

property owners & insurers newsline

A GUIDE FOR PROPERTY OWNERS AND INSURERS IN A LITIGIOUS SOCIETY

NEW YEAR, NEW DOG BITE LAWSUIT

By Abigail C. Cacovic

On December 31, 2021, Brooke MacIntyre hosted a New Year's Eve party at her condominium. BBSB Properties LLC ("BBSB") owned MacIntyre's condominium. BBSB was owned by MacIntyre's father and stepmother. Plaintiffs, Jacob Blaylock and Tyler Schlee attended MacIntyre's party. Plaintiffs alleged that MacIntyre's dog bit them, on separate occasions, during the party.

Originally, Plaintiffs only sued MacIntyre for the subject incident. After MacIntyre's deposition, Plaintiffs discovered that BBSB owned the condo. Plaintiffs amended their Complaint to add a negligence claim against BBSB. Almost immediately, BBSB moved for summary disposition, which was denied by the trial court. This decision was reversed on appeal. *Blaylock v MacIntyre*, unpublished per curiam opinion of the Court of Appeals, issued July 29, 2025 (Docket No. 370688).

The trial court denied BBSB's Motion for Summary Disposition. The trial court held questions of fact existed whether BBSB had possession and control of MacIntyre's condo at the time of the subject incident. BBSB argued that it did not have possession and control of the condo.

BBSB stated MacIntyre was its tenant and therefore, there could be no premises liability claim against it. Plaintiffs argued that MacIntyre was not truly a tenant of BBSB and instead was a licensee. The trial court ended its analysis here because these questions existed. As the appellate court noted — that was incorrect

The appellate court acknowledged that possession and control questions exist. However, nothing in the record suggested BBSB had knowledge of any alleged dangerous propensities of the dog. This held true even if Plaintiffs were BBSB's licensees, as they claimed.

MacIntyre testified that she adopted the dog at the end of 2020 and that her father and stepmother never watched the dog for her. She also testified that the dog was never aggressive and had never bit anyone. As a representative of BBSB, MacIntyre's stepmother stated that she had never been informed that the dog bit anyone. She further testified she never observed the dog being aggressive and had no knowledge of any dog bite incidents. All this testimony further suggested that BBSB never knew or had reason to know of any dangerous propensities of the dog.

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Secrest Wardle Notes

What if you live in a condominium and your dog bites not one, but two people during a party? The Michigan Court of Appeals has recently ruled in *Blaylock v MacIntyre*, unpublished per curiam opinion of the Court of Appeals, issued July 29, 2025 (Docket No. 370688), that the owner of the condominium cannot be held liable for negligence if they have no knowledge of any dangerous propensities of the dog. In this case, Plaintiffs were licensees of the condominium owner.

To prevail in a claim against the property owner, Plaintiffs must establish, among other things, that the property owner knew or had reason to know of any dangerous propensities of the dog.

Plaintiffs asserted that the dog bit another guest at the same party and was aggressive toward or attacked two other guests at the same party. Plaintiffs also alleged the dog bit another person on a separate occasion *after* the subject incident. The appellate court said that some of this testimony was hearsay, and Plaintiffs never attempted to demonstrate how this evidence would be admissible. All that aside, the testimony still failed to establish any prior dog bite incidents. It also failed to establish that BBSB knew or had reason to know of any such behavior or propensities before the subject incident occurred.

Plaintiffs then pointed to the dog's veterinary records that showed the dog was prescribed anxiety medication two months prior to the subject incident. These records, alone, failed to show any specific dangerous propensities of the dog. The records also failed to show that BBSB knew or had reason to know about these records.

Plaintiffs' final argument was that BBSB is liable because it did not, through the exercise of reasonable care, discover the "unreasonable risk of harm" posed by the dog. That argument imposed a duty that would be owed if Plaintiffs were invitees — which Plaintiffs had never argued. Throughout litigation, Plaintiffs maintained that they were BBSB's licensees, therefore, the record provided no support for this argument.

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