

Cause No. D-1-GN-21-007037

Amy and Casey Clinkenbeard, Individually	*	In the District Court of
and as next friend of C.C.	*	
	*	
vs.	*	Travis County, Texas
	*	
Danielle Thomas, a/k/a "The Pole Assassin"	*	353RD, DISTRICT COURT
and	*	
Jeff Banks	*	____ Judicial District

Plaintiff's Original Petition

Amy and Casey Clinkenbeard, Individually and as next friend of C.C., a minor, brings this suit against Danielle Thomas, a/k/a "The Pole Assassin" and Jeff Banks and would show the court as follows:

1. Discovery Level

1.1. Plaintiffs intend to conduct discovery in this matter under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.

2. Parties

2.1 Plaintiffs Amy and Casey Clinkenbeard and C.C. (together "Plaintiffs") are individuals residing in Austin, Texas.

2.2 Defendant Danielle Thomas may be served at her place of residence 717 Santaluz Path, Austin, Texas 78732.

2.3 Defendant Jeff Banks may be served at his place of residence 717 Santaluz Path, Austin, Texas 78732.

3. Venue & Jurisdiction

3.1 Venue is proper in Travis County, Texas because all or a substantial part of the events or omissions giving rise to the claim occurred in Travis County, Texas.

3.2 This Court has personal jurisdiction over the Defendants as they reside in this State and the cause of action arose from activities in this state.

4. Background

4.1 On Halloween, October 31, 2021, C.C, a minor child,. and two of his friends were door-to-door trick or treating.

4.2 After trick or treating, C.C. and his two friends were invited to Danielle Thomas's home to attend a haunted house set up by Danielle Thomas.

4.3 After the children had completed the haunted house, C.C. and his two friends were taken to a monkey that Danielle Thomas kept in her backyard.

4.4 C.C. was told that the monkey was trained to give high fives and C.C. attempted to high five the monkey.

4.5 Instead of giving a high five, Danielle Thomas's monkey aggressively bit down on C.C's hand and refused to let go. C.C. was forced to manually pry the monkey's jaw open. There was so much blood that C.C. was unable to see the full extent of the injury.

4.6 C.C. and his friends were aware that a physician, the father of another friend, lived nearby so C.C. and his friends left Danielle Thomas's and Jeff Banks's property in order to

receive emergency treatment. Fortunately, the physician was home and able to clean and dress C.C.'s wound.

4.7 That same night, the physician and another member of the neighborhood went to Danielle Thomas's home to discuss the incident.

4.8 Instead of showing any semblance of care for an injured child, Danielle Thomas was instead worried about the risk of her monkey being taken away. The physician informed Danielle Thomas that the incident would require a health department report and that additional information on the monkey's vaccination status would be appreciated so that an appropriate course of treatment for C.C. could be decided. In particular, it needed to be decided whether rabies treatment could be avoided as rabies treatments are long and extremely painful.

4.9 Danielle Thomas stated to the physician that the monkey had bitten her before and that she was fine, implying that the monkey therefore did not have rabies.

4.10 To date, Danielle Thomas has refused to provide the family with any actual vaccination records for her monkey.

4.10 Because Danielle Thomas failed to produce any vaccination records for her monkey, C.C. has been forced to undergo rounds of extremely painful rabies vaccinations.

4.11 In an effort to discredit C.C. and his family and protect the monkey, Danielle Thomas began a campaign of deceit and evidence tampering.

4.12 Danielle Thomas took to Twitter and falsely stated, among other things, that C.C. had no permission to be on the property, that she had instructed her guests, including C.C., not to enter the area near the monkey, and that no parent had attempted to communicate with her to resolve the issues stemming from her monkey's attack.

4.13 Danielle Thomas later attempted to destroy evidence of these falsehoods by deleting her Twitter profile entirely.

4.14 Danielle Thomas then instructed a friend to go on the nationally syndicated "Bobby Bones Show" to further enforce the false version of events. The friend fully omitted the fact that C.C. was an invitee of the home as well as the severity of C.C.'s injuries. Based on Danielle Thomas's agent's false telling of events, the host of the Bobby Bones show stated that he was "team monkey."

4.15 Danielle Thomas's actions ignited a media firestorm including articles on the New York Post, Fox, Barstool, Yahoo, and countless others which then further spread through social media.

4.16 The resolution of all these issues could have been handled between Danielle Thomas and C.C.'s family. Instead, Danielle Thomas, prioritizing her pet monkey over the child it attacked, chose to publicize a false version of her monkey's attack, resulting in embarrassment for C.C. and his family. C.C. was mocked in school, and Thomas has accused the family, and the injured child, of fabricating the incident and its severity.

5. Causes of Action

5.1 Negligence

5.1.1 Plaintiffs plead sections 4 and 5 as if fully set forth herein.

5.1.2 C.C.'s injuries were directly and proximately caused by one, more, or all of the following negligent acts and/or omissions of Danielle Thomas and Jeff Banks:

- (a) Failing to exercise reasonable and proper care in restraining the monkey;
- (b) Failing to exercise reasonable and proper care in leashing and/or caging the monkey;
- (c) Failing to exercise reasonable and proper care in monitoring the monkey;
- (d) Failing to exercise reasonable and proper care in warning C.C. of the monkey's vicious tendencies;
- (e) Failing to exercise reasonable and proper care in supervising minor individuals' access to the monkey.

5.1.3 Each of the foregoing acts of negligence were a proximate cause of Plaintiffs' resulting injuries and damages.

5.2 Negligence Per Se

5.2.1 Plaintiffs plead sections 4 and 5 as if fully set forth herein.

5.2.2 Danielle Thomas and Jeff Banks committed negligence per se by possessing a wild animal which then bit a minor child and had apparently bitten its owner as least once before

5.3 Gross Negligence

5.3.1 Plaintiffs plead sections 4 and 5 as if fully set forth herein.

5.3.2 Danielle Thomas and Jeff Banks were aware that the monkey had displayed vicious behavior, including but not limited to biting, prior to the date of C.C.'s injury. Despite this, Danielle Thomas and Jeff Banks failed to take reasonable and necessary steps to monitor and restrain the monkey. Furthermore, Danielle Thomas and Jeff Banks gave children in their home access to the monkey and failed to take reasonable and necessary steps to prevent said access. Danielle Thomas and Jeff Banks were callous and/or intentional with respect to their disregard of the laws of Texas as well as the health, safety, and welfare of others. Danielle Thomas's and Jeff Banks's actions therefore rise to the level of malice and gross negligence.

5.3.3 Plaintiffs are therefore entitled to an amount of exemplary/punitive damages.

5.4 Strict Liability

5.4.1 Plaintiffs plead sections 4 and 5 as if fully set forth herein.

5.4.2 Danielle Thomas and Jeff Banks were aware that the monkey had previously shown unprovoked aggression towards another person. Pursuant to Texas law and the common law, Danielle Thomas and Jeff Banks are therefore strictly liable for any and all injuries done to Plaintiffs as a result of their monkey's actions.

5.5 Defamation

5.5.1 Plaintiffs plead sections 4 and 5 as if fully set forth herein.

5.5.2 Danielle Thomas, Jeff Banks, and third party agents of Danielle Thomas and Jeff Banks made false statements to individuals and media outlets regarding both C.C. and Amy and Casey Clinkenbeard.

5.5.3 The false statements made by Danielle Thomas, Jeff Banks, and their agents caused C.C. and Amy and Casey Clinkenbeard material harm including but not limited to harassment and embarrassment both of which may now be permanent given the public nature of the false statements and the spread of those statements through publication of articles and republication through social media.

5.5.4 Danielle Thomas, Jeff Banks, and their agents made these statements purposefully in order to protect their pet monkey over the safety of C.C., a human child.

5.5.5 Danielle Thomas and Jeff Banks knew or should have known that these statements were false and likely to cause material harm to Plaintiffs.

5.6 Defamation Per Se

5.6.1 Plaintiffs plead sections 4 and 5 as if fully set forth herein.

5.6.2 Danielle Thomas, Jeff Banks, and their agents accused C.C. of the crime of trespassing despite knowing that C.C. was an invitee.

5.6.3 Falsely accusing a minor of a crime is outrageous and constitutes defamation per se.

5.7 Damages

5.7.1 By virtue of the actions and conduct of Danielle Thomas and Jeff Banks as set forth above, C.C. has suffered serious physical injury and mental harm both of which are likely to continue into the future.

5.7.2 By virtue of the actions and conduct of Danielle Thomas and Jeff Banks as set forth above, Amy and Casey Clinkenbeard have suffered financial loss in the form of the costs of medical care for C.C., as well as significant harassment and embarrassment which are likely to continue into the future.

5.7.3 Plaintiffs therefore request that Danielle Thomas and Jeff Banks be made to pay actual, compensatory, and punitive damages for their grossly negligent conduct and their attempted “cover-up” via defamatory statements.

6. Jury Demand and Request for Disclosure

6.1 Plaintiffs request a trial by jury and that Defendants submit Responses to Disclosures pursuant to the Texas Rules of Civil Procedure.

7. Conclusion and Prayer

7.1 Amy and Casey Clinkenbeard, Individually and as next friend of C.C request that Defendants Danielle Thomas and Jeff Banks be cited to appear and answer and that on final trial Plaintiffs have: (1) judgment against Defendants, for actual, compensatory, and exemplary damages in accordance with the evidence; (2) pre-judgment and post-judgment interest as provided by law; (3) costs of court; (4) attorney’s fees; and (5) such other and further relief to which Plaintiffs may show himself justly entitled at law and in equity.

Respectfully submitted,

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