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Attorney for Plaintiff Samuel Miller, Jr., Roxanne  
Miller, Samuel Miller, Sr., and Bonnie Oakley  
Our File 6778MJB

Samuel Miller, Jr., by his Guardian ad  
litem Roxanne Miller,  
Roxanne Miller individually,  
Samuel Miller, Sr.,  
Bonnie Oakley

(Plaintiff)

v.

Lori J. Cipra-Gabriele,  
Gary Gabriele, Kurt Stelzenmueller,  
Kinnelon Volunteer Fire Auxiliary,  
Kinnelon Volunteer Fire Company,  
Kinnelon Borough, JOHN/JANE DOES 1-  
10 (said names being fictitious) ABC  
CORP. 1-10 (said names being fictitious),  
defendants

SUPERIOR COURT OF NEW JERSEY  
MORRIS COUNTY  
LAW DIVISION

DOCKET NO.

CIVIL ACTION

**COMPLAINT  
AND  
JURY DEMAND**

Plaintiffs Samuel Miller, Jr. by his guardian ad litem Roxanne Miller, Roxanne Miller,  
individually, Bonnie Oakley, Samuel Miller, Sr. by way of complaint:

**FIRST COUNT**

1. At all times relevant hereto, Samuel Miller, Jr., Samuel Miller, Sr. and Roxanne Miller  
reside at 198 White Lake Road, Sparta, NJ 07871.
2. At all times relevant hereto, Bonnie Oakley is a resident of 27 Sheridan Ave, Sloatsburg,  
New York.

3. At all times relevant hereto, Lori J. Cipra-Gabriele and Gary Gabriele are the owners of the property known as 45 Cabot Lane, Kinnelon, NJ 07405 (Subject)
4. At all times relevant hereto, Lori J. Cipra-Gabriele, Gary Gabriele and Kurt Stelzenmueller are the owners or the handlers of a certain Pitbull named Leo.
5. The defendants, Kinnelon Borough, Kinnelon Volunteer Fire Auxiliary, Kinnelon Volunteer Fire Company organized, sponsored, promoted, controlled and benefited from an event entitled "Annual Town Wide Garage Sale". The said event was advertised as a fundraiser for the benefit these defendants.
6. The plaintiffs are not beneficiaries of those entities or charities.
7. On September 24, 2022 plaintiffs Samuel Miller, Jr., Roxanne Miller and her mother, Bonnie Oakley were lawfully upon the premises of the Subject as guests, invitees and/or business invitees at which time the said Pitbull, Leo, was also present and was being handled and controlled by Lori J. Cipra-Gabriele, Gary Gabriele and Kurt Stelzenmueller.
8. On September 24, 2022 Samuel Miller, Jr. was approximately 18 months old.
9. At all times relevant hereto Samuel Miller, Jr. was secured in a stroller
10. As a result of the carelessness, negligence, failure to supervise, failure to control and failure to properly handle the dog by the defendants Lori J. Cipra-Gabriele, Kurt Stelzenmueller, and Gary Gabriele, Samuel Miller, Jr. was violently attacked by the Pitbull, Leo.
11. Roxanne Miller and Bonnie Oakley were present and within the zone of danger and witnessed the violent attack.
12. Roxanne Miller physically fought with and restrained the said Pitbull, Leo, and pulled him off of Samuel Miller, Jr. thereby stopping the violent attack.

13. Roxanne Miller sustained injury in the fight with Leo. She was caused to be splattered by the blood of her son.
14. Roxanne Miller was caused to view the tearing of Samuel Miller, Jr's flesh from his cheek and the entire aftermath of the same at the scene.
15. Bonnie Oakley was a few feet away and witnessed her daughter, Roxanne Miller struggling with the attacking dog. Bonnie Oakley at the same time and place witnessed the violent attack upon her grandson Samuel Miller, Jr; she witnessed his injury, the bloodshed and observed the scarring and missing flesh on Samuel Miller, Jr's cheek.
16. As a result of the attack, Samuel Miller, Jr. suffered significant and permanent injuries including but not limited to scarring which is permanent and will continue to be obvious throughout his lifetime.
17. Roxanne Miller and Bonnie Oakley have suffered emotional distress.
18. Upon learning of the attack Samuel Miller, Sr. immediately rushed to Morristown Memorial Hospital where Samuel Miller, Jr. was being treated.
19. The violent attack by the Pitbull, Leo, was such that Leo tore loose a large chunk of flesh from Samuel Miller, Jr.'s cheek.
20. When Samuel Miller, Sr. arrived at Morristown Memorial Hospital he had served the fresh wound which Samuel Miller, Jr. suffered and viewed the location of the excised flesh in its raw form.
21. Samuel Miller, Sr. was present time Samuel Miller, Jr. underwent painful and excruciating treatment by his medical care providers. As a result of the actions of the defendants jointly and severally Samuel Miller, Sr. has suffered emotional distress damages.

22. As a result of the carelessness, negligence, failure to supervise, failure to control and failure to properly handle the dog by the defendants Lori J. Cipra-Gabriele, Kurt Stelzenmueller, and Gary Gabriele, Samuel Miller, Jr. has suffered significant, permanent injuries, scaring, disfiguration, mental anguish, pain and suffering
23. As a result of the carelessness, negligence, failure to supervise, failure to control and failure to properly handle the dog by the defendants Lori J. Cipra-Gabriele, Kurt Stelzenmueller, and Gary Gabriele, Roxanne Miller, Samuel Miller, Sr and Bonnie Oakley have suffered significant, permanent injuries, mental anguish, pain and suffering

WHEREFORE Plaintiffs seek Judgment against the defendants jointly and severally as follows:

1. Compensatory damages
2. Punitive damages
3. Cost of suit
4. Attorney's fees
5. Such other damages as the Court deems just.

## **SECOND COUNT**

1. Plaintiffs repeat and reallege the contents of the first count as if set forth herein.
2. As a result of the negligent acts and omissions of the defendants, the plaintiffs were caused to suffer significant and on-going economic and non-economic damages.
3. Plaintiffs have suffered economic damages in the form of lost wages and income, medical expenses and will in the future suffer these damages.
4. Plaintiffs will continue to suffer damages for lost wages and income, employment opportunities, medical expenses and other economic damages related to the accident omissions of the defendants herein.

WHEREFORE Plaintiffs seek Judgment against the defendants jointly and severally as follows:

1. Compensatory damages
2. Punitive damages
3. Cost of suit
4. Attorney's fees
5. Such other damages as the Court deems just.

### **JURY DEMAND**

Please take notice that the plaintiff demands a trial by jury on all issues.

### **DEMAND FOR INTERROGATORIES**

Please take notice that plaintiffs hereby demand of each defendant certified answers to Uniform Form C and C (1) Interrogatories within 60 days of receipt of this Complaint pursuant to Rule 4:17-1 et seq.

### **DEMAND FOR DISCOVERY OF INSURANCE COVERAGE**

Please take notice that pursuant to Rule 4:10-2(b), demand is hereby made that the defendants disclose to plaintiff's attorney whether or not insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part of all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide plaintiff's attorneys with true copies of those insurance agreement policies, including, but not limited to, any and declaration sheets. This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe and umbrella policies.

### **DESIGNATION OF TRIAL COUNSEL**

Please take notice that pursuant to R. 4-25-4, Mark J. Brancato, Esq. is hereby designated as trial counsel.

**CERTIFICATION**

We hereby certify that the within pleading was served in the time limit of Rule 4:6-1, et seq.

**CERTIFICATION PURSUANT TO R. 1:38-7**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

**CERTIFICATION PURSUANT TO R. 4:5-1**

1. The matter in controversy is not the subject of a pending action or arbitration proceeding.
2. Another action or arbitration proceeding is contemplated as follows: None.
3. The following parties listed should be joined in this action. None

McHUGH & BRANCATO, LLP  
Attorney for Plaintiffs

*Mark J. Brancato*

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MARK J. BRANCATO, ESQ.