

STATE OF MAINE
PENOBSCOT, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. PENS-CV-2021-20

OTTO SNOW,)
)
 Plaintiff)
)
 v.)
)
 ANDREW DAVIS and DORA SMITH)
 FAMILY REAL ESTATE COMPANY,)
 LLC c/o Barbara Nichols,)
)
 Defendants)
)
)
)
 _____)

ZOOM DEPOSITION OF: ANDREW DAVIS

BEFORE: Lisa Fitzgerald, Notary Public, via Zoom on
January 26, 2022 beginning at 1:04 p.m.

Maine Court Reporting Services
60 Starlight Drive
Brewer, Maine 04412



A P P E A R A N C E S

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Reporter's Note: PDF of read and sign was sent to
Mr. Szewczyk.

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Exhibits

No.	Description	Page
	None	

1 (This deposition was taken before Lisa Fitzgerald,
2 Notary Public, via Zoom on January 26, 2022 beginning at
3 1:04 p.m.)

4 * * * * *

5 (Also present at the deposition was Otto Snow.)

6 * * * * *

7 (The deponent was administered the oath by the
8 Notary Public.)

9 * * * * *

10 ANDREW DAVIS, called, after having been duly sworn on his
11 oath deposes and says as follows:

12 EXAMINATION

13 BY MR. MARJERISON:

14 Q. Mr. Davis, my name is Thomas Marjerison and I represent
15 the landlord of the building where this incident
16 occurred, and we're here for your deposition; do you
17 understand that?

18 A. I do.

19 Q. Have you ever had your deposition taken before?

20 A. I have not.

21 Q. My client is Dora Smith Family Real Estate Company, and
22 I'm just going to refer to that as the landlord to make
23 it simpler; is that agreeable to you?

24 A. Yes, sir.

25 Q. Before we begin I just want to go over some of the

1 ground rules for a deposition. This is a chance for us
2 to ask you questions under oath about the claims and
3 defenses in this case; do you understand that?

4 A. I do.

5 Q. One thing that's really important, especially in a Zoom
6 platform, is that we not speak over each other. I
7 guarantee I will ask a question when the answer is
8 obvious halfway through the question.

9 Please let me finish my question before you begin
10 your answer so we don't cut each other off and so that
11 the court reporter can take us both down; do you
12 understand that?

13 A. Yep.

14 Q. I'm also going to ask you to answer yes or no so it's
15 clear on the record. If you say yep or gesture, it
16 won't come out. So don't think I'm being rude if I ask
17 you to say yes or no to a question rather than nodding;
18 do you understand that?

19 A. Yes, sir.

20 Q. All right. I guarantee this will be one of the shortest
21 depositions ever, but if at any time you want to take a
22 break, just let me know, I'll stop, and we'll happily
23 let you take a break at any time; do you understand
24 that?

25 A. Yes.

1 Q. If at any time I ask you a question and you don't
2 understand it or it's a question you want me to explain,
3 just let me know and I'm more than happy to explain the
4 question or ask a different question to make it clearer;
5 do you understand that?

6 A. Yes.

7 Q. Sir, where do you presently live?

8 A. [REDACTED] Brewer Lake Road, Orrington, Maine.

9 Q. And will you please state your full name and date of
10 birth?

11 A. Andrew Davis, [REDACTED].

12 Q. And what do you do for work?

13 A. I'm a potato chip distributor.

14 Q. And what do you do as a potato chip distributor?

15 A. I drive a truck to stores with a truck full of potato
16 chips, and I sell them potato chips.

17 Q. I could figure that out. Where are you located
18 presently?

19 A. My house in Orrington.

20 Q. Is anybody else there in the room with you?

21 A. They are not.

22 Q. Okay. What I want to do is ask some questions about
23 this dog bite incident that occurred back on April 15th,
24 2018 on Earle Street in Bangor, the Earle Street area.

25 Do you recall that day?

1 A. I do.

2 Q. There was a dog named Piper; is that correct?

3 A. Yes, sir.

4 Q. And you agree you were the owner of that dog?

5 A. Yes, sir.

6 Q. All right. And why were you at 31 Earle Street in
7 Bangor that day?

8 A. My mother rented the apartment.

9 Q. Had you ever been to her apartment with Piper before?

10 A. I had.

11 Q. On the date that you visited your mom at the apartment,
12 was Piper on a leash?

13 A. Piper was on a leash at the time of the incident.

14 Q. Okay.

15 MR. SZEWCZYK: Can you get specific as to when?

16 MR. MARJERISON: Sure. I'd be more than happy to.

17 BY MR. MARJERISON:

18 Q. When you first went to the apartment to go into the
19 apartment, was Piper on a leash before you went into the
20 apartment?

21 A. Yes, sir.

22 Q. So you had Piper on a leash, you went into the
23 apartment. When you were inside the apartment itself,
24 that's when you took Piper off the leash; is that right?

25 A. Yes, sir.

1 Q. And then you put Piper back on the leash before you went
2 outside to leave; correct?

3 A. No, sir.

4 Q. All right. Why is that incorrect?

5 A. Piper was off leash as I stepped out of the door.

6 Q. Okay. Up until the point of the incident of the dog
7 bite, was Piper on a leash at all?

8 A. Yes.

9 Q. When did you put Piper on a leash after you left the
10 apartment?

11 A. Piper -- Piper and I left the apartment. Piper ran to
12 the edge of the property, I called Piper back to me
13 because I saw there were people. Piper came back to me,
14 she sat down, and then I put her on a leash.

15 Q. Okay. So when you left the apartment, you had Piper
16 under voice control; correct?

17 A. Correct.

18 Q. And based upon your experience with Piper, she was a dog
19 that would respond to voice control; is that correct?

20 A. Correct.

21 Q. What type of dog is Piper?

22 A. A terrier/pit bull mix.

23 Q. Is she a rescue dog?

24 A. Yes, sir.

25 Q. How long had you had Piper before this --

1 A. Six months.

2 Q. -- incident happened?

3 Let me finish my question. I promise I'm going to
4 go quick, okay.

5 So you had her for six months. During that time
6 period, did you ever feel she posed a danger at all to
7 people or property?

8 A. No, sir.

9 Q. Had she ever lunged or bit anybody?

10 A. No, sir.

11 Q. Had she ever exhibited aggressive tendencies or cause
12 you concern that she might bite or injure somebody?

13 A. No, sir.

14 Q. With respect to the day of the incident, how far did
15 Piper run before you called her back, approximately?

16 A. Across the yard.

17 Q. How many feet is that, approximately?

18 A. 20.

19 Q. When you yelled for Piper to come back, did she
20 immediately come back to you?

21 A. Yes, sir.

22 Q. And based on past experience, did you expect that she
23 would come back based on being called?

24 A. Yes, sir.

25 Q. When she came back to you, what did you do?

1 A. I put Piper on leash. Otto commented on how I had a
2 pretty dog, and I responded with, her name is Piper,
3 would you like to meet her?

4 Q. Let me stop you right there. Where was your mother when
5 this incident occurred?

6 A. Inside her apartment.

7 Q. Okay. Did she -- to your knowledge, did she see
8 anything that transpired?

9 A. No, sir.

10 Q. Based upon your knowledge, would there be any reason for
11 your mother to believe Piper was a dog that posed a
12 danger to people?

13 MR. LARGAY: Objection as to the form.

14 MR. MARJERISON: Okay, what about the form? I'll
15 fix it.

16 MR. LARGAY: The question is asking what he
17 believes was in his mother's mind.

18 MR. MARJERISON: Based upon his knowledge. I'm not
19 asking what was in her mind.

20 I'll rephrase the question.

21 BY MR. MARJERISON:

22 Q. Based upon your knowledge and perception, can you think
23 of anything that would lead your mother to believe that
24 Piper posed a danger to another person?

25 A. No, sir.

1 Q. Had you ever discussed -- had your mother raised
2 concerns about Piper being dangerous?

3 A. No, sir.

4 Q. Had you ever had any communications with the landlord or
5 the landlord's representative at any time prior to this
6 incident?

7 A. I had not, no.

8 Q. Are you aware of the landlord or the landlord's
9 representative ever being aware of who Piper was and
10 whether Piper visited the apartment?

11 A. Yes, sir.

12 Q. What was that based upon?

13 A. My mother had informed the landlord, Barbara, that I had
14 gotten a dog and the dog may be stopping by with me.

15 Q. When did she do that?

16 A. I do not know the exact date, but I know they had the
17 conversation twice because Barbara verified that it was
18 not my brother living at the house but me who lives
19 somewhere else that had the dog.

20 Q. And so the landlord, Barbara, had verified that Piper
21 was not living at the apartment; correct?

22 A. Yes, sir.

23 Q. And that's because dogs weren't allowed to live with
24 residents at the apartment; correct?

25 A. Correct.

1 Q. So that was just an inquiry that Barbara had made to
2 ensure the dog wasn't living there; correct?

3 A. My mother had informed Barbara, and Barbara was clearing
4 up that the dog was not living there.

5 Q. Now, based upon your perception and understanding, can
6 you think of any reason that the landlord or the
7 landlord's representative would have any belief or
8 reason to believe that Piper was a dangerous dog?

9 A. No, sir.

10 Q. I interrupted you. You called -- you left off with
11 Piper came back to you, you put Piper on a leash;
12 correct?

13 A. Yes, sir.

14 Q. How long was the leash, approximately?

15 A. Approximately 5 feet, sir.

16 Q. And describe to me what happened next.

17 A. I -- Otto asked me -- commented on how pretty my dog
18 was. I asked if he would like to meet her. He said,
19 yes. I proceeded across the yard, and as I did that I
20 informed him to be careful, she likes to jump, and we
21 proceeded across the yard. Piper leaped up to see Otto,
22 Otto looked down to see Piper, and they butted heads.

23 Q. Okay. So, in other words, before this happened, you had
24 warned Otto that Piper was a dog that would jump; right?

25 A. Yes, sir, that was the last thing I said.

1 Q. When you walked across the yard to the sidewalk where
2 Otto was, Piper then jumped up; is that correct?

3 A. Yes, sir.

4 Q. And was Otto on the actual sidewalk itself when this
5 occurred?

6 A. No, sir, the sidewalk was actually across the yard --
7 across the road. He was walking the property line in
8 the road when he was walking.

9 Q. Was he actually on the tarred portion when the dog
10 jumped up?

11 A. I believe we were all on the grass when the dog jumped
12 up.

13 Q. And how far do you think Otto was from the tarred
14 portion when the dog jumped up?

15 A. Approximately within 6 feet.

16 Q. Now, as you described, Otto bent down at the same time
17 the dog jumped up; correct?

18 A. You're correct.

19 Q. When that happened, describe for me what happened next.

20 A. The two of them bumped heads and Otto's lip got busted
21 open.

22 Q. Okay. When that happened, what did you do?

23 A. I called for -- I put Piper in the car, I sent my wife
24 in to retrieve my mother. We got a clean towel for
25 Otto, and then we brought Otto to St. Joseph Hospital,

1 which is just down the road.

2 Q. So you did everything you could to help Otto; correct?

3 A. Yes, sir.

4 MR. LARGAY: Objection as to form.

5 BY MR. MARJERISON:

6 Q. What was Otto's reaction? Was he angry? Understanding?

7 A. He seemed understanding. I mean, upset about the
8 incident, but he seemed like an understanding gentleman.

9 Q. After you took him to St. Joseph's, did you have any
10 further contact with Otto?

11 A. I actually stayed with him until he was seen by the
12 doctor at St. Joseph's and then spoke with him on the
13 telephone a few days later.

14 Q. And when you spoke with him on the telephone two days
15 later, what did he say to you? **I asked him for the photos of my face. Which he sent.**

16 A. We spoke about a lot of different things. My assumption
17 was that I was going to receive pictures of his garage
18 and I was going to paint his garage in compensation for
19 that and I never received the pictures.

20 Q. Did you have any further contact with Otto after that
21 telephone call two days after the incident?

22 A. No, sir.

23 Q. So you had this discussion where you offered to paint
24 his garage as compensation for what happened and then
25 heard nothing further from him; is that correct?

1 A. Correct.

2 Q. Where's Piper now? Do you still have her?

3 A. In the other room.

4 Q. Okay. Since this incident she's never acted
5 aggressively or --

6 MR. LARGAY: Objection as to form.

7 MR. MARJERISON: I think we talked over each other.

8 BY MR. MARJERISON:

9 Q. Since this accident, has Piper acted aggressively
10 towards any person?

11 A. No, sir.

12 Q. Since this accident, have there been any incidents that
13 would cause you to believe that Piper would pose a
14 danger to another person?

15 A. No, sir.

16 MR. MARJERISON: I have no further questions.
17 Thanks for your time, sir. See, I told you it would be
18 the fastest deposition ever.

19 THE WITNESS: It's the only one I've ever been in.

20 MR. MARJERISON: The other lawyers may have
21 questions for you. I have nothing further.

22 MR. LARGAY: Mr. Davis, my name is Christopher
23 Largay. I represent Mr. Snow who is with us today but
24 not on video.

25

EXAMINATION

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BY MR. LARGAY:

Q. How long have you lived at the Brewer Lake address?

A. Three years. It will be four in June.

Q. Okay. Is that owned by you or someone else?

A. Someone else.

Q. Okay. You're a tenant in the house?

A. Yes, sir.

Q. And is there one unit there or more than one unit?

A. One unit.

Q. And do you have any roommates in that house or does anyone else live with you?

A. My wife and I.

Q. I'm sorry?

A. My wife and I.

Q. And what's your wife's name?

A. Sierra Davis.

Q. And were you married at the time of this incident around April 15, 2018?

A. We were not. We were married on March 20th, 2020.

Q. Okay. Is Sierra also an owner of the dog or are you the sole owner?

A. She would be as much of an owner as I am.

Q. Okay. When did you acquire Piper?

A. The exact -- November 2018.

1 Q. Okay. Is there any particular reason how you remember
2 what month it was?

3 A. Because I have the records that said I'm being sued so
4 I've seen the paperwork on my dog quite a bit lately.

5 Q. Okay. Did you review paperwork prior to your deposition
6 today?

7 A. I reviewed just my answers to the admissions.

8 Q. The -- okay, the admissions of the interrogatories?

9 A. The request for admissions that I had to answer.

10 Q. Okay. And do you agree having reviewed those and
11 refreshed your memory of what the questions were and
12 your answers to those, do you agree to your answers as
13 you previously did them, or do you have any changes to
14 your responses?

15 A. I agree with the statements.

16 Q. Okay. Where did you acquire Piper in November of 2018?

17 A. The Bangor Humane Society.

18 Q. Had you ever acquired a dog from the Humane Society
19 before?

20 A. No, sir. Piper is my first dog.

21 Q. Had you been to the Humane Society before this time?

22 A. Yes, sir.

23 Q. For what purposes and how many times?

24 A. I have -- I have found dogs running loose on the side of
25 the road and I have brought them to the Humane Society.

1 I have gone there to look at kittens because they're
2 cute and they like to be looked at. I've been there to
3 purchase pet toys there as well.

4 I picked up my sister when she volunteered there
5 when she was younger. Probably some other times but
6 those are the ones I can remember.

7 Q. Okay. How much did you go in connection with Piper?

8 A. I went once -- I went -- we were looking for a dog. The
9 one that I had found online and liked was Piper, and we
10 watched her on there for two weeks or so and she was
11 still on there, so we thought that she wanted a good
12 home, so we went and we got her and brought her home
13 after having a meeting.

14 We did an interaction with the people at the Humane
15 Society and met with the dog and played with a toy for
16 20 minutes or so and left and decided I think we should
17 go get her.

18 So we went to the store and got a leash and a
19 collar because you can't leave without a leash and a
20 collar, and went back and picked her up.

21 Q. Okay. And you were in the Humane Society for about 20
22 minutes the first time, left to get the leash and collar
23 purchased, and then returned a second time, and that's
24 when you --

25 A. We were in the Humane Society for probably an hour to an

1 hour and a half. We had a 20-minute meeting with Piper.

2 Q. Okay. And what was the -- what else did you do during
3 the meeting, the other hour and 10 minutes or so?

4 A. We walked around and looked at the other dogs there, we
5 looked at her through the gate. We waited for someone
6 to be available for us.

7 We discussed owning a dog and the responsibilities
8 that went along with it. Just time to make the
9 decision.

10 Q. Sure. And you obviously filled out some paperwork?

11 A. Yes, sir.

12 Q. Okay. Do you have copies of that paperwork at home or
13 in the records?

14 A. Yes, sir.

15 Q. Okay. In addition to that paperwork, do you remember
16 what paperwork you filled out or what forms were asked
17 of you?

18 A. We went over the -- Piper's known medical history with
19 them, we went over how she got to the Humane Society.
20 There's a release form -- I don't remember -- a bunch of
21 other technical documents that I do not recall detail at
22 the moment.

23 Q. Okay. I'm sorry, go ahead.

24 A. No, I was done.

25 Q. Was there any information -- what information did you

1 learn about Piper's history?

2 A. That a young couple had her for 6 months to a year and
3 they put her up for adoption. Another couple brought
4 her home, had her for a weekend, and since they had a
5 young baby, they decided that that may not have been
6 their best choice to have an energetic dog with a very
7 young child, and they brought her back, and that is when
8 we found her.

9 Q. And what did you learn about Piper being too energetic?
10 What other information about being -- was it hyper?

11 A. There was no other information. That was it.

12 MR. SZEWCZYK: I want to impose an objection to the
13 characterization of the testimony.

14 MR. LARGAY: Okay.

15 BY MR. LARGAY:

16 Q. You don't recall anything else other than she was, in
17 your words, too energetic; is that right?

18 A. Yes, sir.

19 Q. Okay. Did you ever speak with that second couple?

20 A. No, sir.

21 Q. And how about the first young couple that originally got
22 her?

23 A. No, sir.

24 Q. Okay. And do you know where Piper was born?

25 A. No, sir.

1 Q. Do you know how long she had been at the Humane Society
2 before the first young couple adopted her?

3 A. I do not recall, but I'm pretty sure that's in the
4 paperwork.

5 Q. Okay. Were you told as to whether Piper had had any
6 obedience training at all?

7 A. There was no record of that.

8 Q. Okay. Did you have Piper undergo any obedience
9 training?

10 A. I trained my -- training a dog is a 24/7 job. She is
11 always under obedience training.

12 Q. Okay. Is the answer, no, that she did not go through
13 any formal obedience training?

14 A. She has not been to a formal training school.

15 Q. Okay. And what experience do you have in training dogs
16 or other animals?

17 A. Self-education and researching, studying how to train
18 them.

19 Q. Okay. And have you had dogs before Piper?

20 A. I had a dog growing up but Piper is my first dog.

21 Q. What type of dog did you have growing up?

22 A. A Jack Russell terrier.

23 Q. Had you ever had a pit -- a pit bull or a pit/terrier
24 mix?

25 A. No, sir.

1 Q. And that Jack Russell terrier, do you know if you got
2 that dog from birth or shortly after birth, after
3 separation from the mother?

4 A. We -- we actually adopted both Beanie and his mother,
5 but when we got them home and took them to the vet,
6 Beanie's mother had a chronic kidney disease and had to
7 be put down just months later. We had them both but I
8 forgot about her. Sorry.

9 Q. That's okay. Obviously, Beanie's mom and Beanie were
10 both Jack Russells?

11 A. Yes.

12 Q. Did the younger dog, Beanie, did Beanie ever have any
13 incidents of attacking or biting anyone, anything like
14 that? Did you ever experience anything like that with
15 her?

16 A. It was a him, but, no, sir.

17 Q. Thank you.

18 A. He was a mouthy one. A lot of bark.

19 Q. And you said self education and then you added research.

20 What research would you have done?

21 A. I've done a lot of research into like Cesar Millan's
22 tactics and the way that he's so calm and cool and
23 collected and gets his dogs to listen, so I've really
24 dove into his stuff, and that's a lot of what we mimic
25 here.

1 Q. Okay. Can you spell, the best you can, Cesar Millan's
2 name?

3 A. Cesar like the salad, and it's M-a-l-l-a -- hold on.
4 I'm a terrible speller. I could retrieve the
5 information if you like.

6 Q. That's okay. Millan, M-a-l-l-o-n-s [sic], something
7 like that?

8 A. It's M-a-l-l-i-o-n, I believe.

9 Q. Okay.

10 A. It's like Millan (phonetic).

11 MR. MARJERISON: It's C-e-s-a-r M-i-l-l-a-n.

12 BY MR. LARGAY:

13 Q. Do you have any books or periodicals by Cesar Millan?

14 A. I use the internet for most of my research gathering.
15 It's cheaper.

16 Q. Okay. And do you print out your articles or just sort
17 of read them for recall and memory?

18 A. I do not print them off if I'm looking them up on the
19 internet.

20 Q. Okay. And what did you look up Cesar Millan for, if
21 anything, relating to Piper or Piper's breed
22 specifically?

23 A. I -- I have not looked up generally specifically towards
24 my breed, just generally towards dogs.

25 Q. Okay.

1 A. Towards dogs. I've never searched what does Cesar
2 Millan say to do with a terrier/pit bull mix.

3 Q. How old were you when you had Beanie?

4 A. A child, sir. I forgot -- until 18 when I left the
5 house he passed. He was then -- I had him until 18. We
6 got him when I was younger.

7 Q. Okay. And he was a family dog, Beanie was?

8 A. Yes, sir.

9 Q. Did Piper have any sort of a radio-controlled collar or
10 other restraint system besides a regular collar and
11 leash?

12 A. No. At the time of the incident and not that she wore
13 on a regular basis.

14 Q. At the time of the incident?

15 A. I said, no, sir.

16 Q. Okay. And was the collar and leash -- did you tell me
17 when you got Beanie [sic]? November of '18 you said?

18 A. Yes, sir.

19 Q. Okay. I'm sorry, what was the date, again, that you got
20 Piper?

21 A. November 2018.

22 Q. Was Piper using the same collar and leash that you went
23 to purchase the day that you picked her up at the Humane
24 Society?

25 A. The same leash, yes. Probably the same collar.

1 Q. Okay. Do you still have that collar and leash?

2 A. I do not have the collar, I believe, and the leash may
3 be around. I don't recall losing it or throwing it
4 away. She really stays here in the yard most of the
5 time now.

6 Q. Okay. What happened to the collar that you were using
7 at the time?

8 A. I don't recall the exact collar she was wearing the day
9 of the incident.

10 Q. Okay. But you said that you don't have it. You know
11 that you don't have it?

12 A. I'm pretty sure I don't have it. I have collars. I'm
13 pretty sure they're newer than the day of this incident.
14 That would be a long time to have the same collar.

15 Q. Okay. And you don't recall what happened to that
16 collar, whether it was thrown out, discarded, lost?

17 A. No, sir, I'm not sure in the move anywhere it could have
18 gone.

19 Q. And you're not specifically sure as to what leash you
20 used that day; right?

21 A. I am sure of the leash.

22 Q. Okay. And you said it may be around. Can you describe
23 that?

24 A. It was a purple leash, it was approximately 5 feet long.
25 It has a silver clasp. It was about a 1-inch band, a

1 nylon material with a handle sewn in in one end and a
2 silver clip on the other.

3 Q. Did the collar or leash have any form of mechanical
4 device attached to it at all for restraint or
5 communication to the dog?

6 A. There is a collar and a leash and that is the
7 communication to the dog.

8 Q. Okay.

9 A. Those are the only devices.

10 Q. Okay. There's no mechanical device on the collar or the
11 leash to, for example, one of those electric or
12 battery-operated remote controls?

13 A. On a leash?

14 Q. On the collar.

15 A. No, it was a normal collar and a regular leash.

16 Q. Okay.

17 A. There was nothing else.

18 Q. Did you have a whistle?

19 A. I can whistle, yes. Does she respond to the whistle?
20 Yes.

21 Q. Did you use the whistle that day?

22 A. I did not need to use the whistle that day. I am -- I
23 had full control of my dog. She was not viciously
24 attacking anyone.

25 Q. And were you with anyone outside when this -- from the

1 time you went outside until the -- until Otto was bit in
2 the lip?

3 A. My wife walked out the door in front of me, she went to
4 the car, I left just moments after her. When I left,
5 Piper left in front of me, she came back on my command,
6 she sat down, she got on leash, and had an incident with
7 Otto Snow.

8 Q. Was anyone else present besides your wife?

9 A. No, sir -- oh, Otto had a gentleman with him.

10 Q. Do you know the name of that gentleman?

11 A. No, sir.

12 Q. Had you seen that gentleman before?

13 A. I met him the time of the incident and I waited with him
14 as well at the hospital before he had to go to work.

15 Q. Okay. And aside from you, your wife, Otto, and his
16 friend, was there anyone else present?

17 A. No, sir, not to my knowledge.

18 Q. And besides Mr. Szewczyk -- I don't want to ask about
19 anything you communicated with him or him to you or his
20 staff -- who else have you talked about this incident
21 to?

22 A. A number of people. Would you like me to try and list
23 them all?

24 Q. If you would, please.

25 A. My mother, Debra Conley; my brother, Michael Conley; my

1 mother-in-law, Shelly White; my boss, Bruce Newcomb;
2 Larry, the janitor at the Hannaford; Ted, the receiver
3 at the Hannaford.

4 Would you like me to keep going because I probably
5 mentioned this to everyone I know.

6 Q. Okay. And what would be the general nature of the
7 conversations, for example, the janitor at Hannaford
8 your boss, those kinds of people?

9 A. I'm getting sued.

10 Q. Right. For a dog that ripped a hole off the lip of
11 Mr. Snow; you know that, right?

12 MR. SZEWCZYK: Objection to the characterization of
13 that.

14 BY MR. LARGAY:

15 Q. So you would have talked about the lawsuit; is that
16 right?

17 A. Yes, sir.

18 Q. Can you think of anything you would have told them other
19 than what you've told Attorney Marjerison or told myself
20 today?

21 A. No, sir.

22 Q. What's the name of the potato chip company that you're a
23 distributor for?

24 A. I work for B & K Distributors, which is an independent
25 operator for Snyder-Lance, which is now Campbell Snacks.

1 Q. Okay. How long did the entire incident last from the
2 time where you say Otto asked you to meet the dog and
3 the time when he left to go to the hospital?

4 A. Less than 10 minutes.

5 Q. And describe what you could see -- was Mr. Snow bearded
6 at the time or was he clean-shaven?

7 A. I think he was clean-shaven.

8 Q. All right. And what did you see for harm to his -- or
9 damage to his mouth or lips?

10 A. I just saw a bloody lip.

11 Q. Okay. Can you describe, you know, in terms of obviously
12 there's different levels of bloody lips from a small
13 slice or cut or something to a piece of skin hanging
14 off.

15 How would you describe the bloody lip?

16 A. I did not get that much of a look at it to see --
17 investigate how much of it was gone.

18 Q. And how much blood was pouring from the lip?

19 A. It was dripping. I wouldn't use the phrase pouring.

20 Q. Do you recall speaking to the Bangor Police Department
21 at all?

22 A. Yes, sir.

23 Q. And do you know the officer's name?

24 A. I do not recall.

25 Q. And do you know what you said to that officer or

1 officers?

2 A. I -- not word-for-word.

3 Q. Do you recall speaking to Patricia, the animal control
4 officer?

5 A. Yes.

6 Q. And what -- tell us about that conversation.

7 A. I just recall speaking with her. I do not recall -- I
8 remember she came to the house, she met the dog. Piper
9 was under a quarantine after this happened. She had to
10 to come by two or three times and meet her.

11 Q. Were you living in Veazie or Old Town at the time?

12 A. Old Town.

13 Q. Old Town. And did the animal control officer come to
14 Old Town to see you and Piper?

15 A. We had an Old Town animal control officer, not a Bangor
16 animal control officer.

17 Q. Okay. And how many visits or times were you present
18 with the animal control officer from Old Town?

19 A. Two or three. Two I know for sure. There could have
20 been a third.

21 Q. And what did those visits consist of? Tell us what
22 happened, who was present, those kinds of thing?

23 A. They were at the house in Old Town, I was present, she
24 was present, my wife was present -- who was my
25 girlfriend at the time.

1 We may have had a roommate present, I do not
2 recall. And I'm pretty sure that the animal control
3 officer also did it with her husband, and I'm pretty
4 sure he was there the first time but not the last time.

5 Q. Okay. And was that during the quarantine period or
6 after?

7 A. Yes, the beginning of the quarantine and the end of the
8 quarantine were the two I know for sure. I do not
9 remember if she came again.

10 Q. How many days was the quarantine, if you recall?

11 A. Ten or 14, I think.

12 Q. Okay. And what was the address where you lived in
13 Old Town?

14 A. I don't recall. I was there a year, sir. It was the
15 intersection of South Main and another one. I don't
16 remember the address for that apartment, sir.

17 Q. What would the markers be for where it is? Is it
18 near --

19 A. It's across from -- I think it's called Joe's Tire.
20 It's over near the mill-ish, a half mile from the mill.
21 They just built a brand-new apartment complex across the
22 street from it.

23 Q. Okay. Were you -- I'm sorry, were you done?

24 A. Yes, I can't think of anything else, sir.

25 Q. Okay. Was it an apartment or a house that you rented?

1 A. It was a duplex. We had the downstairs portion and
2 there was an upstairs apartment.

3 Q. Did the owner live upstairs or another tenant?

4 A. Another tenant.

5 Q. Okay. And who was the owner of that property, if you
6 recall?

7 A. Matthew something out of New Hampshire.

8 Q. And if you needed to reach that person, how would you do
9 so?

10 A. Facebook Messenger through my girlfriend, at the time,
11 or my roommate's girlfriend who moved in with us at the
12 beginning but moved out, and then my girlfriend took
13 over the communications.

14 Q. That was a previous girlfriend, not your wife; is that
15 right?

16 A. No, my wife. Girlfriend at the time.

17 Q. Is she still Facebook friends with that landlord?

18 A. She no longer has Facebook, so I doubt it.

19 Q. Did you have renter's insurance at the time?

20 A. No, sir.

21 Q. Do you know if your then-girlfriend, now wife, had
22 renter's insurance?

23 A. She did not.

24 MR. LARGAY: I'm reading my notes here. I'm close
25 to being finished.

1 BY MR. LARGAY:

2 Q. Who did you use for a vet for Piper?

3 A. Piper hasn't been to a vet since we got her from the
4 Humane Society.

5 Q. Has she had shots since you got her from the Humane
6 Society?

7 A. Since? No.

8 Q. Has she been licensed with the Town of Orrington at all,
9 registered?

10 A. I know she was registered with the Town of Old Town.
11 I'm not sure if she's ever been registered here in
12 Orrington.

13 Q. Do you have any papers of the registration in Old Town?

14 A. Yes, sir.

15 Q. Do you still have those?

16 A. I'm pretty confident.

17 Q. And what's the reason you didn't have Piper registered
18 in the Town of Orrington?

19 A. I was just really busy and forgot all about it until you
20 just mentioned dog registrations to me, to be honest.

21 Q. Did you personally register her in the Town of Old Town
22 or did someone else do that?

23 A. I do not recall if I registered her or my wife
24 registered her.

25 Q. Did Piper have to go see a veterinarian or any other

1 animal professional after the bite?

2 A. She had to see the animal control officer.

3 Q. Right. Any other veterinarian, professional, assistant,
4 or any veterinarian practice, anything like that?

5 A. No, sir, she had to see the animal control officer.

6 Q. Right. Where was she in quarantine, at your house?

7 A. Yes, sir.

8 Q. Was she taken anywhere else during that quarantine or
9 was she just right there the whole time, the 10 or 14
10 days, you said?

11 A. Right there the whole time.

12 Q. Had you met Barbara before this date, the landlord?

13 A. No, sir. I'm not sure I've ever met Barbara.

14 Q. Okay. How do you know that Barbara was spoken to about
15 the fact that Piper would be coming over on occasion?

16 A. My mother informed me when I asked her if Piper was
17 allowed to come over. She said I'd have to speak with
18 Barbara, and then when I brought her -- when I got the
19 okay and I was there visiting the first time, she
20 informed me that Barbara had to then call and make sure
21 it was me and not my brother.

22 Q. Barbara had to call?

23 A. They had to have a second conversation. I'm not sure if
24 it was in person or over the phone.

25 Q. Okay. How many times had Piper been to your mom's

1 apartment before this incident?

2 A. A handful. I'd say a half dozen to a dozen.

3 Q. And was Barbara contacted, to your knowledge at least in
4 speaking with your mom, the first time?

5 A. About -- before the first time. We wanted permission to
6 bring her before we ever brought her over.

7 Q. As far as you know, Barbara gave permission?

8 A. Yes, sir.

9 Q. Okay. And you never spoke to Barbara nor have you even
10 to this day; correct?

11 A. No, sir.

12 Q. Was Barbara notified each of the six times --

13 A. Once.

14 Q. -- or -- the once?

15 A. Yes, sir.

16 Q. Did you say your brother's name is Michael?

17 A. Yes.

18 Q. Did Michael have a dog at all?

19 A. No, sir.

20 Q. Did Michael live with your mom --

21 A. Yes, sir.

22 Q. -- at the time?

23 A. Yes, sir.

24 MR. SZEWCZYK: Just make sure the attorney finishes
25 his question, Andrew, before you start your answer,

1 okay.

2 BY MR. LARGAY:

3 Q. Do you know if your mom was on the lease -- I'm sorry,
4 your brother was on the lease?

5 A. I don't believe so.

6 Q. Okay. Had you ever seen any other dog at the apartment?

7 A. No, sir.

8 Q. Did your mom rent the whole house or was it a duplex?
9 Describe the 31 Earle Ave for me.

10 A. It was a duplex. My mother rented the top.

11 Q. Okay. And do you know if the owner was in the other
12 unit or another tenant?

13 A. A gentleman named Steve and his mother.

14 Q. How long did your mom live there?

15 A. I'm not sure. A little while. A couple years, I think.

16 Q. Did your mom relate to you any conditions about you
17 having Piper over, in other words, any limitations on
18 time or leash or any other conditions?

19 A. No, sir.

20 Q. Were you aware of any restrictions or conditions that
21 Barbara would have set on Piper's visit to your mom's
22 apartment?

23 A. No, sir.

24 Q. Were you asked for any papers relating to the dog or any
25 statements or information relating to Piper?

1 A. No, sir.

2 Q. Had any other incident happened with Piper on the five
3 prior occasions, plus or minus, that she was there?

4 A. No, sir.

5 Q. Do you know whether your mom communicated with Barbara
6 by email or by phone call about the dog?

7 A. I don't know how she spoke to her.

8 Q. Did you ever see an email or any written communications
9 when Barbara gave the permission to your mom to have the
10 dog over?

11 A. No, sir.

12 Q. And do you know if your mom made the request just once
13 for one occasion or if she said, is it okay if he has
14 the dog over, in other words, from time to time?

15 A. The request was if the dog could come over on multiple
16 occasions. If my dog is with me, am I allowed to stop
17 over and bring the dog inside.

18 Q. Okay. And so would that be why you wouldn't need to
19 make a call each time, it was general permission to
20 allow the dog to come over whenever you're visiting with
21 your mom and you had your dog with you?

22 A. Correct.

23 Q. Okay. You said you don't have any information as to
24 whether Piper had ever bitten, attacked any other person
25 at all; is that right?

1 A. I do know that in her paperwork from the Humane Society,
2 it says no bite history.

3 Q. Okay. I may have asked this because we talked about two
4 or three different forms of paperwork, but do you still
5 have that Humane Society paperwork?

6 A. Yes, sir.

7 Q. Was that something that you noted when you got Piper
8 initially, that she had no bite history?

9 A. Yes, sir.

10 Q. Was that important to you in selecting your dog?

11 A. The information was definitely important.

12 Q. Tell us why it was important to you, that information?

13 A. Because you have to take a dog with a bite history with
14 a different sense of care than you take one with no bite
15 history.

16 Q. Okay. And what sense of care would you take if you had
17 a dog with a bite history?

18 A. I, personally, would keep it muzzled.

19 Q. And that would be reasonable to muzzle a dog that had a
20 bite history, wouldn't it?

21 A. Yes, sir.

22 Q. And you've never muzzled Piper, have you?

23 A. Piper's -- I have a muzzle. Piper doesn't ever have to
24 use it. She's just muzzle trained, but Piper doesn't
25 leave the house. She stays here on the property.

1 Q. Why do you have the muzzle, then, if you didn't intend
2 to use it or didn't use it?

3 A. In case we ever have a broken limb and need to go to an
4 emergency vet that she would have a muzzle, because I
5 believe if you have a dog with a bite history, you
6 should have a muzzle, and I'm being sued over that
7 alleged statement.

8 Q. And so now you would consider Piper to have a bite
9 history because of this bite; is that fair to say?

10 A. No, sir. I think of it more as just an extra precaution
11 you should keep because she -- there was an incident
12 with my dog and this person that drew blood.

13 So now even with a muzzle on, if nothing else, that
14 keeps other people from going, what a pretty dog you
15 have. They'll just let me walk on my way.

16 Q. And you agree that -- we don't disagree that Piper bit
17 Otto; right?

18 A. We do. I agree that Piper and Otto's faces collided and
19 that drew blood. I do not know what happened. I do not
20 think that was a vicious dog bite like it's alleged in
21 the complaint. I think that the two of them had an
22 accident. I'm not sure exactly the cause. I don't know
23 if it was his mouth that caused it, her mouth that
24 caused it, her forehead, her nose. I don't know.

25 I was behind her looking at her head, not at a

1 profile view looking at the two faces.

2 MR. LARGAY: I'm just going to look at my notes. I
3 appreciate your patience. I know I've asked a lot of
4 questions today. I may be done. I just want to look
5 through my notes if I may take a moment.

6 THE WITNESS: Yes.

7 BY MR. LARGAY:

8 Q. Did Otto make any other statements or admissions that
9 you can recall that day about the incident?

10 A. Can you rephrase the question?

11 Q. Did Otto say anything about the interaction with the
12 dog, with Piper, that we haven't talked about today?

13 A. Not that I can recall.

14 Q. Okay. Did Otto describe to you or for anyone in your
15 presence how it came to be that his lip got busted open
16 and that he had the plastic surgeon address his lip? Do
17 you know anything about that?

18 MR. SZEWCZYK: Objection to the form of the
19 question.

20 BY MR. LARGAY:

21 Q. Did Otto talk about how his lip had been bloodied in
22 terms of the mechanics of it or what exactly happened?

23 A. I do not recall.

24 (There was an off-the-record discussion.)

25 MR. MARJERISON: I have no further questions.

1 David, do you have anything?

2 MR. SZEWCZYK: I have just a couple.

3 EXAMINATION

4 BY MR. SZEWCZYK:

5 Q. Andrew, when you were mentioning the person that you
6 understood [inaudible] landlord, Barbara, were you
7 referring to Barbara Nichols?

8 A. Yes, sir, Barbara Nichols.

9 Q. And I believe the amended complaint states that the
10 incident happened on April 15, 2018. I believe I heard
11 you testify when you were asked when did you get Piper
12 from the Humane Society, I believe I heard you say
13 November 2018?

14 A. You're -- you are correct. It was 2017. Sorry. I
15 didn't do the math right.

16 Q. Did you get Piper from the Humane Society?

17 A. Yes, it was the November before the incident I adopted
18 Piper.

19 MR. SZEWCZYK: That's all I have. Thanks.

20 MR. MARJERISON: Do you want him to read and sign?

21 MR. SZEWCZYK: Yes.

22 (The deposition was concluded at 2:03 p.m.)

23

24

25

CERTIFICATE

I, Lisa Fitzgerald, a Notary Public in and for the State of Maine, hereby certify that on January 26, 2022, appeared via Zoom ANDREW DAVIS, the within-named deponent, who was sworn to testify to the truth, the whole truth, and nothing but the truth, in the cause of action OTTO SNOW v. ANDREW DAVIS and DORA SMITH FAMILY REAL ESTATE COMPANY, LLC c/o Barbara Nichols, now pending in the STATE OF MAINE SUPERIOR COURT, PENOBSCOT COUNTY; and that this deposition was stenographically reported by me and later reduced to typewritten form with the aid of computer-aided transcription; and the foregoing is a full and true record of the testimony given by the witness.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

I further certify that the adverse party was duly notified according to law to attend at the taking of said deposition and did attend.

IN WITNESS WHEREOF, I subscribe my hand and affix my seal this January 27, 2022.



LISA FITZGERALD, NOTARY PUBLIC
Court Reporter

My commission expires: May 10, 2025

SIGNATURE PAGE

TO BE COMPLETED BY DEPONENT:

I, ANDREW DAVIS, have read or had read to me the foregoing pages of my deposition and have noted any errors in form or substance of my testimony, together with their respective corrections and the reasons therefore on the following errata page.

(Signature and Date) _____

Name of person reading transcript to deponent if deponent cannot read:

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TO BE COMPLETED BY NOTARY PUBLIC OR ATTORNEY:

I, _____, a Notary Public/Attorney, hereby acknowledge that the above-named deponent personally appeared before me and affixed his/her signature above as his/her own true act and deed.

(Signature and Date) _____

My Commission Expires: _____

Title: OTTO SNOW v. ANDREW DAVIS and DORA SMITH FAMILY REAL ESTATE COMPANY, LLC c/o Barbara Nichols

Jurisdiction: STATE OF MAINE SUPERIOR COURT, PENOBSCOT COUNTY

Date of Examination: January 26, 2022

Date of Mailing: January 27, 2022

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