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# Sibling estate fight becomes nasty neighbour dispute



By [Charles Ticker](#)

In my over 30 years of practice, I have found that the most difficult disputes are those involving neighbours or siblings fighting over an estate. A recent Ontario case involved a sibling estate fight and a neighbour dispute – a highly-charged and emotional combination.



David Fitzpatrick lived next door to 60-year-old William Squires and his 75-year-old wife Anna.

On the morning of Nov. 12, 2007, William kissed his wife goodbye and left his Pickering bungalow to commute to his job in Toronto.

He was shocked to discover that someone had placed a dead coyote on the hood of his pickup truck! Blood was dripping from its mouth. Mr. Squires called the police.

The police carried out an investigation and arrested David Fitzpatrick the 39-year-old next-door neighbour on a charge of criminal harassment.

The case has a bizarre set of facts.

Mr. Fitzpatrick, the youngest of four siblings, lived with his widowed mother until her death in April 2006.

During the last months of their mother's life, an animosity developed between David Fitzpatrick and his sister Shelley Orwin concerning their mother's care. That animosity increased following her death in April 2006. Despite the fact that they were named as co-executors of their mother's will, they could not agree on the distribution of certain assets of the estate. Those differences led to litigation, which was eventually resolved following several court appearances. David inherited the bulk of the estate, including the house next door to the Squires where he continued to reside.

The Squires had a close relationship with the late Mrs. Fitzpatrick and her daughter Shelley. They were also initially on good terms with their neighbour David until his mother's passing. However, when David felt that the Squires were siding with his sister in the estate dispute, he started to act very aggressively towards his neighbours.

The neighbour dispute involved a small strip of grass between their driveways. Mr. Squires, an avid gardener, was unhappy that Mr. Fitzpatrick was trespassing on his property and cutting the lawn too short causing it to burn. Mr. Squires decided to put a fence between the properties. Mr. Fitzpatrick did not approve of the proposed fence and he harassed both the Squires and the contractor who was hired to construct the fence.



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Things got so bad that the Squires installed video surveillance cameras on their property and also audio recorders to monitor the events taking place – including the coyote incident referred to above.

The videotape showed some shadowy figure coming onto the driveway but then the camera went dark. Someone had torn the camera cable.

After the police investigated, they arrested Mr. Fitzpatrick and charged him.

The charges against Mr. Fitzpatrick were eventually withdrawn by the Crown.

One would think that Mr. Fitzpatrick would be pleased that the charges were dropped.

However, he decided to sue his sister and the Squires for malicious prosecution. The Squires counterclaimed for damages for intentional infliction of mental distress and trespass to property and punitive damages.

After a lengthy eight-day trial and reserving judgment, the trial judge released reasons in which he dismissed the plaintiff's action for malicious prosecution and awarded the defendants judgment on their counterclaim.

The judge found that the plaintiff Mr. Fitzpatrick or other persons acting on his instructions trespassed on the Squires' property and placed the dead coyote on the hood of the pickup truck.

The judge awarded the Squires damages for mental distress. The Squires required psychotherapy and the judge found that they had suffered psychologically, in particular Mrs. Squires.

Mr. Squires testified that he believed that the final incident involving the coyote to be a death threat akin to one portrayed in a mafia movie (except the coyote was on his truck and not on his pillow).

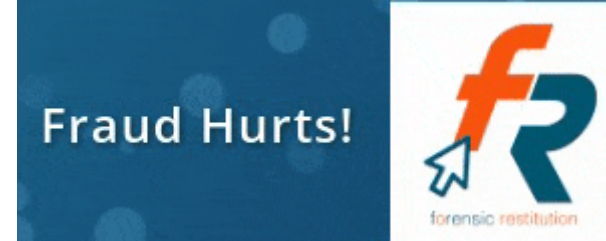
The judge awarded the Squires \$115,000 for general damages and almost \$27,000 in special damages and punitive damages in the amount of \$ 20,000 as well as their costs. The judge also ordered a permanent injunction restraining Mr. Fitzpatrick from having any contact with the Squires directly or indirectly and ordered him permanently to remain at least 500 meters from their residence or any other location where he might know them to be located.

It should be mentioned that the Squires were so fearful of their neighbour that they put their home up for sale and moved away from the neighbourhood.

The reasons for judgment in this most unusual but sad case can be found [here](#).

[Read The Sibling Fight: Estate Law Blog](#)

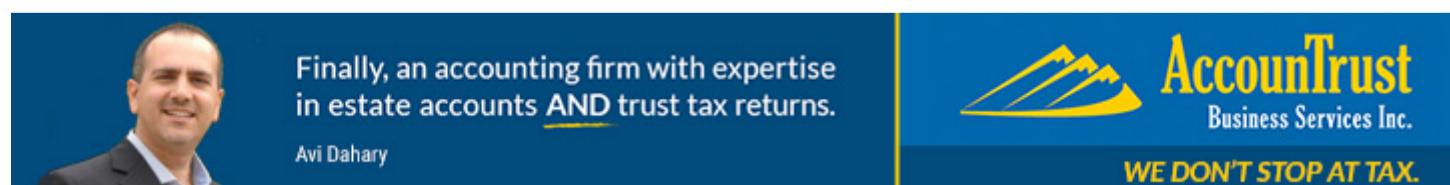
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