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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

KEVIN R. BACKLUND and JANNETTE L.
BACKLUND, individually and the marital
community composed thereof,

Plaintiffs,

vs.

DARRYL ALLEN BURGESS and JANE DOE
BURGESS, individually and the marital
community composed thereof; JASON ERIC
OWENS and JANE DOE OWENS, individually
and the marital community composed thereof;
JESSE RAY OWENS and SALLY DOE
OWENS, individually and the marital community
composed thereof; CATHERINE J. OWENS aka
CATHERINE SHIPMAN and JOHN DOE
OWENS, individually and the marital community
composed thereof; JRO PREMIER
ENTERPRISES, LLC, a Washington Limited
Liability Company, and doing business as
Premier Paint & Faux Finish, Premier Asphalt &
Seal Coating, and One Stop Property Solutions;
RCO ENTERPRISES, INC., a Washington
corporation; GROUNDED LOGISTICS, INC., a
Washington corporation; DA BURGESS, a
Washington sole proprietor; FE SERVICES,
INC., a Washington corporation; JOHN DOE
Defendants 1 through 10; JANE DOE
Defendants 1 through 10; XYZ COMPANY
Defendants 1 through 10,

Defendants.

NO.

COMPLAINT FOR DAMAGES

1
2 COMES NOW Plaintiffs, by and through their attorneys of record, and state and allege
3 against the above-named Defendants as follows:
4

5 **I.PARTIES & JURISDICTION**

6 1.1 Plaintiffs Kevin R. Backlund and Jannette L. Backlund are now, and were at
7 all relevant times hereinafter alleged, residents of King County, Washington. Plaintiffs are
8 husband and wife, and therefore constitute a lawful marital community in the state of
9 Washington. At all times material hereto, Plaintiff Kevin R. Backlund was employed and
10 working as a package delivery driver for the United Parcel Service (UPS).
11

12 1.2 Defendant Darryl Allen Burgess is believed to be a resident of Pierce County,
13 Washington. If this Defendant is married, his acts and omissions hereinafter described were for
14 and on behalf of the marital community. Based on further information and belief, this defendant
15 is believed to own, harbor and/or care for several pit bull dogs that live on the property located at
16 15514 – 116th Street East, Puyallup, Washington 98374. Based on further information and belief,
17 this defendant owned, maintained, and/or managed the real property located at 15514 – 116th
18 Street East, Puyallup, Washington 98374.
19

20 1.3 Defendant Jason Eric Owens is believed to be a resident of Pierce County,
21 Washington. If this Defendant is married, his acts and omissions hereinafter described were for
22 and on behalf of the marital community. Based on further information and belief, this defendant
23 is believed to own, harbor and/or care for several pit bull dogs that live on the property located at
24 15514 – 116th Street East, Puyallup, Washington 98374. Based on further information and belief,
25 this defendant owned, maintained, and/or managed the real property located at 15514 – 116th
26 Street East, Puyallup, Washington 98374.

1 1.4 Defendant Jesse Ray Owens is believed to be a resident of Pierce County,
2 Washington. If this Defendant is married, his acts and omissions hereinafter described were for
3 and on behalf of the marital community. Based on further information and belief, this defendant
4 is believed to own, harbor and/or care for several pit bull dogs that live on the property located at
5 15514 – 116th Street East, Puyallup, Washington 98374. Based on further information and belief,
6 this defendant owned, maintained, and/or managed the real property located at 15514 – 116th
7 Street East, Puyallup, Washington 98374.
8

9 1.5 Defendant Catherine J. Owens aka Catherine Shipman is believed to be a
10 resident of Pierce County, Washington. If this Defendant is married, her acts and omissions
11 hereinafter described were for and on behalf of the marital community. Based on further
12 information and belief, this defendant is believed to own, harbor and/or care for several pit bull
13 dogs that live on the property located at 15514 – 116th Street East, Puyallup, Washington 98374.
14 Based on further information and belief, this defendant owned, maintained, and/or managed the
15 real property located at 15514 – 116th Street East, Puyallup, Washington 98374.
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17

18 1.6 Defendant JRO Premier Enterprises, LLC, is believed to be a limited liability
19 company formed under the laws of the state of Washington. Based on information and belief, this
20 company does business under the trade names of (1) Premier Paint & Faux Finish & Asphalt Seal
21 Coating and (2) One Stop Property Solutions. Based on further information and belief, this
22 company transacts business in Pierce County, Washington. Based on further information and
23 belief, this company has its principal place of business on the property located at 15514 – 116th
24 Street East, Puyallup, Washington 98374. This company through its agents, officers and
25 employees is believed to have owned, harbored and/or cared for several pit bull dogs that live on
26 the property located at 15514 – 116th Street East, Puyallup, Washington 98374. Based on further

1 information and belief, this defendant owned, maintained, and/or managed the real property
2 located at 15514 – 116th Street East, Puyallup, Washington 98374.

3 1.7 Defendant RCO Enterprises, Inc. is believed to be a corporation formed under
4 the laws of the state of Washington. Based on information and belief, this company transacts
5 business in Pierce County, Washington. Based on further information and belief, this company
6 has its principal place of business on the property located at 15514 – 116th Street East, Puyallup,
7 Washington 98374. This company through its agents, officers and employees is believed to have
8 owned, harbored and/or cared for several pit bull dogs that live on the property located at 15514 –
9 116th Street East, Puyallup, Washington 98374. Based on further information and belief, this
10 defendant owned, maintained, and/or managed the real property located at 15514 – 116th Street
11 East, Puyallup, Washington 98374.
12

13
14 1.8 Defendant Grounded Logistics, Inc. is believed to be a corporation formed
15 under the laws of the state of Washington. Based on information and belief, this company
16 transacts business in Pierce County, Washington. Based on further information and belief, this
17 company has its principal place of business on the property located at 15514 – 116th Street East,
18 Puyallup, Washington 98374. This company through its agents, officers and employees is
19 believed to have owned, harbored and/or cared for several pit bull dogs that live on the property
20 located at 15514 – 116th Street East, Puyallup, Washington 98374. Based on further information
21 and belief, this defendant owned, maintained, and/or managed the real property located at 15514 –
22 116th Street East, Puyallup, Washington 98374.
23

24
25 1.9 Defendant DA Burgess is believed to be a sole proprietor company or business
26 that was formed under the laws of the state of Washington. Based on information and belief, this
company or business transacts business in Pierce County, Washington. Based on further

1 information and belief, this company or business has its principal place of business on the
2 property located at 15514 – 116th Street East, Puyallup, Washington 98374. This company or
3 business through its agents, officers and employees is believed to have owned, harbored and/or
4 cared for several pit bull dogs that live on the property located at 15514 – 116th Street East,
5 Puyallup, Washington 98374. Based on further information and belief, this defendant owned,
6 maintained, and/or managed the real property located at 15514 – 116th Street East, Puyallup,
7 Washington 98374.

9 1.10 Defendant FE Services, Inc. is believed to be a corporation formed under the
10 laws of the state of Washington. Based on information and belief, this company transacts business
11 in Pierce County, Washington. Based on further information and belief, this company has its
12 principal place of business on the property located at 15514 – 116th Street East, Puyallup,
13 Washington 98374. This company through its agents, officers and employees is believed to have
14 owned, harbored and/or cared for several pit bull dogs that live on the property located at 15514 –
15 116th Street East, Puyallup, Washington 98374. Based on further information and belief, this
16 defendant owned, maintained, and/or managed the real property located at 15514 – 116th Street
17 East, Puyallup, Washington 98374.

20 1.11 The identity of Defendant John Does 1 through 10 are unknown at the present
21 time, and therefore Plaintiffs reserve the right to amend their complaint and/or join one or more of
22 these defendants at a later date. One or more of Defendant John Does 1 through 10 are believed
23 to be individuals that were responsible for owning, caring and/or harboring several pit bull dogs
24 that live on the property located at 15514 – 116th Street East, Puyallup, Washington 98374. One
25 or more of these defendants are believed to have owned, maintained, and/or managed the real
26 property located at 15514 – 116th Street East, Puyallup, Washington 98374.

1 1.12 The identity of Defendant Jane Does 1 through 10 are unknown at the present
2 time, and therefore Plaintiffs reserve the right to amend their complaint and/or join one or more of
3 these defendants at a later date. One or more of Defendant Jane Does 1 through 10 are believed to
4 be individuals that were responsible for owning, caring and/or harboring several pit bull dogs that
5 live on the property located at 15514 – 116th Street East, Puyallup, Washington 98374. One or
6 more of these defendants are believed to have owned, maintained, and/or managed the real
7 property located at 15514 – 116th Street East, Puyallup, Washington 98374. One of these
8 defendants is believed to be the woman responsible for locking the man gate on the property
9 where Plaintiff Kevin R. Backlund was viciously attacked by several pit bull dogs, and then
10 refusing to allow an emergency responder to enter onto the property to rescue Plaintiff.
11

12 1.13 The identity of Defendant XYZ Companies 1 through 10 are unknown at the
13 present time, and therefore Plaintiffs reserve the right to amend their complaint and/or join one or
14 more of these defendants at a later date. One or more of Defendant XYZ Companies 1 through 10
15 are believed to be companies and/or businesses that were responsible for owning, caring and/or
16 harboring several pit bull dogs that live on the property located at 15514 – 116th Street East,
17 Puyallup, Washington 98374. One or more of these defendants are believed to have owned,
18 maintained, and/or managed the real property located at 15514 – 116th Street East, Puyallup,
19 Washington 98374.
20

21 1.14 All actions and/or omissions described herein took place on the land or real
22 property located at 15514 – 116th Street East, Puyallup, Washington 98374, in Pierce County,
23 Washington. Therefore, Pierce County is a proper venue for this action.
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26

1 2.9 Then Plaintiff retrieved the package from his truck and proceeded to the front
2 gate.

3 2.10 Plaintiff shook or rattled the gate to make sure there were no dogs on the
4 property.
5

6 2.11 The gate was unlocked, and it led to a marked path on the property which in
7 turn led to a structure that appeared to be a home and/or business.

8 2.12 From where Plaintiff stood at the front gate, there were no visible signs on the
9 property, gate, fence or on any of the structures on the property that warned people about any
10 dogs or dangerous dogs that lived on the property.
11

12 2.13 Plaintiff had never before had delivered a package to this property.

13 2.14 Plaintiff entered onto the property through the front gate to deliver the package
14 to its intended recipients.

15 2.15 Plaintiff did not observe any signs of dogs living on the property, like dog toys,
16 dog bowls, dog excrement, etc.
17

18 2.16 After entering through the unlocked gate, Plaintiff proceeded to walk on the
19 marked path towards one of the structures on the property with the intent to deliver the package to
20 a person authorized to accept the package.

21 2.17 As Plaintiff continued walking toward one of the structures he was suddenly
22 surrounded by at least four (4) pit bull dogs.
23

24 2.18 The pit bull dogs immediately assumed an aggressive posture and stance that is
25 consistent with animals that are about to attack an object of prey.

26 2.19 Plaintiff stopped walking and did not make any aggressive sounds or
movements toward the dogs for fear they would immediately attack him.

1 2.20 Suddenly and without warning, the dogs immediately lunged and attacked
2 Plaintiff all at once. The attack was done without any provocation on Plaintiff's part.

3 2.21 The dogs viciously bit Plaintiff and sank their sharp teeth into several areas of
4 Plaintiff's body while tearing at his flesh and clothes.

5 2.22 Plaintiff tried to retreat. He managed to run and jump onto a nearby utility
6 trailer that was located on the property.

7 2.23 The dogs continued to attack and bite Plaintiff while he retreated onto the
8 trailer.

9 2.24 Plaintiff tried to hit and kick at the dogs in an unsuccessful effort to get them to
10 dislodge their jaws from his arms, hands and legs.

11 2.25 Plaintiff managed to pull out his cell phone and call 9-1-1 to ask for help.
12 Plaintiff had to prematurely end the call because of the ferocity of the dogs' relentless attack.

13 2.26 As the dogs continued their relentless attack on Plaintiff, a woman appeared
14 just outside the gate.

15 2.27 This woman is believed to be one of the defendants and related to Jason Eric
16 Owens, but her specific identity is unknown at this time.

17 2.28 The woman locked the front gate to prevent Plaintiff from leaving the property.

18 2.29 The woman yelled to Plaintiff that he was a trespasser and that he was now
19 going to be killed by the dogs.

20 2.30 The woman did nothing to assist or rescue Plaintiff from the dogs.

21 2.31 The woman watched the dogs continue their vicious attack on Plaintiff while
22 Plaintiff screamed and yelled for help.
23
24
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1 2.32 As the dogs continued to relentlessly attack Plaintiff, an emergency responder
2 named Steve Goodwin from Orting Valley & Fire Rescue drove up to the property.

3 2.33 Chief Battalion Steve Goodwin made contact with the woman at the front gate
4 and identified himself.

5 2.34 The woman told Chief Battalion Goodwin that she owned the dogs. She further
6 stated that the dogs were going to kill Plaintiff.
7

8 2.35 Chief Battalion Goodwin asked the woman to unlock the man gate so he could
9 enter onto the property and rescue Plaintiff and provide him with immediate medical attention.
10 The woman refused.

11 2.36 The woman also refused to call off the dogs from attacking Plaintiff.

12 2.37 The woman told Chief Battalion Goodwin that the Plaintiff deserved to be
13 killed by the dogs because she considered Plaintiff a trespasser.
14

15 2.38 From where Chief Battalion Goodwin was standing, he could visually observe
16 Plaintiff being repeatedly and viciously attacked by the dogs while Plaintiff lay on the trailer.
17

18 2.39 Chief Battalion Goodwin was able to observe a large amount of blood on the
19 trailer, and he could see that Plaintiff was bleeding profusely.

20 2.40 Chief Battalion Goodwin saw that the dogs were close to pulling Plaintiff off
21 the trailer and onto the ground where Chief Battalion Goodwin reasonably believed that Plaintiff
22 likely would have been mauled to death by all four pit bulls at the same time.

23 2.41 Based on what Chief Battalion Goodwin observed, he reasonably believed that
24 the dogs would eventually kill Plaintiff if he was not rescued immediately.
25

26 2.42 Plaintiff was growing weaker from losing blood and trying to fight off the dogs.
Plaintiff was losing the fight and his life was in imminent danger.

1 2.43 Chief Battalion Goodwin again asked the woman to unlock the gate so he could
2 immediately rescue Plaintiff and provide him with life-saving medical attention.

3 2.44 Again, the woman refused to unlock the gate and she told Chief Battalion
4 Goodwin, “Fuck You!”

5 2.45 The woman also threatened to shoot and kill Chief Battalion Goodwin if he
6 tried to enter onto the property.
7

8 2.46 When the unidentified woman again refused to let Chief Battalion Goodwin
9 onto the property he then decided to crash through the fence with his emergency truck in an effort
10 to rescue Plaintiff.
11

12 2.47 As Chief Battalion Goodwin crashed his truck into the fence and drove onto the
13 property, the woman became upset and yelled out that her dogs were now going to escape.

14 2.48 After crashing through the gate, Chief Battalion Goodwin managed to
15 maneuver and position the truck next to the trailer so Plaintiff could climb through the front
16 passenger window.
17

18 2.49 As Plaintiff climbed through the passenger window, the dogs continued to
19 viciously attack, bite and maim him.

20 2.50 Plaintiff received several bites, lacerations, and gash wounds to his arms, hands
21 and legs.
22

23 2.51 Plaintiff was then transported to a local hospital for emergency treatment.

24 2.52 As a result of Defendants’ acts and/or omissions, and their dogs’ aggressive and
25 menacing behavior, Plaintiff Kevin R. Backlund sustained severe bodily and emotional injuries
26 and sustained significant damages.

1
2 **III. FIRST CAUSE OF ACTION**

3 **LIABILITY UNDER DOG BITE STATUTE - RCW 16.08.040**

4 3.1 Plaintiffs re-allege the allegations set forth in Sections I through II, and
5 incorporate them as fully set forth herein.
6

7 3.2 As the owners, keepers and/or harborers of the dog, the Defendants are
8 strictly liable for the injuries and damages caused to Plaintiffs as mandated by the dog liability
9 statute at RCW 16.08 *et seq.*
10

11 **IV. SECOND CAUSE OF ACTION -- COMMON LAW STRICT LIABILITY**

12 4.1 Plaintiffs re-allege the allegations set forth in Sections I through III, and
13 incorporate them as fully set forth herein.
14

15 4.2 Defendants had prior actual or constructive knowledge that their pit bull dogs
16 had extremely aggressive and/or dangerous propensities that were likely to lead to the injuries
17 inflicted upon a human being, including the injuries and/or bites that their dog inflicted upon
18 Plaintiff Kevin R. Backlund.
19

20 4.3 Defendants had prior actual or constructive knowledge that their pit bull dogs
21 had previously bitten, injured and/or acted aggressively toward other human beings.
22

23 4.4 Defendants had prior actual or constructive knowledge that their pit bull dogs
24 had certain aggressive tendencies and/or propensities that were likely to lead to the dogs
25 attacking, biting, injuring and/or acting aggressively toward other human beings, including
26 individuals that happened to enter onto the property where the dogs reside.

1 4.5 Defendants failed to adequately quarantine, secure, confine, muzzle and/or
2 exclude from the premises their dog before it could bite and/or attack and/or injure a human
3 being, including individuals that happened to be in the same public location.

4 4.6 Defendants are therefore strictly liable for the injuries and damages caused to
5 Plaintiffs.
6

7
8 **V. THIRD CAUSE OF ACTION - NEGLIGENCE**

9 5.1 Plaintiffs re-allege the allegations set forth in Sections I through IV, and
10 incorporate them as fully set forth herein.
11

12 5.2 Defendants owed the Plaintiffs a duty of care and a duty to act reasonably.

13 5.3 Defendants breached the duty of care and the duty to act reasonably by,
14 among other things, failing to warn people about their pit bull dogs that were likely to enter onto
15 the property.

16 5.4 Defendants breached the duty of care and the duty to act reasonably by,
17 among other things, failing to post conspicuous and visible signs on the property and on the
18 fence surrounding the property about their dangerous pit bull dogs that resided on the property.

19 5.5 Defendants breached the duty of care and the duty to act reasonably by,
20 among other things, failing to control, confine, secure, leash, muzzle and/or exclude from the
21 premises their pit bull dogs so they could not injure, bite or menace human beings.
22

23 5.6 Defendants breached their duty of care and their duty to act reasonably by,
24 among other things, allowing their vicious pit bull dogs to come in contact with other people
25 that lawfully entered onto the property, including people that were requested to deliver packages
26 and parcels to one or more of the defendants at the property.

1 5.7 As a result of the Defendants' negligent, grossly negligent and/or reckless
2 acts and/or omissions described herein, Plaintiffs were injured, suffered, and continue to suffer,
3 physical disability, pain, emotional trauma and grief, loss of enjoyment, medical expenses, loss
4 of earnings and earning capacity, emotional distress, loss of consortium and other damages.
5

6
7 **VI. FOURTH CAUSE OF ACTION -- PREMISES LIABILITY**

8 6.1 Plaintiffs re-allege the allegations set forth in Sections I through V, and
9 incorporate them as fully set forth herein.

10 6.2 Plaintiff Kevin R. Backlund was considered a business invitee while on the
11 property and delivering a package to one or more of the defendants.
12

13 6.3 The defendants knowingly created and maintained an unsafe and dangerous
14 condition on the property by harboring several extremely vicious and dangerous pit bull dogs.

15 6.4 The defendants had actual and implied knowledge that their pit bull dogs
16 were extremely vicious and dangerous, and that the animals had been specifically trained to
17 seriously injure and/or kill people who entered onto the property.
18

19 6.5 Given the vicious and aggressive nature of the defendants' pit bull dogs, they
20 constituted a dangerous condition on the property, especially when the animals were regularly
21 allowed to live and roam free on the property without a leash and outside a separate kennel or
22 enclosure.
23

24 6.6 Given the vicious and aggressive nature of the defendants' pit bull dogs, the
25 animals posed an unreasonable risk of harm to business invitees that visited the property.
26

1 6.7 The defendants failed to warn and/or otherwise post conspicuous and visible
2 signs on the property to warn or notify business invitees and other people about the vicious,
3 unsafe and dangerous pit bull dogs that were living and roaming free on the property.

4 6.8 The defendants knew or should have reasonably known that a business invitee
5 and other people entering onto the property may not discover or realize the danger posed by the
6 pit bull dogs until it was too late for the business invitee or person to protect themselves from
7 the danger.

8 6.9 The defendants knew or should have reasonably expected that business
9 invitees entering onto the property may be unable to protect themselves from the dangerous pit
10 bull dogs.
11

12 6.10 The defendants failed to exercise any reasonable precautions to protect
13 business invitees from the vicious and aggressive pit bull dogs.
14

15 6.11 As a result of the defendants' negligent, grossly negligent and/or reckless
16 acts and/or omissions described herein, Plaintiffs were injured, suffered, and continue to
17 suffer, physical disability and pain, emotional trauma, medical expenses, loss of earnings and
18 earning capacity, loss of consortium, and other damages.
19

20
21 **VII. FIFTH CAUSE OF ACTION -- TORT OF OUTRAGE**

22 7.1 Plaintiffs re-allege the allegations set forth in Sections I through VI, and
23 incorporate them as fully set forth herein.
24

25 7.2 The defendants' acts and omissions as described herein are extremely
26 outrageous and egregious, shocking and/or reckless.

1 7.3 As a result of the defendants' extreme and/or reckless conduct, the Plaintiffs
2 have suffered, and will continue to suffer, extreme and severe emotional distress.

3
4 **VIII. SIXTH CAUSE OF ACTION -- AGENCY AND VICARIOUS LIABILITY**

5 8.1 Plaintiffs re-allege the allegations set forth in Sections I through VII, and
6 incorporate them as fully set forth herein.

7 8.2 The defendants, some or all, were acting with the express and/or apparent
8 authority of the other defendants concerning the harboring, care and ownership of the vicious
9 pit bull dogs that attacked and injured Plaintiff Kevin R. Backlund.

10 8.3 The defendant companies and businesses were acting through the acts and
11 omissions of their employees, officers and the individually named defendants as described
12 herein, and therefore said companies and businesses are vicariously liable for said acts and
13 omissions.

14 8.4 The acts and omissions of one defendant were done with the actual and
15 apparent knowledge and authority of all other defendants, and therefore all defendants are
16 vicariously liable for said acts and omissions of each defendant that is named herein.

17 8.5 The defendants are vicariously liable for the acts and/or omissions of the
18 woman who locked Plaintiff Kevin R. Backlund on the property and prevented him from
19 leaving and/or prevented him from being rescued by an emergency responder, and who
20 expressly and/or impliedly incited or allowed the dogs to attack, or to continue attacking,
21 Plaintiff.

1 **IX. NO CONTRIBUTORY NEGLIGENCE / COMPARATIVE FAULT**

2 9.1 By requesting and/or allowing a UPS package to be delivered to the
3 property, the defendants expressly and/or impliedly consented to Plaintiff Kevin R. Backlund
4 entering onto the property for this purpose.
5

6 9.2 Plaintiff Kevin R. Backlund did not in any way provoke or entice the pit bull
7 dogs to attack, bite and maim him when he entered onto the property to deliver a package to
8 Jason Owens and RCO Enterprises, Inc.

9 9.3 The damages suffered by Plaintiffs were not caused by any fault,
10 carelessness, or negligence on Plaintiff Kevin R. Backlund's part, but were caused solely and
11 proximately by the negligent, grossly negligent and reckless acts and omissions of the
12 Defendants.
13

14 9.4 There are no other known entities which may have caused or contributed to
15 Plaintiff Kevin R. Backlund's injuries or damages.
16

17 WHEREFORE, Plaintiffs prays for judgment against Defendants, jointly and
18 severally, as follows:
19

20
21 1. For all damages sustained by Plaintiffs in amounts proven at trial, including
22 without limitation, past and future medical expense and other healthcare expenses, lost wages,
23 lost earning capacity, pain and suffering, both mental and physical, loss of enjoyment of life,
24 disability, disfigurement, past and future special damages, loss of consortium and other
25 damages;
26

