

Medical Need for an Assistance Dog Trumps “No Pets” Rule: Lawsuit Results In a \$115,000 Settlement

HARTFORD, CT, June 3, 2008 -- For Ann Mitchell's disabled daughter, life without her dog wasn't just lonely, it was dangerous. Born with multiple disabilities including cerebral palsy, she suffered from seizures and was dependant on her assistance dog, Rock. With Rock's help, she was able to attend school, tackle stairs, navigate around the house and even right herself after a fall. Unfortunately, all of that changed when her family moved to a rental home in Windsor Locks. Her landlord refused to make an exception to his rule against dogs; even assistance dogs like Rock.

In a proposed settlement announced this week, the parties have determined the family will be paid \$115,000; with \$102,000 going directly to the family, and \$13,000 to the Connecticut Fair Housing Center, to cover fees and costs. The family plans to use the settlement funds to buy their own home. The fees will go to support the ongoing work of the Connecticut Fair Housing Center. Additionally, the landlord was ordered to attend fair housing training, implement a reasonable accommodation policy and comply with notice, monitoring, and reporting requirements.

If approved by the court, the settlement caps a three-year battle fought by Ann, the Connecticut Fair Housing Center, and attorneys David Rosengren and Joseph Chambers from Pepe & Hazard LLP, who donated their time to the case. The Department of Justice also launched a companion case, brought on behalf of the United States.

“The Connecticut Fair Housing Center is extremely pleased with the outcome and the contribution by Pepe & Hazard's lawyers. Their thoroughness and hard work made this settlement possible,” said the Connecticut Fair Housing Center's Greg Kirschner, co-counsel on the case. “In addition to their work on the settlement, Pepe & Hazard also provided the services of estate planning partner Kathleen Bornhorst, who worked with the family to ensure that the settlement would not impact the family's benefits under Social Security and Medicaid. As a result, Ann expects to be able to use the settlement as a down payment on her own home.”

“One of the challenges we faced in this case was preparing to prove that the assistance animal was medically necessary to Ann's daughter and that the defendant's refusal to grant a reasonable accommodation caused substantial harm,” said Joseph Chambers, an associate at Pepe & Hazard. “We were prepared to introduce extensive medical evidence and the testimony of several physicians to demonstrate the extent of the impact of an assistance dog her health and quality of life.”

Giving up Rock caused Ann's daughter a drastic deterioration of her physical condition. Her depression got worse. Her mobility suffered and she was forced to use a wheelchair more frequently. Without Rock to support her, she fell down the stairs and was unable to right herself. During the eight months she had worked with Rock, her seizures had ceased. Without him, she was experiencing 8 to 10 seizures a month. During the time she spent without Rock, she missed 70 days of fourth and fifth grade classes as the symptoms of her disabilities worsened. As a result, her grades suffered. Ann could not get a full-time job because her daughter often couldn't make it through the school day

due to seizures and depression. "I found myself watching my healthy, happy little girl slip away," Ann recalls.

Doctors recommended to Ann that her daughter resume working with an assistance animal. Each month, when Ann paid her rent, she brought letters from her doctors documenting the medical need for an assistance dog. "He wouldn't even look at them," she says.

The landlord remained insistent that "no dogs are allowed." When Ann sought to renew the lease, he threatened to evict the family and they moved out. After doing all she could to work with him, Ann filed a housing discrimination complaint. "She filed her complaint out of desperation. She did everything she was supposed to do to request a reasonable accommodation, and the landlord would not even consider what she presented," explained Kirschner. At issue were violations of the Fair Housing Act, which provides that tenants may request exemptions for landlord's rules like the "no pet" policy if there is a medical necessity.

As her daughter's health continued to deteriorate, Ann began exploring options to obtain another assistance animal. In April 2006, the East Coast Assistance Dog Training Academy provided the family with a professionally trained Golden Retriever, Laser. Within weeks, Laser's presence reduced so much stress that Ann's daughter was suffering fewer, less severe seizures and she had returned to school on a regular basis. Laser also helped increase her mobility, giving her more confidence and lessening her depression.

Ann also approached the Connecticut Fair Housing Center for assistance. The Center provides legal representation to people who are victims of housing discrimination. "We filed another suit in federal court on Ann's behalf that was separate from those of the federal government," commented Kirschner.

"We see the \$115,000 settlement as an important step for Ann's daughter and others who depend upon the Fair Housing Act to enforce their rights," Kirschner continued. "For one thing, Ann and her daughter received compensation for their injuries. For another, it enforced the Act in a public way, letting both individuals facing discrimination and landlords know about the consequences of violating it. Lastly, it highlights that the Fair Housing Act entitles individuals with disabilities to accommodations that give them the opportunity to fully use and enjoy their homes."

"Helping Ann's family get the justice they deserved and the financial resources they needed to put a down payment on their own home was tremendously satisfying. Now, they will never again be forced to give up an assistance animal. Achieving this outcome has been satisfying both personally and professionally. It is pro bono work at its best," concluded Attorney Chambers.

About Pepe & Hazard LLP

Pepe & Hazard LLP is a regional law firm, practicing in the areas of general litigation, construction and business law. The Firm is celebrating its 25th year of serving clients nationally and internationally. Pepe & Hazard operates out of four offices, located in Boston, Massachusetts and Hartford, Fairfield and Waterbury, Connecticut. Its wholly owned subsidiary, Integrated Project Solutions LLC, provides litigation support technology, including proprietary electronic discovery software. For more information please visit www.pepehazard.com.

About The Connecticut Housing Center

The Connecticut Fair Housing Center's goal is to ensure that all people have equal access to housing opportunities in Connecticut through enforcement, education and outreach, work with local communities and fair housing education for housing providers. For more information visit: www.fairhousing.org.

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