

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF LINN

1 )  
2 )  
3 ) Case No.  
4 JULIE MARIE GRIZZEL, )  
5 )  
6 Plaintiff )  
7 )  
8 vs. ) COMPLAINT  
9 )  
10 JAMES WILLIAM HICKEY, ) Negligence / Infliction of  
11 d/b/a S & S Farms, ) Emotional Distress  
12 RON LEE OMARA, and )  
13 S.S. FARMS, INC. aka )  
14 S.S. Farms Linn County, Inc. and ) Jury Trial Requested  
15 S&S Farms Linn County, Inc., )  
16 Defendants

Plaintiff for Claims of Relief against defendants alleges:

**GENERAL BACKGROUND ALLEGATIONS**

1.

Status of Plaintiff. At all material times herein, plaintiff was a resident of Linn County, State of Oregon.

2.

Status of Defendants. At all material times herein, defendants Hickey and OMara were and are residents of Linn County, State of Oregon.

3.

At all material times herein, Hickey owned, managed, operated and wholly controlled a business known as (a) S&S Farms , (b) S.S. Farms, Inc. (c) S.S. Farms Linn County, Inc. and (d) S&S Farms Linn County, Inc.

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4.

At all material times herein, defendant S.S. Farms, Inc. purported to be an Oregon corporation incorporated on June 17, 1985 with its principal place of business is located at 34779 Santiam Highway, Lebanon, Oregon 97355. S.S. Farms, Inc. was also known as S.S. Farms Linn County, Inc. and S&S Farms Linn County, Inc. In the event S.S. Farms, Inc. is in fact an Oregon Corporation, Hickey, in addition to acting in his own right, was authorized to act and did in addition act on behalf of said corporation.

5.

That in 1981, the plaintiff became the owner of a certain purebred Cocker Spaniel puppy. That the plaintiff selected the "pick of the litter" shortly after its birth and obtained the puppy immediately following weaning at approximately 8 weeks. That the puppy was blonde in color, from "Our Miss Buffy Su" sired by "Ar-Gyle Almond Joy" and subsequently given the formal name of Dametria Ladutchess. The plaintiff referred to the puppy was either "Dametria" or "My Girl". The puppy responded to the name "My Girl" and shall be hereinafter referred to as "My Girl".

6.

That My Girl was registered with the American Kennel Club which issued a Registration Certificate on November 16, 1982 under Registration No. SD539659. A copy of the said certificate is marked as Exhibit "A", attached hereto and by this reference incorporated herein.

7.

That from the age of 8 weeks until May 16, 1988, My Girl and the plaintiff formed a strong bond of companionship and were together

1 throughout this period with the single exception of 4 days. That during the  
2 life of My Girl, the plaintiff, who throughout that time was single,  
3 provided a safe environment for My Girl's well-being including a secure  
4 home including a completely fenced yard area during 1988 at her then  
5 residence located at 33565 Dever Conner Road, Albany, Oregon. That  
6 said residence is located in Linn County Oregon.

7 8.

8 That on or about the 16th day of May, 1988, My Girl physical health  
9 was very good. Throughout her life, My Girl was regularly attended to  
10 and treated by qualified veterinary medicine personnel including spaying  
11 and was not suffering from any illness or injury whatsoever. That My Girl  
12 was well kept and was groomed on or about May 1, 1988 which included a  
13 trimming of her coat.

14 9.

15 That on or about the 16th day of May, 1988, the plaintiff, as was her  
16 usual habit, secured My Girl in the completely fenced yard area at said  
17 residence.

18 10.

19 That My Girl was seen to be secured within said enclosure at  
20 approximately 1 p.m. on May 16, 1988. That sometime in the afternoon of  
21 the 16th day of May, 1988, defendant, OMara and another individual, a  
22 juvenile named Curtis Eubanks, entered said yard area by means of a  
23 closed gate and attempted to seize My Girl. That notwithstanding the  
24 efforts of OMara to seize My Girl, she was able to escape from OMara and  
25 ran outside of the enclosure onto another portion of the plaintiff's  
26 residence. Thereafter, OMara and Eubanks captured My Girl and placed

1 her in a custom made cage in the back of a waiting vehicle specifically  
2 equipped for the transport of pets so seized.

3 11.

4 That at all material times herein, the defendants had absolutely no  
5 permission of any kind from the plaintiff or anyone else with such  
6 authority to either (1) enter said property or (2) to take My Girl for any  
7 purpose whatsoever.

8 12.

9 That defendant OMara knew or should have known that My Girl was  
10 not a stray pet, was not at large, was well groomed and cared for and was  
11 safely within a completely secure area on private property. Further,  
12 OMara knew or should have known that My Girl was a family pet and  
13 therefore was someone's companion, even though at the time of the taking  
14 the said defendant may not have known the exact identity of said person or  
15 persons.

16 13

17 That at the time of the taking, defendant, OMara, knew or should  
18 have known that the actions of freeing or taking this or any well cared for  
19 pet especially a purebred house pet from its secure home, was conduct  
20 which would unreasonably create a foreseeable risk to the plaintiff that My  
21 Girl would be injured or killed and that the companion of such a pet would  
22 suffer severe and extreme emotional distress.

23 14.

24 That the conduct of the defendants was an extraordinary  
25 transgression of the bounds of socially tolerable conduct.

26 ////

15.

1 That on May 16, 1988, the plaintiff was advised that her companion,  
2 My Girl, was missing. That for a period of several weeks, plaintiff  
3 believed that My Girl was still missing, her fate unknown to plaintiff.  
4

5 16.

6 That OMara and Eubanks, without permission to do so, seized at  
7 least one other pet that day, a Rottweiler named Max who was owned by  
8 and the companion of Joe Fick of Albany, Oregon and then drove Max and  
9 My Girl to defendant Hickey's property located at 34779 Highway 20,  
10 Lebanon, Oregon which is located in Linn County Oregon. At said  
11 property, OMara and Eubanks contacted defendant Hickey.

12 17.

13 That at all material times and for a number of years prior to May of  
14 1988, defendant Hickey was engaged in the buying of dogs and cats and  
15 subsequently selling them to animal research facilities. Defendant Hickey  
16 operated the largest such businesses on the West Coast of the United States.

17 18.

18 That on May 16, 1988, defendant OMara and Eubank transferred  
19 possession of My Girl to defendant Hickey. That Hickey knew or should  
20 have known from the objective observation that the vehicle described above  
21 was equipped to pick up and transport pets on a regular basis.

22 19.

23 That OMara and Eubanks had each sold other animals to Hickey on  
24 prior occasions and that Hickey knew of that fact on May 16, 1988. OMara  
25 knew that Hickey was engaged in the business of selling animals to research  
26 laboratories throughout the West Coast and that by taking My Girl to this

1 facility, it was reasonable to assume and thus foreseeable that My Girl  
2 would never be returned to the plaintiff alive.

3 20.

4 Hickey knew or should have known by objective characteristics of  
5 the circumstances alleged herein, that My Girl was not a stray and could  
6 not reasonably have been owned by OMara and/or Eubanks but was instead  
7 a pet which had that day been wrongfully taken from its owner-companion.

8 21.

9 That Hickey knew or should have known from the objective  
10 observation that My Girl was not a homeless animal, but was instead  
11 someone's companion. Further, Hickey knew or should have known that  
12 OMara and Eubank had taken wrongfully My Girl from her owner-  
13 companion. That notwithstanding that knowledge, Hickey took the actions  
14 as herein alleged, which actions were intentional, willful and malicious.

15 22.

16 That the conduct of Hickey in repeatedly purchasing pets from  
17 OMara and Eubank was, under the circumstances then existing, conduct  
18 which unreasonably created a foreseeable risk to the well-being as well as  
19 the life of plaintiff's pet, My Girl.

20 23.

21 That Hickey paid OMara and Eubanks the sum of \$30.00 for the  
22 Rottweiler but stated to them that My Girl was too small for research.  
23 Thereupon, Hickey picked up a weapon and killed My Girl by firing a  
24 bullet into My Girl. That Hickey thereupon concealed the body of My  
25 Girl by burying her remains.

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27 Page 6 COMPLAINT (GRIZZEL vs. HICKEY et al)

28 Roger Anunsen

Attorney at Law

689 Church St N.E.

Salem, Oregon 97301

(503) 588-1175

24.

1  
2 That on or about May 18, 1988, plaintiff contacted Hickey at his  
3 facility and inquired about My Girl. That Hickey wantonly, willfully and  
4 maliciously lied to the plaintiff as to the identification of My Girl and the  
5 circumstances of her death with the intent to mislead the plaintiff into  
6 believing he had not in fact killed My Girl and had not used a bullet from  
7 his gun to kill that animal. That Hickey told the plaintiff that the Cocker  
8 Spaniel he killed was not blonde or white, but was red and was not a large,  
9 healthy cocker, like My Girl, but instead was thin and sick. Hickey also  
10 stated to the plaintiff that he had not killed that pet with a gun, but had  
11 instead merely given that pet a lethal injection.

25.

12  
13 On May 18, 1988, plaintiff believed Hickey's statement that he had  
14 used a lethal injection but was unsure as to whether Hickey was being  
15 truthful about the description of the pet he had killed. Since the cocker  
16 spaniel Hickey described could not have been My Girl, plaintiff continued  
17 to hold out hope she would find her pet.

26.

18  
19 That the statements made by Hickey to the Plaintiff as alleged in the  
20 preceding paragraph of this complaint were false, were known by Hickey  
21 to be false and were made by Hickey to Plaintiff with the specific intent of  
22 deceiving the plaintiff as to the true circumstances of Hickey's killing of  
23 My Girl. That the plaintiff subsequently learned of the true circumstances  
24 surrounding the killing of My Girl by Hickey.

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27.

As a direct and proximate result of the actions of the defendants, plaintiff suffered and continues to suffer extreme and severe emotional distress including but not limited to medical and other professional care and counseling.

28.

That the above alleged actions of defendants were intentional, malicious, wanton and willful, or were done with a reckless disregard for the consequences thereof which were foreseeable at the time of the conduct.

COUNT ONE

(Negligence by OMara)

29.

Reallleges paragraphs 1 through 28 of this complaint.

30.

As a direct and proximate result of OMara's acts, the plaintiff suffered the loss of My Girl, and is entitled to special damages against OMara in the sum of \$2,750.00.

31.

That as a direct and proximate result of OMara's negligent acts, the plaintiff suffered damage and is entitled to general damages against OMara in the sum of \$5,000.00.

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COUNT TWO

(Negligence by Hickey and S.S. Farms, Inc.)

32.

Realleges paragraphs 1 through 28 of this complaint.

33.

As a direct and proximate result of Hickey's and S.S. Farms, Inc.'s negligent acts, the plaintiff suffered the loss of My Girl, and is entitled to special damages against Hickey and S.S Farms, Inc. in the sum of \$2,750.00.

34.

That as a direct and proximate result of Hickey's and S.S. Farms, Inc's negligent acts, the plaintiff suffered damage and is entitled to general damages against Hickey and S.S. Farms, Inc. in the sum of \$100,000.00.

COUNT THREE

(Infliction of Severe Emotional Distress by OMara)

35.

Realleges paragraphs 1 through 28 of this complaint.

36.

That the acts of OMara amounted to an extraordinary transgression of the bounds of socially tolerable conduct.

37.

That as a direct and proximate result of the intentional or reckless acts of defendants, the plaintiff suffered severe and extreme emotional distress. Plaintiff is entitled to special damages to be determined at the

1 time of trial. Further, plaintiff is entitled to general damages as a result of  
2 the defendants tortious and malicious conduct in the sum of \$5,000.00.

3 38.

4 That the above alleged actions of defendants were intentional,  
5 wanton, and willful, or were done with a reckless disregard for the  
6 consequences thereof.

7 39.

8 That the plaintiff is entitled to an award of punitive damages from  
9 OMara in the sum of not less than \$25,000.00.

10 **COUNT FOUR**

11 (Infliction of Severe Emotional Distress by Hickey and S.S. Farms, Inc.)

12 38.

13 Realleges paragraphs 1 through 28 of this complaint.

14 39.

15 That the acts of Hickey amounted to an extraordinary transgression  
16 of the bounds of socially tolerable conduct.

17 40.

18 That as a direct and proximate result of the intentional or reckless  
19 acts of defendants, the plaintiff suffered severe and extreme emotional  
20 distress. Plaintiff is entitled to special damages to be determined at the  
21 time of trial. Further, plaintiff is entitled to general damages against  
22 Hickey and S.S. Farms, Inc. as a result of the defendants tortious and  
23 malicious conduct in the sum of \$100,000.00.

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25 ////

41.

1 That the above alleged actions of defendants were intentional,  
2 wanton, and willful, or were done with a reckless disregard for the  
3 consequences thereof.  
4

42.

5 That the plaintiff is entitled to an award of punitive damages against  
6 Hickey and S.S. Farms, Inc. in the sum of not less than \$350,000.00.  
7  
8

9 WHEREFORE, plaintiff prays for judgment as follows:

10 1. Pursuant to COUNT ONE

11 Judgment against defendant, OMara as follows:

- 12 (1) Special damages in the amount of \$2,750.00;  
13 (2) General damages in the amount of \$5,000.00.

14 2. Pursuant to COUNT TWO

15 Judgment against defendants, Hickey and S.S. Farms, Inc. as  
16 follows:

- 17 (1) Special damages in the sum of \$2,750.00;  
18 (2) General damages in the amount of \$100,000.00.

19 3. Pursuant to COUNT THREE

20 Judgment against OMara for emotional distress as follows:

- 21 (1) Special damages to be determined at trial;  
22 (2) General damages in the amount of \$5,000.00;  
23 (3) Punitive damages in the amount of \$25,000.00.

24 4. Pursuant to COUNT FOUR

25 Judgment against defendants Hickey and S.S. Farms, Inc. for  
26 emotional distress as follows:

- 27 (1) Special damages to be determined at trial;  
28 (2) General damages in the amount of \$100,000.00;  
(3) Punitive damages in the amount of \$350,000.00.

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5. For such other relief as this court may deem proper.

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Dated this \_\_\_\_ day of May, 1990.

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ROGER ANUNSEN  
Attorney for Plaintiff  
689 Church St N.E.  
Salem, Oregon 97301  
503-588-1175  
OSB 73015

I hereby affirm that I have reviewed the above complaint and that the contents therein are true and accurate to the best of my knowledge and belief.

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JULIE MARIE GRIZZEL