

New Dog Bite Case Law

[Underwood v. Wind](#)

The case of Underwood v. Wind is a new Pennsylvania Superior Court decision. The case involves two pit bulls owned by Dana Wind that escaped from her home that she rented from her aunt. The two dogs attacked a minor child and two good Samaritans who tried to rescue the child. After a trial, the jury entered awards of \$65,000.00 for the minor child and \$85,000.00 and \$80,000.00, respectively, in favor of the two good Samaritans. Defendant appealed the case to the Pennsylvania Superior Court.

The defendant's aunt, who was the landlord, testified that she did not know that the dogs were on the property and that the lease with her niece was that no dogs were to be on the property. Further, the defendant admitted that she never told her aunt that the dogs were living on the property until the attack occurred.

The defendant appealed the Trial Court's instruction to the jury that she was negligent, per se, because her dogs escaped from her property and were running free. The second issue that she appealed was the Judge instructing the jury that both dogs' actions, in this particular incident, could be considered by the jury in determining dogs dangerous propensities.

The Court indicated that dog owners are not "absolutely liable" upon every attack by a dog. However, the jury must look at the facts to determine if the dog owner's negligence was the cause of the attack. A mere violation of the dog law (such as a dog running around the neighborhood not secure or on a leash) does not establish the causation factor required for a finding of liability. Where negligence rests upon a violation of the dog law, liability does not attach unless the violation is a substantial factor in bringing about the injuries sustained. Based upon this summary, the Court decided that the Judge's instructions to the jury were accurate and were not appealable.

Secondly, the defendant appealed the Judge instructing the jury that the dogs' actions, on the day in question, could be considered in determining whether the dogs had violent propensities. This relates to the "one bite rule." The Court indicated that in 1996, Pennsylvania's Dog Law was amended, which affectively removed the previous "one free bite" interpretation of the statute. Now, the amended law permits liability for the dogs first ever bite. On that basis, the Court agreed with the Trial Court that, by instructing the jury it may consider the attack upon the child as evidence of the dog's dangerous propensities.