

WISCONSIN SUPREME COURT
TUESDAY, OCT. 13, 2009
10:45 a.m.

This is a review of a decision of the Wisconsin Court of Appeals, District II (headquartered in Waukesha), which reversed a Winnebago County Circuit Court decision, Judge T.J. Gritton, presiding.

2007AP2651

[Pawlowski v. American Family and Nancy L. Seefeldt](#)

In this strict liability case involving a dog bite, the Supreme Court has been asked to review statutes and case law to clarify the statutory keeper provisions of Wis. Stat. § 174.02.

Some background: After discussions among mutual friends, Walter Waterman and his two dogs moved into Nancy L. Seefeldt's residence in June 2003. Waterman had lost his job and needed a place to live that allowed dogs. Seefeldt's residence had a large backyard, and she already had two dogs of her own.

On Oct. 26, 2003, Seefeldt was home when Waterman opened the front door to go to the grocery store. The dogs immediately charged across the street with Waterman chasing behind and bit Colleen Pawlowski three times, resulting in 16 puncture wounds and soft tissue damage. Seefeldt testified in her deposition that Waterman always put the dogs in his car and took them with him when he left the house. She also testified she was unaware of the dog bite until after Waterman had returned from the grocery store.

Waterman subsequently moved out of Seefeldt's home with his two dogs and could not be located for purposes of this litigation. Pawlowski and her husband sued Seefeldt and her insurance carrier, American Family Mutual Insurance Co.,

Seefeldt and American Family moved for summary judgment on the grounds the Pawlowskis had failed to state a claim upon which relief could be granted because Seefeldt was not the "keeper" of the dogs at the time of the incident and was not a statutory owner subject to liability under § 174.02.

The trial court granted summary judgment for the Seefeldts and American Family, concluding that at the moment the dog bit Pawlowski, the dog's legal owner had control of the animal and thus Seefeldt was not a statutory keeper.

The Court of Appeals reversed, concluding Seefeldt was a keeper under the statute, and that both a legal owner and statutory keeper can be simultaneously liable. The Court of Appeals reasoned by permitting the dogs to reside at her home over a period of months, Seefeldt provided the dogs with both shelter and protection on an ongoing basis and therefore was a keeper within the meaning of the statute.

In asking the Supreme Court to review the case, Seefeldt and American Family note it is not uncommon for a dog owner to reside with other individuals. Specifically, they ask the Court to review if, under § 174.02, Seefeldt was a keeper of the dog at the time of the injury and whether public policy is contrary to the imposition of liability on Seefeldt.

The Pawlowskis contend the goal of the statute is to protect innocent third parties from injuries caused by a dog and the only way to do that is to place the responsibility on the person or persons who have control over the dog.