

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

HOLLY LANE,

Plaintiff,

vs.

Case No.

KANSAS CITY PET PROJECT

7077 Elmwood Avenue

Kansas City, Missouri 64132

Defendant.

PETITION FOR DAMAGES

COMES NOW Plaintiff, Holly Lane, by undersigned counsel, and for her cause of action against defendant Kansas City Pet Project states as follows:

PARTIES

1. Plaintiff Holly Lane is an individual residing in the State of Missouri.
2. Defendant Kansas City Pet Project (hereinafter, "KCPP") is a nonprofit corporation organized under the law of the State of Missouri and maintains an active and good standing status in this State.

VENUE AND JURISDICTION

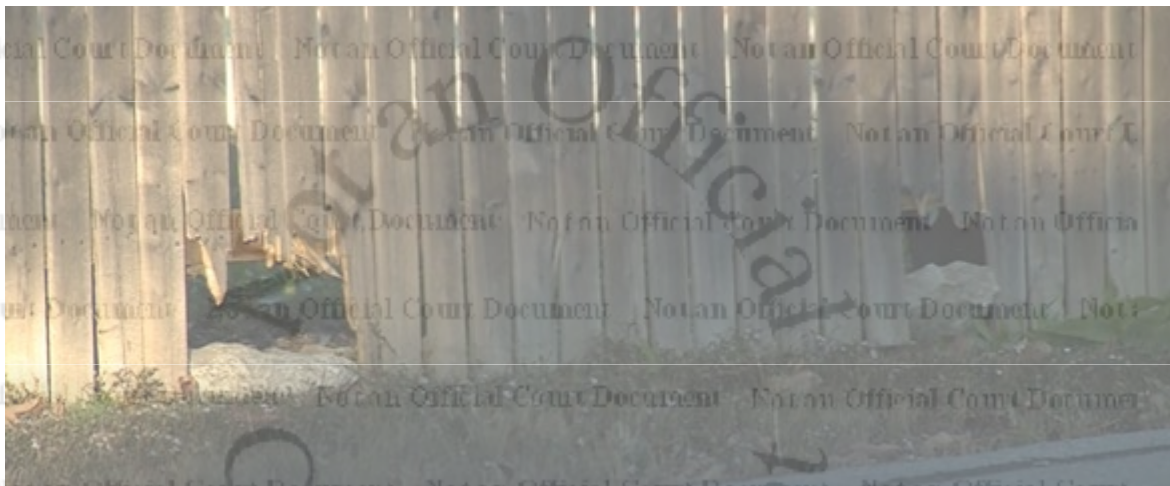
3. Venue and jurisdiction in this Court are proper pursuant to Mo. Const. Art. 5, § 14(a), R.S.Mo. § 478.070, and R.S.Mo. § 508.010 in that the tortious conduct giving rise to this matter occurred in Jackson County, in this State.

THE ATTACK ON CHRIS CULBERTSON

4. Plaintiff incorporates by reference Paragraphs 1 through 3 as if fully set forth herein.

5. At all times referenced herein, John Thibeaux and/or John R. Thibeaux owned and/or harbored at least seven (7) aggressive and/or dangerous and/or potentially dangerous Pitbull dogs at their residence of 3216 E. 80th Street, Kansas City, Missouri (hereinafter, “the Property”).

6. At all times referenced herein, the Property acted as the primary enclosure for the Pitbull dogs and had a fence with multiple holes throughout the fence line.

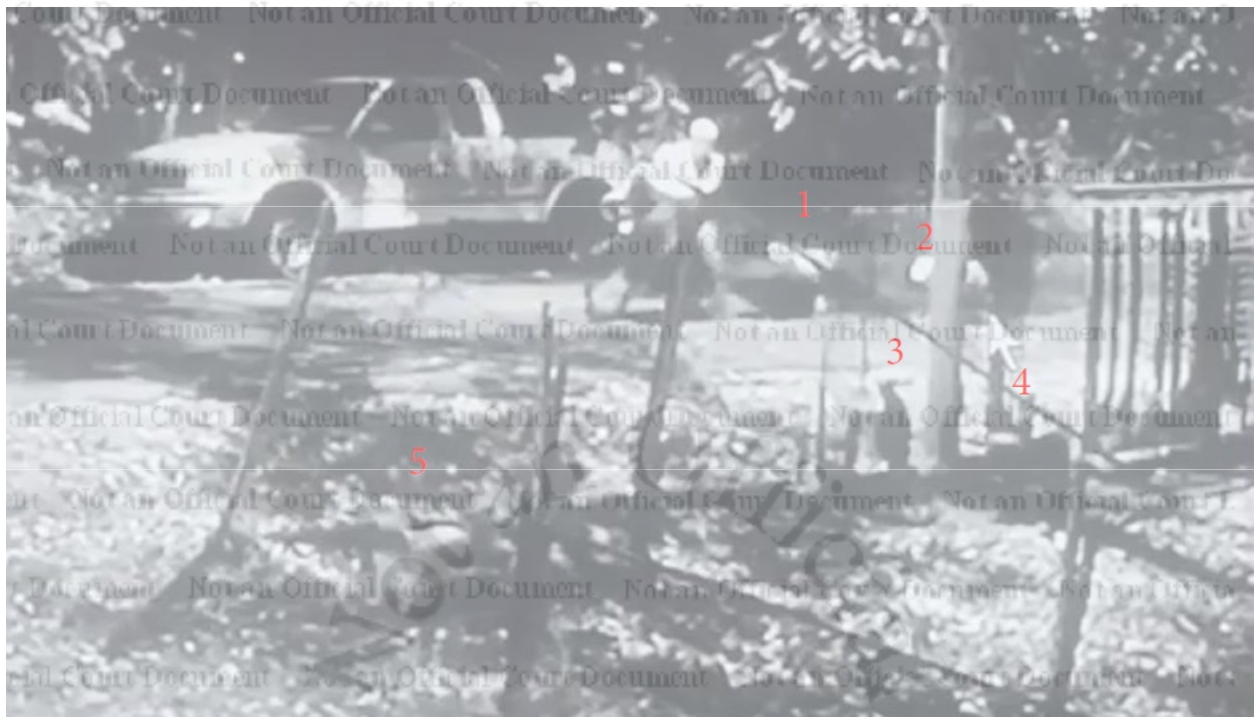


7. On or about November 2, 2024, Chris Culbertson was riding his bicycle in the 3200 block of East 80th Street in Kansas City, Missouri.

8. At some point, two of the Pitbull dogs escaped their primary enclosure and began following Culbertson while nipping and tugging at Culbertson’s bicycle, his belongings, and his legs.

9. There were at least three other aggressive and dangerous Pitbull dogs still in the fence enclosure after the first two Pitbull dogs escaped and began harassing Culbertson.

10. Chris Culbertson did nothing to provoke the dogs’ actions.



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11. In attempting to evade the dogs' actions, Chris Culbertson eventually fell off his bicycle after steering off the roadway and into a yard.



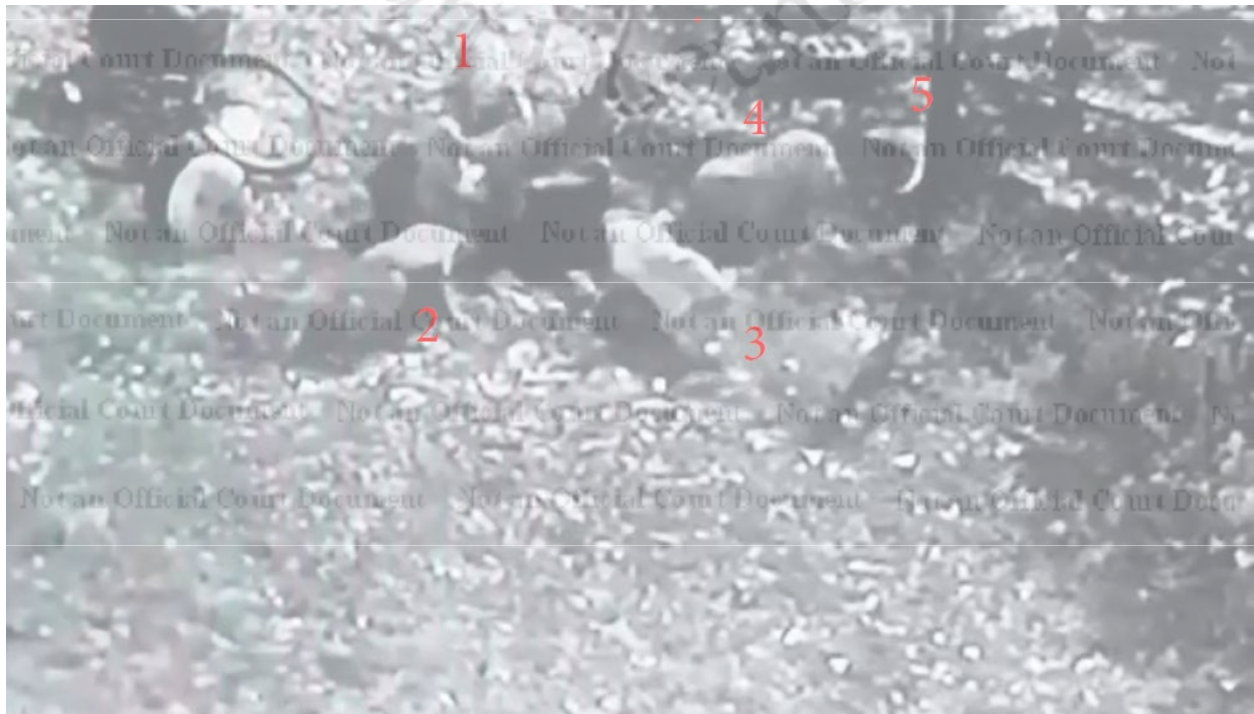
12. Shortly after Culbertson fell off his bicycle, one of Pitbull dogs began biting and tugging Chris's backpack, while simultaneously, the three Pitbull dogs that remained behind the enclosure began jumping and tugging at the fence.



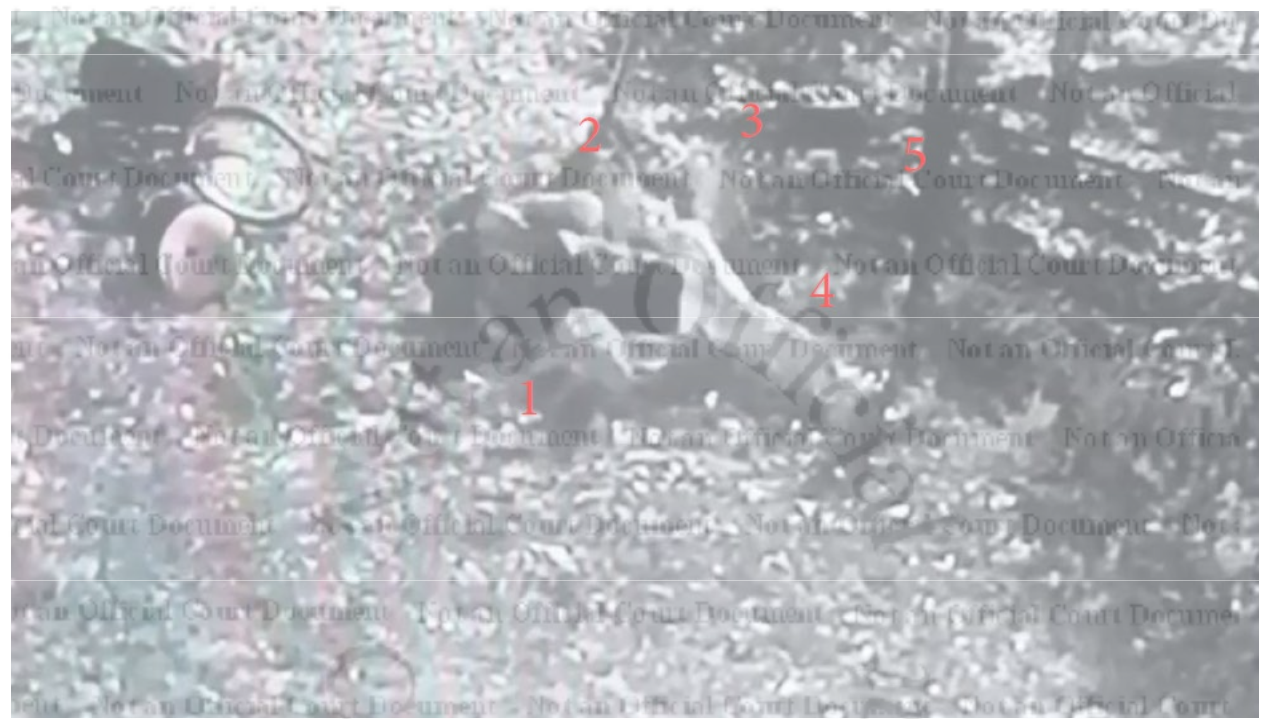
13. Shortly thereafter, two of the other three Pitbull dogs escaped the primary enclosure and joined in the attack on Chris Culbertson.



14. After the other three Pitbull dogs joined in the attack, many of the dogs began dragging Chris away from his bicycle and towards the fence line, where there was yet another Pitbull dog.



15. All the while, Chris Culbertson was doing his best to fight off the dogs and began screaming for help.



16. Despite Culbertson's efforts to escape the attack, the Pitbull dogs increased the ferocity of their attack, biting and pulling Chris's limbs in all directions and pulling him towards additional Pitbull dogs that had escaped their enclosure.



PLAINTIFF'S ATTEMPT TO RESCUE CHRIS CULBERTSON

17. Plaintiff incorporates by reference Paragraphs 1 through 16 as if fully set forth herein.

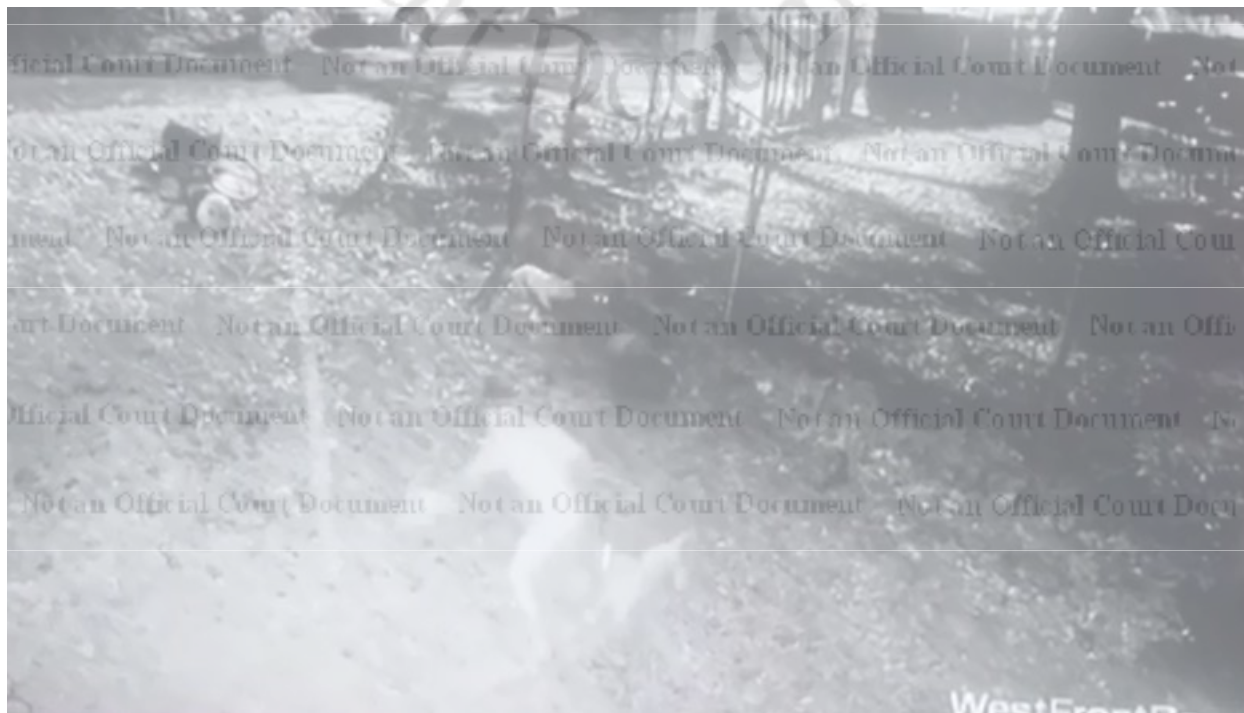
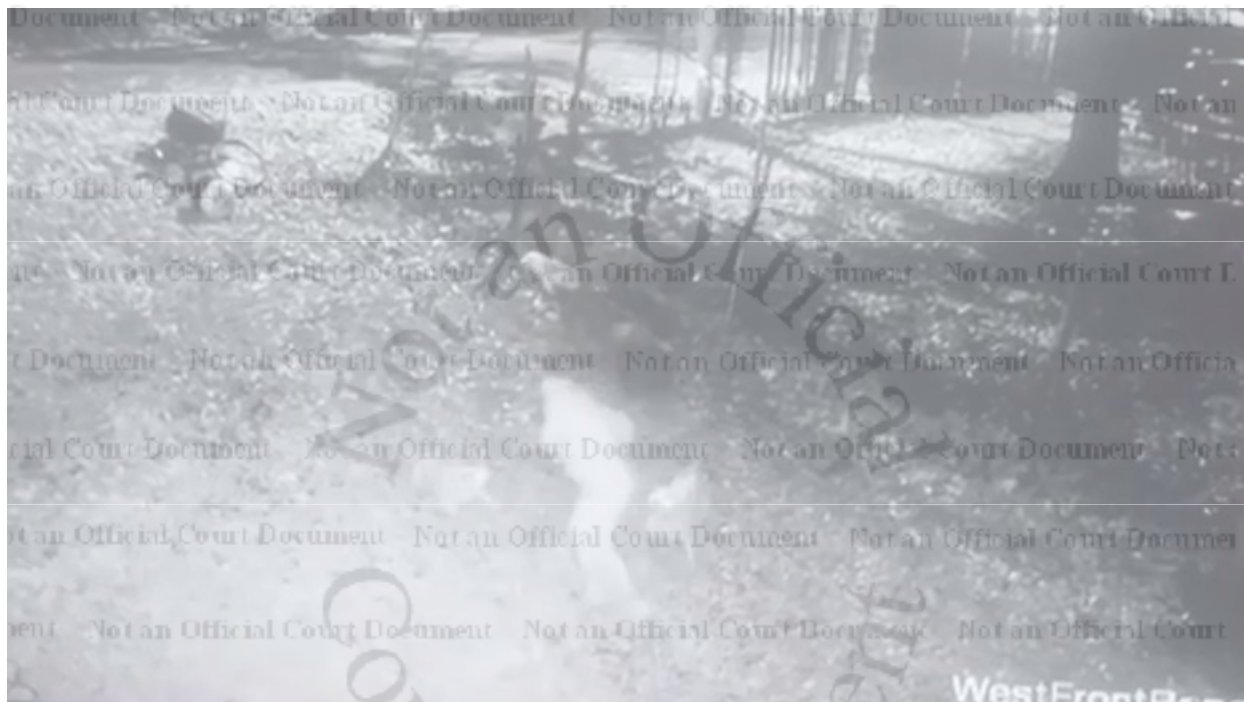
18. Plaintiff, who lived next door to the Property, was in her home at the time of the attack, and upon hearing Culbertson's cries for help, ran outside to help Chris and tried in vain to get the dogs to stop attacking Chris.



19. After the Pitbull dogs turned their attention and aggressiveness towards Plaintiff, Plaintiff went back into her house to retrieve the golf club she kept near her front door for the specific reason of protecting herself against the same Pitbull dogs.



20. After retrieving the golf club, Plaintiff went back outside and began swinging the club at the dogs only to have some of the dogs turn their attack on her and bite her legs, causing her severe injuries.



21. The brutal and vicious attack on Chris Culbertson lasted a full twenty-three (23) minutes before police showed up.

22. Chris Culbertson sustained substantial and severe injuries from over 300 dog bites, which necessitated over 500 stitches. His cheeks and chin were ripped apart, and his heels and toes were nearly torn off of his feet. Chris Culbertson developed an infection as a result of his injuries and died on November 6, 2024.

23. Plaintiff suffered severe injuries and has also suffered severe emotional and psychological injuries as a direct and proximate result of the facts and circumstances set forth above.

24. After police arrived at the scene, KCPP agents and employees responded to the scene and advised they would need more resources and a warrant in order to seize the dogs involved in the attack of Chris Culbertson and Plaintiff Holly Lane.

PRIOR TO THE ATTACK ON CHRIS CULBERTSON, KCPP HAD CONTRACTED WITH THE CITY OF KANSAS CITY, MISSOURI TO PERFORM ANIMAL CONTROL RESPONSIBILITIES

25. Plaintiff incorporates by reference paragraphs 1 through 24 as if fully stated herein.

26. In 2020, KCPP entered into a contract (hereinafter, “the Contract”) with the City of Kansas City, Missouri (“KCMO”) to assume all animal control responsibilities for KCMO through KCPP’s Animal Services Division.

27. The Contract in part stated that KCPP “shall at all times, faithfully and competently perform all tasks described therein in *strict compliance with and adherence to Chapter 14, Animals, of CITY’s Code of Ordinances and all applicable State, County, and Federal regulations.*”

(emphasis added).

28. KCPP took over animal control for KCMO in 2020 with a promise to write fewer citations despite contracting “strict compliance” as it relates to the enforcement of City Ordinances.

29. KCPP’s proposed animal control services approach emphasized “Education,” specifically through field resolution, field contact, complaints, notices to correct, community events, licensing, and training needed to achieve the prior listed educational goals.

30. KCPP specifically stated its enforcement approach would consist of “working with the City’s law department on creating the most progressive dangerous dog ordinance to enhance public safety” and “Evidence Gathering and Case Management.”

31. KCPP stated that issuing a citation for an ordinance violation is a last resort, in part because it did not want to overburden the municipal court.

32. In the two years before KCPP took over animal control services from KCMO, KCMO animal control officers wrote 3,683 citations, according to Kansas City Municipal Court data.

33. In the two years after KCPP took over animal control services from KCMO, KCPP officers wrote 1,973 citations, a 46% decrease compared to the number of citations issued during the two years before KCPP took over animal control services.

34. During this same time frame, citations for dangerous dogs dropped by approximately one-third.

35. KCMO police work in tandem with KCPP to aid in the enforcement of Kansas City Ordinances.

36. Per the Contract, KCMO had the power and control to take over enforcement of city ordinances if KCPP failed to respond to a scene in a reasonable amount of time.

37. Per the Contract, KCMO designated its employees to oversee and monitor KCPP's performance and compliance with the Contract.

38. The Contract incorporates by reference "ATTACHMENT F, INDUSTRY STANDARDS," which explicitly states, "An Animal Care & Control professional acts as an official representative of government with rights, powers, duties and authority conferred by statute and is obligated and trusted to abide by, work within, and enforce the laws of the state and their respective jurisdiction."

39. KCMO Ordinances require the spay or neuter of Pitbull dogs (with certain exceptions), a policy KCPP has long and publicly opposed. In 2023, KCPP wrote just 48 tickets for failure to spay and neuter, representing a 74% decrease from tickets issued in 2020 for such failures, and an 88% decrease compared to 2019.

KANSAS CITY, MISSOURI ORDINANCES PERTAINING TO ANIMAL CONTROL

40. Plaintiff incorporates by reference paragraph 1 through 39 as if fully set forth herein.

41. "Dangerous dog" is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, as "a dog that: (1) Has inflicted severe injury on a human being without provocation on public or private property; or, (2) Has killed a domestic animal, or other animal protected under federal, state or local rules without provocation while off the owner, keeper or harbinger's property; or (3) Has been previously found to be potentially dangerous, the owner or keeper received notice of such and the dog again aggressively bites, attacks, or endangers the safety of human beings or domestic animals without provocation.

42. “Harboring” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, to mean “any person who offers asylum, refuge or sanctuary to any animal on a basis so temporary as to not be deemed to be owning or keeping shall be deemed harboring.”

43. “Potentially dangerous dog” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, as “ a dog that when unprovoked: (1) inflicts bites on a human being or domestic animal or other animal protected under federal, state or local rules, either on public or private property; or (2) chases or approaches a person upon a street or public grounds in a menacing fashion or apparent attitude or attack, a dog with a known propensity, tendency, or disposition to attack without provocation, to cause injury or otherwise threaten the safety of humans, domestic animals, or other animals protected under federal, state, or local rules; or (3) an offspring, older than eight weeks, later born to a dog found to be dangerous.”

44. “Primary enclosure” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, as “any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage, compartment, pool or hutch.”

45. “Proper enclosure to confine the dog” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, as “(1) a securely confined indoor area of the owner’s or keeper’s premises, or a securely enclosed and locked pen, kennel, or other exterior structure on the premises, suitable to prevent the entry of young children or human extremities and designed to prevent a potentially dangerous or dangerous dog from escaping; and, (2) A pen, kennel, or other structure having secure sides and a secure top, and providing adequate shelter from the elements for the dog; and (3) If a pen, kennel, or structure has not bottom secured to the sides, the sides are embedded not less than two feet into the ground; and (4) Doors, windows or other openings, enclosed solely by wire or mesh screening shall not be considered a proper enclosure as defined in this subsection.

46. “Provocation” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, to mean “taunting, teasing, willfully causing undue pain, or unlawfully entering upon or into the property of the owner or keeper.”

47. “Public nuisance” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, to mean “(1) Any animal (or group of animals which contains any animal) which: (a) molests any passerby or chases passing vehicles, including bicycles. (b) Attacks any other animal. (c) Is in heat and not properly confined as provided in section 14-32. (d) Is at large in violation of section 14-33. (e) Damages public or private property. (f) Barks, whines, howls, meows or creates any other disturbance which is continuous or untimely so as to disturb an individual who is a neighbor and who does in writing state that he will so testify if called upon to testify about such matter under oath. For purposes of this subsection, a neighbor is defined as an individual residing in a residence structure which is within 100 yards of the property on which the animal is kept or harbored. (g) Is ridden on public property without a permit or which obstructs or interferes with vehicular or pedestrian traffic. (h) Causes injury to a person. (i) Threatens or causes a condition which endangers public health or safety. (j) Impedes refuse collection by ripping and bag or tipping any container of refuse.”

48. “Severe injury” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, to mean “a physical injury that results in broken bones, or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

49. “Unfit owner” is defined in § 14-1 of Kansas City, Missouri Code of Ordinances, to mean “any person who by past violations and convictions has proven himself or herself unworthy to own, keep or harbor a pet in the city.”

50. § 14-2 of Kansas City, Missouri Code of Ordinances sets forth the duties of supervisor of animal health and public safety to be to administer and enforce the provisions of Chapter 14 of the Kansas City, Missouri Code of Ordinances unless otherwise provided by the city manager.

51. § 14-3 of the Kansas City, Missouri Code of Ordinances sets forth the duties of police department which include enforcing the provisions of Chapter 14 of the Kansas City, Missouri Code of Ordinances, and to assist the supervisor of animal health and public safety in enforcing the provisions of Chapter 14 of the Kansas City, Missouri Code of Ordinances.

52. § 14-20 of the Kansas City, Missouri Code of Ordinances states that “It shall be the duty of every person owning, keeping, or harboring in the city . . . over 120 days old to procure a license therefore from the commissioner of revenue or his designee.

53. § 14-28 of the Kansas City, Missouri Code of Ordinances states that “It shall be unlawful and a public nuisance for any person in charge of a residence to keep or allow to be kept more than four dogs . . . over the age of 120 days. (c) When animals in excess of the limit established in subsection (a) or (b) of this section are found at a residence, all of the animals found at the residence may be removed to the municipal animal shelter to be handled in accordance with section 14-34, except that the person in charge of the residence, if present, may designate and retain up to four licensed . . . dogs.”

54. § 14-29 of the Kansas City, Missouri Code of Ordinances controls “Dangerous dogs”. § 14-29 states:

(a) Registration and licensure of potentially dangerous dogs and dangerous dogs.

(1) *Registration and licensure required.* Other than when using a dog as a guard dog or when a commissioned officer is using a dog for law enforcement or when a dog is being held in quarantine pursuant to

law by a licensed veterinarian, no person shall own, keep, harbor or allow to be upon any premises occupied by him or her or under his or her charge or control a potentially dangerous dog or dangerous dog without first having obtained a certificate of registration and a license within 30 days of the date of declaration provided for by this section.

(2) *Issuance of certificate of registration.* A certificate of registration for a potentially dangerous dog and a dangerous dog shall be issued by the city upon a showing of compliance with the following:

a. *Enclosure.* Placement of a proper enclosure on the owner's or keeper's property to confine the dog;

b. *Notice.* A conspicuous notice, which shall be at least two feet by three feet, posted at the place of confinement stating either "Potentially Dangerous Dog" or "Dangerous Dog," in at least two-inch block letters, so as to warn the public of the nature of the dog therein confined; and

c. *Insurance.* For a potentially dangerous dog, a surety bond issued by a surety company authorized to do business in the state in a sum of not less than \$100,000.00 payable to a person injured by the dog or a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less than \$100,000.00 insuring the owner or keeper for personal injuries inflicted by the dog; or, for a dangerous dog, a surety bond issued by a surety company authorized to do business in the state in a sum of not less than \$250,000.00 payable to a person injured by the dog or a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less than \$250,000.00 insuring the owner or keeper for personal injuries inflicted by the dog. An insurance policy issued to satisfy the insurance requirements of this section shall provide for written notice to the city within 30 days of cancellation, reduction of limits, or termination of coverage; and

d. *Microchip.* That a microchip has been placed into the dog by animal health and public safety for the purpose of registering such dog with animal health and public safety. The microchip shall contain the owner's, keeper's or harborer's animal health and public safety generated and assigned "dangerous dog registration number" and such other information as required pursuant to the rules and regulations

of animal health and public safety. Animal health and public safety shall keep records of the microchip placement and of the registration number.

(3) *Declaration.* The supervisor of animal health and public safety may declare an animal a potentially dangerous dog or a dangerous dog if the supervisor has probable cause to believe that the animal falls within the definition set forth in this chapter.

a. *Probable cause to declare.* For the purposes of this section, probable cause includes:

1. A prior court conviction that indicates the dog has acted in a manner causing it to fall within the definition of a potentially dangerous dog or a dangerous dog; or
2. A dog bite report filed with the supervisor of animal health and public safety; or
3. Actions of the dog witnessed by any animal health and public safety officer or law enforcement officer; or
4. A verified report that the animal previously has been found to be either a potentially dangerous dog or a dangerous dog by any animal control authority; or
5. Other substantial evidence admissible in a court of law.

b. *Service of declaration.* The declaration shall be in writing, and shall be served on the owner or keeper either by regular United States mail to the owner's, keeper's or harbinger's last known address or by personal service.

c. *Contents of declaration.* The declaration shall state at least:

1. A description of the animal; and
2. The name and address of the owner, keeper or harbinger of the animal, if known; and,
3. The whereabouts of the animal if it is not in the custody of the owner, keeper or harbinger; and,
4. The facts upon which the declaration is based; and,

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5. The availability of a hearing in case the person objects to the declaration, if a request is made in writing within five days of the date of receipt of the declaration; and,

6. The restrictions placed on the animal as a result of the declaration; and

7. The penalties for violation of the restrictions, including the possibility of the destruction of the animal, and imprisonment or fining of the owner, keeper or harborer.

d. *Appeal of declaration.* The owner, keeper or harborer may, within five days of receipt of the declaration, file a written request for a hearing. The request must be sent to the director of neighborhood and community services. The appeal will be heard by the director or a hearing officer who is appointed by the director to consider these appeals. Following the directors or hearing officers decision pursuant to this subsection, the owner, keeper or harborer shall be considered to have exhausted such owner's, keeper's or harborer's administrative appeal. If the director or hearing officer finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled. If the director or hearing officer finds sufficient evidence to support the declaration then it shall be affirmed.

e. *Impoundment pending appeal.* Following the service of a declaration of a potentially dangerous or a dangerous dog, and pending appeal pursuant to this subsection, the supervisor of animal health and public safety may, if circumstances require, impound the animal at the owner's, keeper's or harborer's expense, pursuant to the provisions of this chapter, until the director of neighborhood and community services orders either its redemption or destruction.

(4) *Licensure.* The owner, keeper or harborer of a potentially dangerous dog or a dangerous dog shall obtain a license from the supervisor of animal health and public safety for any such dog.

a. *Licensure fees.* The owner, keeper or harborer shall pay the fee for such potentially dangerous dog or dangerous dog license in the amount set forth in this subsection. In addition,

the owner, keeper or harborer of such dog shall pay an annual renewal fee for such license in the amount set forth in this subsection. Annual renewal of any license shall be conditioned on compliance with the requirements of this chapter. The supervisor of animal health and public safety is authorized to pro rate the license fee for the remainder of the first year during which an animal becomes subject to the registration requirements of this subsection.

b. *Licensure information.* The owner, keeper or harborer of a dog that is subject to a potentially dangerous dog or dangerous dog license shall furnish the following information along with the appropriate license fee:

1. The animal's age, weight, coloring, breed, and any other special identifying characteristics; and
2. Two 3" x 5" color photographs of the animal; and
3. Proof of current rabies vaccination for the animal; and
4. For potentially dangerous dogs, a certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous dog; or, for dangerous dogs, a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.

c. *Fee amounts.* The license fee for each potentially dangerous dog to be licensed pursuant to this subsection is \$100.00. The annual renewal fee for each potentially dangerous dog licensed pursuant to this subsection is \$50.00. The license fee for each dangerous dog to be licensed pursuant to this subsection is \$250.00. The annual renewal fee for each dangerous dog licensed pursuant to this subsection is \$50.00.

(b) *Violations, impoundment and exemptions for potentially dangerous dogs and dangerous dogs.*

- (1) *Confinement and posting, violation.* An owner, keeper or harborer of a potentially dangerous dog or a dangerous dog who fails to comply with the requirements of this subsection related to confinement in a proper enclosure or posting of warning notices shall be guilty of a violation of this chapter.

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(2) *Noncompliance violation, potentially dangerous dog.* An owner, keeper or harbinger of a potentially dangerous dog who fails to obtain a license and certificate of registration, or renewal, for such dog as required in this subsection shall be guilty of a violation of this chapter; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner, keeper or harbinger is notified by the supervisor of animal health and public safety that such license or renewal for such potentially dangerous dog is required, or until any appeal has been completed, whichever is later.

(3) *Noncompliance violation, dangerous dog.* An owner, keeper or harbinger of a dangerous dog who fails to obtain a license and certificate of registration, or renewal, for such dog as required in this subsection shall be guilty of a violation of this chapter; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner, keeper or harbinger is notified by the supervisor of animal health and public safety that such license or renewal for such dangerous dog is required, or until any appeal has been completed, whichever is later.

(4) *Restraint and muzzling, violation.* An owner, keeper or harbinger of a potentially dangerous dog or a dangerous dog shall not allow such animal to be outside the proper enclosure, unless the dog is muzzled and restrained by a substantial chain or leash not longer than 48 inches and under the physical control of a person 18 years of age or older who is capable of restraining such animal. The muzzle shall be constructed so that it will not cause injury to the dog or interfere with its vision or respiration. Such muzzle shall be constructed so that it will prevent the dog from biting any person or animal. Such dogs shall not be leashed or otherwise tied tethered to inanimate objects, such as trees, posts, buildings, mail boxes, newspaper vending machines, and the like. Dogs subject to the provisions of this subsection shall wear a bright orange collar not less than two inches in width, at all times.

(5) *Age, violation.* It is a violation of this chapter for any person under the age of 18 years to own, keep or harbor a potentially dangerous or dangerous dog within the city limits.

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(6) *Number of dogs allowed, violation.* It is a violation of this chapter for any person to own, keep or harbor more than one potentially dangerous dog or dangerous dog within the city limits.

(7) *Transfer of dogs, violation.* It is a violation of this chapter to transfer ownership or possession of a potentially dangerous dog or dangerous dog within the city limits unless the recipient has complied with the registration and licensing requirements of this subsection for such animal.

(8) *Unregistered offspring, violation.* It is a violation of this chapter to own, keep or harbor the offspring of a dangerous dog within the city limits for more than eight weeks following the birth of such offspring unless the offspring are registered as potentially dangerous dogs pursuant to this subsection.

(9) *Failure to report injury, violation.* It is a violation of this chapter for the owner, keeper or harbinger of any animal which is subject to the licensing requirements of this subsection to fail to report any bites or injuries suffered by any person or domestic animal as a result of an attack incident or other contact with such animal, regardless of the geographical location where such attack, incident or other contact occurs.

(10) *Failure to report certain information, violation.* It is a violation of this chapter for an owner, keeper or harbinger of any animal subject to the licensing requirements of this subsection to fail to immediately notify the supervisor of animal health and public safety in writing of the removal from the city or death of any dog registered pursuant to this subsection, or of the birth of offspring of any dangerous dog, or of the new address of the owner, keeper or harbinger of any dog registered pursuant to this subsection if such person moves within the city limits.

(11) *Compliance, generally, violation.* It is a violation of this chapter to fail to comply with the mandatory or prohibitory provisions of this subsection.

(12) *Noncompliance, impoundment.* Any potentially dangerous dog or dangerous dog, for which a license and certificate of registration, or renewal, has not been obtained by its owner, keeper or harbinger pursuant to this subsection, is subject to being impounded by the supervisor of animal health and public safety. The owner, keeper or harbinger of any potentially dangerous dog or dangerous dog so impounded shall be subject to any impoundment fees. Any potentially dangerous dog or dangerous dog which is impounded due to the failure of the owner, keeper or harbinger of such dog to obtain the required license or certificate of registration, and which remains impounded for a period of at least five days due to the failure of the owner, keeper or harbinger to obtain such license or

certificate of registration, or renewal, may be destroyed in an expeditious and humane manner by the supervisor of animal health and public safety.

(13) *Impoundment, immediate.*

a. The supervisor of animal health and public safety may immediately impound a potentially dangerous dog or dangerous dog if:

1. The dog is not validly licensed or registered pursuant to this subsection; or
2. The owner, keeper or harbinger does not secure or maintain the surety bond or liability insurance coverage required pursuant to this subsection; or
3. The dog is not maintained in a proper enclosure; or
4. The dog is outside of the dwelling of the owner or keeper, or outside of the proper enclosure, and not muzzled and under proper physical restraint by the responsible person; or
5. The dog is otherwise in violation of the licensure or registration provisions of this subsection.

b. The owner, keeper or harbinger of any dog immediately impounded pursuant to this subsection may redeem such dog from the supervisor of animal health and public safety only upon proof of a valid license and registration pursuant to this subsection and payment of all applicable fees each day such dog has been in the control of the supervisor, provided however, that in the event the owner, keeper or harbinger has not redeemed such dog within five days of being notified of the immediate impound, the dog shall be destroyed in an expeditious and humane manner.

(14) *Impoundment for biting.* If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by the supervisor of animal health and public safety and thereafter destroyed in an expeditious and humane manner. Any such animal which is deemed uncatchable by the supervisor or an animal health and public safety official may be killed by such supervisor or official if no other reasonable means of capture is available or such animal continues to be a threat to persons or

domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death.

(15) *Exceptions.* A dog shall not be declared potentially dangerous or dangerous if the threat, injury, or damage otherwise giving rise to action pursuant to this subsection was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner, keeper or harbinger of the dog or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

(c) *Guard dogs.* Any guard dog (for the purpose of this chapter, defined as a dog not owned by a governmental unit which dog is used to guard private commercial property or public property) used in the city by virtue of such use is hereby declared to be subject to the license requirements of this chapter; must be vaccinated against rabies by a licensed veterinarian; must, if brought into the city from outside the state, be accompanied by the official health certificate required by the state, currently set out in 2 CSR 30-2.010(9), which certificate shall be exhibited upon the request of any city animal health and public safety or police officer; must be effectively physically restrained to the premises guarded; must be controllable by its keeper; and must not be used in a manner which, as determined by the supervisor of animal health and public safety, endangers individuals not on the premises guarded. Any person operating a guard dog service in the city shall register such business with the supervisor of animal health and public safety and shall list all premises to be guarded with the supervisor of animal health and public safety before such service begins.

(d) *Biting dogs running at large.* It shall be unlawful for any person owning, keeping or harboring any dog to permit, suffer or allow the dog to run at large, as defined in section 14-33(a), within the city. If the dog causes injury to a human by biting or scratching while running at large, the owner, keeper or harbinger shall upon conviction be punished pursuant to this section and section 14-51(a).

(e) *Destruction of dogs in custody of supervisor of animal health and public safety.* Any dog which is in the custody of the supervisor of animal health and public safety, and which in the judgment of the supervisor of animal health and public safety would constitute a menace to the health, safety or welfare of the public if released from such custody, may be humanely killed by the supervisor of animal health and public safety.

(f) *Penalty; authority to order destruction of dog.* Any violation of this section shall be punishable pursuant to section 14-51(a), except that the minimum

fine for violation of any provision of this section shall be \$250.00. Upon conviction of failure to comply with any provision of this section, in addition to the usual judgment on conviction, if it shall appear to the municipal judge that such dog is still living, he may order that such dog be humanely killed, and direct the supervisor of animal health and public safety to enforce that order, and the police department shall assist as may be required by the supervisor of animal health and public safety.

§ 14-31 of the Kansas City, Missouri Code of Ordinances controls “Animals putting persons in fear or being maintained as public nuisance”. § 14-31 states:

- (a) Pursuant to Charter authority at section 1(47) to regulate or prohibit the keeping or running at large of any animal or fowl, this chapter regulates the possession of all animals and fowl in this city and seeks to balance the consequences of the exercise of such privilege of possession with the right of all citizens to enjoy a normal urban environment free of reasonable fear or dogs or other animals possessed within this city.
- (b) No person shall own, keep or harbor any dog or other animal that is not securely confined, which by attempting to bite, jump upon, charge toward or otherwise threaten any other person shall cause such other person to have a reasonable fear of immediate serious physical injury. Any person cited pursuant to this subsection may state as a defense subject to proof that the threatening behavior of the animal was instigated or provoked by the complainant or that the fear expressed by the complainant was not a reasonable fear of immediate serious physical injury, and the court shall give any such defense such weight as the court in its judicial discretion finds to be appropriate in the circumstances of the case. Complaints under this subsection may only be lodged by an animal health and public safety officer.
- (c) It shall be a violation to maintain any animal or fowl within the city as a public nuisance as such is defined by the common law of the state, the statutes of the state or the ordinances of this city.
- (d) No person shall own, keep or harbor any dog or other animal or fowl in such manner as to hinder, obstruct or interfere with access to an outside utility meter, utility pole or mailbox by any authorized employee of the utility or postal service. Any dog or other animal or fowl so owned, kept or harbored as to hinder, obstruct or interfere with access to an outside utility meter, utility pole or mailbox may be removed by the supervisor of animal health and public safety and taken to the animal shelter, where it will be treated as a stray under this chapter.
- (e) It shall be the primary responsibility of the division of animal health and public safety to provide services as enumerated in subsections (a) through

(d) of this section; however, in cases of immediate danger of physical injury or death to any persons, the division may call upon police personnel to assist in the handling of situations arising under this section. This section shall not be construed to impose regulation upon animals or fowl exempt from regulation pursuant to sections 14-45 or 14-46, nor shall it be construed to regulate dogs owned by any guard dog services registered as a business with the supervisor of animal health and public safety as provided for in section 14-29.

PREVIOUS ATTACKS, COMPLAINTS, AND PRIOR NOTICE

- 56. Plaintiff incorporates paragraphs 1 through 55 as if fully stated herein.
- 57. Prior to November 2, 2024, Plaintiff was threatened by one or more of the Pitbull dogs kept at the Property and had to mace one or more of them and use a golf club to defend herself.
- 58. Prior to November 2, 2024, Plaintiff’s husband was threatened and attacked by one or more of these Pitbull dogs.
- 59. Prior to November 2, 2024, KCPP had received multiple complaints from residents living in and around the 3100 and 3200 blocks of East 80th Street that various Pitbull dogs in the neighborhood had escaped their enclosures; had attacked or killed other domestic animals in the neighborhood; and were roaming the surrounding neighborhood, scaring and intimidating neighborhood residents to the point they became afraid to leave their own homes out of fear for their own safety and for the safety of their children, especially while walking their children to the neighborhood bus stop.
- 60. Beginning with its Animal Services Division (“ASD”) Report for the month of February 2023, and continuing with its monthly ASD Reports for each and every successive month thereafter up to the time of the attack on Chris Culbertson, KCPP included the 3100 block of East 80th Street in its listing of “Directed Patrol Areas.”

61. In its monthly ASD Reports, KCPP explained its designation of a “Directed Patrol Area” as follows:

Frequently, our Animal Services Division receives reports from residents of dogs habitually roaming a neighborhood or dogs that have become a public safety concern or nuisance problem for a specific neighborhood. However, sometimes officers are unable to locate the dog(s) when they arrive. To resolve ongoing cases of this nature and to provide continued enforcement efforts for these issues, directed patrols have been established whereby officers schedule frequent drive-bys through these specific areas looking for the dogs. The following locations are currently identified as Directed Patrol Areas where officers are looking for dogs reported as habitually roaming, public nuisances, or aggressive dogs.

62. In its ASD Report for the month of October 2024, KCPP included not only the 3100 block of East 80th Street but also the 3200 block of East 80th Street in its list of Directed Patrol Areas.

63. In April 2024, The Mount Prospect Homeowners Association wrote to KCMO police and city officials advising, “We have reported off-leash dogs to Animal Control on more than three occasions recently and have received zero support in containing the dogs. This is a major safety concern for our residents, including seniors, children, and pets, who live in the community.”

PLAINTIFF vs. KCPP - NEGLIGENCE

64. Plaintiff incorporates paragraphs 1 through 63 as if fully set forth herein.

65. KCPP owed the public and Plaintiff reasonable care in carrying out the duties of animal control for KCMO.

66. Prior to November 2, 2024, KCPP knew or by using ordinary care could have known there were several aggressive and/or dangerous and/or potentially dangerous Pitbull dogs running loose in, and roaming and terrorizing, the neighborhood in and around the 3100 and 3200 blocks of East 80th Street and threatening the safety and well-being of residents and visitors to that neighborhood.

67. KCPP failed to use ordinary care and breached its duty to Plaintiff and to the public in the following respects:

- (a) It failed to adhere to industry standards governing and applying to the performance of animal control services;
- (b) It failed to investigate complaints regarding the subject Pitbull dogs and other animals, generally;
- (c) It failed to enforce Chapter 14 of the City's Code of Ordinances, as amended, as to the subject Pitbull dogs and other animals, generally;
- (d) It failed to keep investigative reports;
- (e) It failed to obtain search warrants;
- (f) It failed to pick up and impound the subject Pitbull dogs, and other animals at large;
- (g) It failed to pick up and impound animals reported to have bitten a person or a domestic animal;
- (h) It failed to issue citations;
- (i) It failed to respond to complaints regarding the subject Pitbull dogs and other animals;
- (j) It failed to comply with KCMO's dangerous dog declarations;
- (k) It failed to participate in on-going training;
- (l) It failed to enforce KCMO's prohibitions against the keeping of dangerous animals within the City;
- (m) It failed to enforce the limits of animals kept lawfully;
- (n) It allowed a public nuisance to exist;
- (o) It failed to prevent the subject Pitbull dogs from biting Plaintiff;
- (p) It allowed known dangerous and/or potentially dangerous Pitbull dogs to remain with an unfit owner;
- (q) It allowed an unfit owner to own, keep, and/or harbor aggressive and/or dangerous and/or potentially dangerous Pitbull dogs; and

(r) It allowed an unfit owner to own, keep, and/or harbor aggressive and/or dangerous and/or potentially dangerous Pitbull dogs despite lack of a proper enclosure to confine the dog(s).

68. As a direct and proximate result of KCPP's actions and/or failures as described above, Plaintiff sustained serious and severe physical, psychological, and emotional injuries; has incurred, and may continue to incur medical expenses; and has experienced and will continue to experience, pain and suffering.

WHEREFORE, Plaintiff prays for judgment against Defendant for fair and reasonable damages, together with all other relief the Court deems just and proper, as well as costs and expenses incurred in the prosecution of said claim.

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