

**COURT RULES THAT DOG OWNER'S USE OF THE WRONG SYRINGES  
TO ADMINISTER INSULIN WAS NOT DUE TO NEGLIGENCE  
OF THE VETERINARIAN OR THE VETERINARY CLINIC.**

Arlington South Vet Clinic v. Zimmerman, 219 WL 6041722 (Ind. Ct. App. 2019)

**BASIS OF THE COMPLAINT:**

Wiggles, a ten-year-old female Labrador Retriever, was a regular patient at Arlington South Veterinary Clinic and suffered from diabetes, arthritis, and other ailments. Zimmerman had been instructed to administer twenty units of insulin to Wiggles twice daily with a U-40 syringe, eventually increased to thirty-one units. On August 29, 2018, Zimmerman noticed that Wiggles was tired, refusing to eat, drinking lots of water, and losing weight.

When Zimmerman took Wiggles to Dr. Dale Miller at Arlington she reported that Wiggles was weak, lethargic, having trouble walking and had a blood glucose level at home of 518 mg/dL. Blood glucose measured at the clinic was 675. Wiggles was admitted to the clinic for IV fluids and stabilization of blood glucose levels. Wiggles' condition and behavior improved and she was discharged on September 1, 2018.

After returning home, Wiggles' condition deteriorated and Zimmerman took her to IndyVet, an emergency and specialty animal hospital on September 5, 2018. IndyVet performed a variety of tests, stabilized her blood glucose, and discharged her on September 8, 2018. On September 10, 2018, IndyVet readmitted Wiggles for weakness, lethargy, and elevated blood glucose levels. After questioning Zimmerman, IndyVet determined that Zimmerman was using U-100 syringes to dose insulin rather than U-40 as prescribed, resulting in Wiggles receiving only 40% of the amount of insulin prescribed. Wiggles was again admitted for stabilization of blood glucose levels and discharged on September 12, 2018.

**LEGAL PROCEEDINGS:**

On January 25, 2019, Zimmerman filed a Notice of Small Claim alleging that Arlington provided substandard care and emphasized the number of additional tests IndyVet performed compared to the number Arlington performed. She sought an award of \$6,500.00 which represented the alleged cost of care provided by IndyVet.

At a bench trial, Zimmerman testified that an unidentified receptionist at Arlington gave her U-100 syringes and told her they would work the same as the U-40 syringes. At the close of Zimmerman's case-in-chief, Arlington moved for judgment on the evidence because Zimmerman had not put forth expert testimony and the trial court denied the motion.

Dr. Miller testified that U-100 syringes were typically used in human medicine, that he never used U-100 syringes, and that Arlington does not stock U-100 syringes or use insulin that is to be administered with a U-100 syringe. Zimmerman's purchase history recorded in the clinic's records showed that Zimmerman purchased U-40 syringes on January 7<sup>th</sup>, February 20<sup>th</sup>, and April 30<sup>th</sup> of

2018. If used as directed, the supply of syringes would have been exhausted in June 2018. However, the purchase history did not reveal the purchase of any U-40 syringes after April, 2018

On April 11, 2019, the trial court entered findings and conclusions, rendered judgment for Zimmerman, and awarded Zimmerman \$2,492.33 in damages. The trial court concluded that Zimmerman failed to prove she bought the U-100 syringes at Arlington. Nevertheless, the court held that Dr. Miller was not “sufficiently acquainted with the care and keeping of the patient,” failed to adequately communicate with Zimmerman, and noted that “a conversation with Zimmerman by Arlington and its vets about administration of insulin to Wiggles may well have saved the heartache and expense of Wiggles’ emergency medical care.”

#### **DISCUSSION OF THE COURT:**

A small claims court is not required to enter special findings, however if it does so it aids our review by providing us with a statement of the reasons for the trial court’s decision. We evaluate the evidence in the light most favorable to the judgment and will reverse a judgment only if the evidence leads to only one conclusion and the trial court reached the opposite conclusion.

Arlington asserts that Zimmerman was required to provide expert testimony to prove her veterinary malpractice claim. However, pursuant to Indiana Small Claims Rule 8(A), a small claims trial “shall be informal with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law and shall not be bound by the statutory provisions or rules of practice, procedure, pleadings, or evidence except provisions relating to privileged communications or offers of compromise.” That Rule suggests that expert testimony ought not be required in small claims actions. The law already recognizes situations in the professional negligence context when expert testimony is superfluous. If a small claims plaintiff can put forth competent evidence that a professional failed to meet the requisite standard of care without hiring an expert the small claims court should consider it. Nevertheless, Zimmerman bore the burden of proof.

When Zimmerman took Wiggles to Arlington, her blood glucose was elevated. Arlington administered insulin using a U-40 syringe and the blood glucose level normalized. Wiggles’ condition deteriorated when she was released and improved whenever Wiggles was hospitalized. Dr. Miller testified that administration via a U-100 syringe would directly cause the symptoms Wiggles experienced and further testified that Arlington did not sell or stock U-100 syringes or insulin that required U-100 syringes. The trial court concluded that Zimmerman failed to prove that she bought the U-100 syringes at Arlington.

Ultimately, the trial court found Arlington negligent and stated a “conversation with Zimmerman by Arlington and its vets about administration of insulin to Wiggles may well have saved the heartache and expense of Wiggles’ emergency medical care.” However, No evidence supports this finding. There was no way for Arlington to know or suspect that Zimmerman was administering insulin with the wrong syringes. Arlington cannot be held responsible for Zimmerman’s acquisition of the improper syringe elsewhere. While IndyVet ultimately determined how Zimmerman was mis-dosing Wiggles, IndyVet did so only after learning Wiggles had to be

hospitalized for the same symptoms three times in a period of time and relapsed after being released from her previous two hospitalizations. The evidence points to only one conclusion, that Arlington did not breach its duty to Zimmerman.

**JUDGMENT:**

The trial court's decision was contrary to law because Zimmerman failed to put forth evidence to support her claim. The evidence points only to the conclusion that Zimmerman's acquisition of inappropriate syringes that were not available at Arlington was the sole cause of Wiggles' medical issues. Accordingly, Arlington was not negligent. Consequently, we reverse and remand to the trial court with instructions to enter judgment for Arlington.