

DOCKET NO.: UWY-CV-15-6027947S

LYNN TOMPKINS

V.

HEATHER LOPEZ, ET AL.

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SUPERIOR COURT

J.D. OF WATERBURY

AT WATERBURY

AUGUST 9, 2017

MEMORANDUM OF DECISION

The plaintiff, Lynn Tompkins, ppa Ronda Tompkins, brings this action in one count against the defendant, Heather Lopez. The plaintiff brings this suit to recover damages based on a dog bite incident in which the defendant's dog allegedly attacked the plaintiff at her home on May 24, 2014. The defendant was defaulted for failure to plead on January 14, 2016. The plaintiff thereafter moved for judgment after default on March 7, 2016. A valid military affidavit was filed on June 6, 2017, indicating that the defendant is not currently engaged in military service.

The matter was heard by the court on August 1, 2017. The court received certain medical records and a photograph into evidence, and heard the testimony of the plaintiff and the plaintiff's mother.

FINDINGS OF FACT

Based on the allegations of the complaint, the documents submitted into evidence, and the testimony heard at trial, the court makes the following findings of fact:

1. On May 24, 2014, the plaintiff was in her home at 3 Ridgewood Road in Waterbury when a dog named Kingston attacked her and caused her facial injuries, emotional distress, mental anguish, headaches, anxiety, and other losses.
2. The defendant, Heather Lopez, owned the dog at the time of the incident.

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3. At the time, the plaintiff was just under 10 years old. The plaintiff did not tease, torment, or abuse the dog.
4. As a result of the attack, the plaintiff was brought to the emergency room at Waterbury Hospital and then transferred to Yale-New Haven Hospital to the care of a plastic surgeon.
5. At Yale-New Haven Hospital, the plaintiff underwent plastic surgery to repair the large gash across her right side from her eye to her cheek, to repair a hole in her forehead and a tear in her ear lobe.
6. The plaintiff incurred considerable hospital and medical bills for her injuries and remains in therapy for post-traumatic stress disorder and anxiety related to the attack. The plaintiff also has visible facial scarring.

LEGAL STANDARD

“A default admits the material facts that constitute a cause of action . . . *and entry of default, when appropriately made, conclusively determines the liability of a defendant.* . . . If the allegations of the plaintiff’s complaint are sufficient on their face to make out a valid claim for the relief requested, the plaintiff, on the entry of a default against the defendant, need not offer evidence to support those allegations. . . . Therefore, the only issue before the court following a default is the determination of damages.” (Emphasis in original; internal quotation marks omitted.) *Whitaker v. Taylor*, 99 Conn. App. 719, 725-26, 916 A.2d 834 (2007). The burden of proof for an award of more than nominal damages is a preponderance of the evidence. *Id.*, 734-35.

Connecticut law imposes strict liability on dog owners with two limited exceptions. General Statutes § 22-357 provides in relevant part: “If any dog does any damage to either the

body or property of any person, the owner or keeper, or, if the owner or keeper is a minor, the parent or guardian of such minor, shall be liable for the amount of such damage, except when such damage has been occasioned to the body or property of a person who, at the time such damage was sustained, was committing a trespass or other tort, or was teasing, tormenting or abusing such dog.”

DISCUSSION

The court finds that the plaintiff has pleaded sufficient facts to make out a valid claim against the defendant for strict liability pursuant to § 22-357. The plaintiff presented sufficient evidence of the actual economic damages she incurred as a result of the defendant’s actions. The court also finds that the plaintiff has presented sufficient evidence of noneconomic damages, permanent injury, and future economic and noneconomic damages.


Accordingly, the court enters judgment for the plaintiff and awards the plaintiff an award of damages in the total amount of \$130,179.65, as follows:

1. For past economic damages, an award is ordered in the amount of \$20,179.65;
2. For past noneconomic damages, an award is ordered in the amount of \$30,000;
3. For future economic damages, an award is ordered in the amount of \$5,000; and
4. For future noneconomic damages, an award is ordered in the amount of \$75,000.

CONCLUSION

Judgment shall enter as set forth above. So ordered.

BY THE COURT,



HON. RUPAL SHAH