 3602 Polly Branch Road,  
19 Selbyville, Delaware.

20                   Ricky, as described above, was seized  
21 and impounded in apparent violation of this Code for  
22 the following alleged actions: Ricky attacked and  
23 injured a dog on the property of its owner; and in the  
24 second incident, Ricky attacked and injured a domestic  
25 animal that was under the immediate control of its

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1 photographs, and internet postings by both the Animal  
2 Care and Control Agency and the owner of the seized  
3 dog.

4 In the first incident, the Panel found  
5 based on the evidence presented that Ricky did attack  
6 and inflict serious physical injury upon a domestic  
7 animal on the property of its owner; and in the second  
8 incident, based on the evidence presented, that Ricky  
9 did attack and inflicted serious physical injury upon  
10 a domestic animal that was under the immediate control  
11 of its owner.

12 The findings of the Dog Control Panel  
13 Hearing: Based on the evidence and testimony provided  
14 to this Panel during this hearing held today under  
15 Delaware Code Title 9, Chapter 9, Subchapter 2, the  
16 Delaware Dog Control Panel finds Ricky, owned by  
17 Faithful Friends Animal Society, to be in violation of  
18 Subsection 925 or 926 and has been found potentially  
19 dangerous.

20 The final order of the Dog Control  
21 Panel is that the dog is potentially dangerous and the  
22 owner shall comply with the requirements set forth in  
23 Title 9, Chapter 9, Subsection 926(b) one through  
24 three for keeping or maintaining such a dog.

25 And that concludes our hearing for this

1 evening.

2 - - - - -

3 C E R T I F I C A T E

4

5 STATE OF DELAWARE )

6 )

7 KENT COUNTY )

8

9 I, Pamela C. Herrmann, Registered

10 Professional Reporter and Notary Public, do hereby

11 certify the foregoing pages were taken before me at

12 the time and place indicated herein; that said

13 witnesses were by me duly sworn; that the testimony

14 was stenographically reported by me and thereafter

15 reduced to typewriting under my personal supervision;

16 that I am neither of counsel nor kin to parties in

17 said action nor interested in the outcome thereof.

18 WITNESS my hand this \_\_\_\_day of

19 \_\_\_\_\_, 2014.

20

21 \_\_\_\_\_

22 Pamela C. Herrmann  
23 Registered Professional Reporter  
and Notary Public

24 Certificate Number: 128-PS

25



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