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5
6 Attorney for Petitioners Elizabeth Hueg, SAFE Rescue Team, Cats
in Need of Human Care

7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF ORANGE - CENTRAL

10
11 Elizabeth Hueg, an individual;) Case No.: 30-2022-01282419-CU-WM-CJC
SAFE Rescue Team, a California)
12 501(c)(3) non-profit) **Assigned for All Purposes Judge Martha K. Gooding**
corporation; Cats in Need of)
13 Human Care, a California) Petition for Writ of Mandate/
501(c)(3) non-profit) Complaint for Declaratory and
14 corporation) Injunctive Relief
15)
16)
Petitioners,)
17 vs.)
18)
OC Animal Care, OC Community)
19 Resources and Does 1-25,)
inclusive,)
20 Respondents.

21
22
23 Petitioners Elizabeth Hueg, SAFE Rescue Team, and Cats in
24 Need of Human Care seek relief pursuant to *CA Code of Civil*
25 *Procedure* sections 1085 and *CA Civil Code* sections 525 et seq.
26 and allege as follows:

27 Introduction.

1 1. This case involves an ongoing pattern and practice of abuse
2 of discretion and failure to follow California law by Respondent
3 OC Animal Care ("OCAC") in Orange County. Petitioners ask
4 Respondent OCAC be ordered to follow state laws as specified
5 herein, to cease practices which prevent public access to
6 impounded animals and to stop abusive practices which are
7 harmful to animals without any reciprocal benefit to the animals
8 or the public.
9

10 The Parties.
11

12 2. Petitioner Elizabeth Hueg aka "Liz" Hueg, an individual, is
13 a resident of and owner of real property located San Clemente,
14 in Orange County, California. Petitioner Hueg founded and
15 operates OC Shelter Partners, a shelter intervention program
16 that provides resources to Orange County residents to help them
17 keep their pets or to safely place their pets with a reputable
18 rescue to have them re-homed. It is a bypass to the shelter
19 system, saving municipalities \$100,000's in shelter fees. OC
20 Shelter Partners has a proven track record facilitating
21 adoptions and coordinating with various rescue organizations to
22 pull animals from OCAC in order to adopt them into suitable
23 homes.

24 3. Petitioner SAFE Rescue Team is a 501(c)(3) non-profit
25 organization dedicated to the rescue and placement of dogs into
26 suitable homes. Petitioner SAFE Rescue Team is based in Orange
27 County, California.

28 4. Petitioner Cats in Need of Human Care is a 501(c)(3) non-

1 profit organization dedicated to the rescue and placement of
2 cats into suitable homes. Petitioner Cats in Need of Human
3 Touch is based in Orange County, California.

4 5. Respondent OCAC provides animal shelter services for 14
5 cities and animal control field services for 13 cities and
6 unincorporated areas of Orange County. Respondent OCAC is
7 located in the City of Tustin, Orange County, California.

8 6. Respondent OC Community Resources oversees Respondent OCAC,
9 among other County agencies, and reports to the Orange County
10 Board of Supervisors. Respondent OC Community Resources is
11 located in Santa Ana, Orange County, California.

12 7. The parties designated and capacities of Does 1 through 25,
13 inclusive, are presently unknown to Petitioners. Petitioners are
14 informed and believe and thereon allege each of the Respondents
15 designated herein as "Doe" is responsible in some manner for the
16 events, occurrences and happenings alleged herein. Petitioners
17 will amend this Petition to allege the true names and capacities
18 of these fictitiously named Respondents when they are
19 ascertained.

20 8. Petitioners are informed and believe and thereon allege
21 that Respondents named herein, and each of them, were at all
22 times relevant the principals and/or agents of each of the
23 Respondents, and that in doing the things herein alleged, the
24 Respondents and each of them, were acting within the course and
25 scope of said agency.

26 Jurisdiction and Venue.

27 9. This court has jurisdiction under section 1085 of the
28

1 *California Code of Civil Procedure and California Civil Code*
2 *section 525 et seq.*

3 10. Orange County is the proper venue for this Petition because
4 the acts performed by the Respondents, including but not limited
5 to, the violations of statute, took place and continue in Orange
6 County and the impacts of Respondents decisions, policies and
7 practices have had and will continue to have severe adverse
8 impacts upon Petitioners, Orange County, its citizens and its
9 animals, as fully detailed below.

10 The Requirements for a Writ of Mandate to Issue are Satisfied.

11 11. Petitioners have satisfied the requirements for a writ of
12 mandate issue in that 1) Petitioners have a beneficial interest
13 in the outcome of the proceedings in that each of them have and
14 continue to participate in the removal of animals from the
15 shelter for adoption into suitable homes; 2) there is no plain,
16 speedy or adequate remedy at law; and 3) they will suffer the
17 irreparable harm of innumerable deaths by euthanasia of the
18 animals entrusted to the care of Respondent OCAC. *California*
19 *Code of Civil Procedure Section 1086.*

20
21 Factual Background.

22 12. OCAC is the single largest municipal animal facility in the
23 Western United States, serving between 1.5 and 2 million
24 residents at one location. OCAC was built *in 2016-2018* to create
25 a beautiful state of the art taxpayer funded \$30 million dollar
26 facility that was designed to bring the public in and make the
27 interaction with potential adopters and shelter animals easily
28

1 accessible and engaging. The grounds and buildings were
2 configured to create a versatile, inviting and serene park-like
3 setting. With the goal of getting as many animals adopted as
4 possible, kennels were centrally located on the grounds where
5 the public could easily be directed to view available animals.

6 13. Under past OCAC administrations, and consistent with the
7 shelter's slogan of "Promoting Life * Promoting Adoption" the
8 Shelter Director and management were willing to collaborate and
9 welcomed public input which led to fresh ideas and innovative
10 programs to aid in reducing the need for shelter intake, improve
11 communication amongst partner organizations, improve public
12 education and outreach, increase adoptions/ reduce euthanasia
13 and generate a greater number of positive outcomes.

14 14. OCAC's generous annual budget is \$22.7 million dollars.
15 Instead of allocating that money to the care and welfare of the
16 animals to which it is entrusted and facilitating their adoption
17 to the taxpaying public, OCAC uses it to inflate upper
18 management salaries and operates at a surplus.

19 15. OCAC cuts costs by euthanizing healthy, adoptable animals
20 instead of spending resources feeding, caring, and housing them,
21 and hiring sufficient personnel to perform those duties.

22 16. OCAC refuses to spend monies necessary to fulfill their
23 duties towards the animals and the taxpaying public under the
24 law, which includes: 1)to recruit and hire critically needed
25 kennel attendants and employees who actually render the care and
26 services to the animals; 2)to render proper and necessary
27 veterinary medical care to the animals; 3)to educate and train
28

1 kennel staff to properly handle, interact and assess animals;
2 4) former proven and successful animal welfare programs
3 instituted by past administrations such as: Spay and Neuter
4 Clinic, where the public or rescue organizations had access to
5 these services for a reasonable fee; TNR¹; and "Adoption Days",
6 wherein OCAC was open to the public to encourage adoption.

7 17. Under the reign of the current top dog at OCAC (an
8 individual with NO prior education, work experience or
9 background in animal welfare, animal behavioral science or
10 shelter management) there is a culture to quash, exclude,
11 silence, and reprimand efforts by the volunteers, non-management
12 employees and rescue organizations to improve the conditions at
13 the shelter and increase the chances for adoption and animals
14 getting out alive

15 18. In 2020 when COVID hit, emergency protocols were put in
16 place, wherein Respondent OCAC closed the doors to the public
17 and adoptions were allowed by appointment only. To date,
18 despite the global removal and relaxation of COVID protocols,
19 the shelter has not removed theirs. The shelter remains closed
20 to the public.

21 19. Over the course of the past two years, written and verbal
22 requests sent by volunteers, rescue organizations and Orange
23 County taxpayers to update these protocols to allow public
24 access have been *ignored* by OCAC Management as well as their
25 superiors: OC Community Resources and the OC Board of
26

27 ¹ Trap, Neuter and Release is a humane program to control the feral cat
28 population currently exploding in Orange County.

1 Supervisors

2 20. Respondent OC Community Resources is mandated to and holds
3 "public meetings" every quarter. Rather than lead to any change
4 in Respondent OCAC policies which will help adoptable animals
5 get out alive, these meetings appear to be more a forum for the
6 public to vent.

7 21. A key issue is why the Public must have access to the
8 Shelter. Respondent OCAC created and continues to operate a
9 restrictive "appointment to see a specific animal only"² policy.

10 22. There is evidence a man appeared at OCAC to look for his
11 lost dog. Being from Santa Ana, OCAC is his city's animal
12 shelter. In accordance with the appointment policy, Respondent
13 OCAC refused to allow him to search the kennels for his beloved
14 pet. Instead, the distraught pet owner was ordered to leave the
15 premises, to look on the OCAC website, and if he sees his dog,
16 to make an appointment. OCAC's callous actions not only
17 subjected the man's pet to the stressful and unhealthy
18 conditions of an indeterminable length of stay at the shelter,
19 given Respondent's unlawful decision-making practices with
20 regard to euthanize, he was at risk at being put to death before
21 an appointment could be made.

22 23. Anyone wishing to adopt an animal must first review the
23 OCAC website and choose which animal they would like to meet
24 from a single photo. Then an appointment must be made by
25 calling the Shelter. Making an appointment is no easy task in
26 that often during business hours, calls are unanswered. If a
27 _____

28 ² No more than 2 animals per appt.

1 caller is able to make an appointment, upon arrival at the
2 shelter, a kennel attendant will bring *that specific* animal out
3 to the prospective adopter(s).

4 24. This "by photo" appointment process substantially reduces
5 the likelihood of adoption. The potential adopter is prohibited
6 from observing in person a variety of animals and their behavior
7 and personality traits to make a connection and choose which
8 animal would make a good fit to adopt into their family.
9 Looking at a one dimensional photo is wholly deficient.

10 25. The foregoing protocol has caused the adoption rate to
11 plummet fifty one percent (51%). It has also resulted in the
12 euthanization of adoptable dogs, in violation of state law.

13 26. Despite public outcry to open the shelter, Respondent OCAC
14 refuses to change their rigid policy. Instead, Respondent OCAC
15 in concert with Respondent OC Community Resources has engaged in
16 a campaign of misinformation. Respondent's dishonesty is not
17 only present with respect to the manner in which Respondent OCAC
18 addresses the issue of access, it appears to be the modus
19 operandi of the current administration.

20 27. The content hereinbelow is quoted from a document created,
21 published and available on the internet by Respondent OCAC
22 entitled, "*OC Animal Care Fact Checker-Summer 2022*":

23 THE DECEIT: "The doors are open to the public from 11am-5pm."

24 28. The doors may be unlocked but Respondent OCAC prohibits the
25 public from entering the shelter grounds, kennel buildings or
26 enjoy the park-like setting. Instead, the only entry permitted
27 is into the lobby foyer or to an adjacent side yard.
28

1 29. Rescue and adoption organizations are forced to comply with
2 the appointment policy. Rather than facilitate the process to
3 give an animal a chance to get out of the shelter alive,
4 Respondent OCAC imposes another inexplicable hurdle to rescue
5 and adoption organizations: the required appointment must be
6 made through one of two "Rescue Coordinators". Often these
7 coordinators are unavailable or will not return messages left by
8 rescues for days. Time is of the essence when an animal's life
9 is at stake.

10 **ANOTHER LIE:** "Our new adoption-by appointment system is similar
11 to the appointment based and personalized service models of
12 neighboring animal care service organization such as Los Angeles
13 County...Potential adopters are not being turned away from the
14 shelter."

15 30. The only thing similar is the need to make an appointment.
16 That is where any similarity ends. The appointment protocol in
17 Los Angeles County, as well as other neighboring shelters,
18 **allows prospective adopters access into the shelter to view all**
19 **the animals which are deemed available for adoption - NOT just**
20 **one pre-selected animal.**

21 31. Recently, Los Angeles County adopted a hybrid program where
22 at times it is open to the public without the need for an
23 appointment. Seeing an animal live and being able to observe
24 the animal's behavior and personality are key factors to
25 consider for a potential adopter. The animals at OCAC and the
26 public are denied this opportunity.

27 32. Potential adopters are being turned away in droves. There
28

1 is evidence one eyewitness reports observing three different
2 families being turned away within a 10 minute period.

3 33. In an attempt to support the appointment-to-see-a specific
4 -animal-only policy, Respondent OCAC represents in writing and
5 verbally to the public that it "minimizes stress on animals".
6 Contrary to Respondent OCAC's representation, current policy
7 creates stress for the animals as more fully detailed below.

8 34. Respondent OCAC alleges the appointment to-see-a-specific-
9 animal policy has "reduced the in-shelter bite rate which
10 protects the safety of our adopters, volunteers and staff."

11 35. There is evidence when data in support of the alleged
12 reduction in bite rate has been requested through direct
13 communication or through the Public Records Request Act,
14 Respondent OCAC has failed to produce any information in support
15 of their representations.

16 36. To promote their rigid policy, Respondent OCAC states, "In
17 the adoption by appointment system our trained and experienced
18 staff offer a concierge-style adoption experience from the time
19 someone calls to make an appointment until they leave with their
20 new best friend."

21 37. This system reduces the time in which a kennel attendant
22 has to clean, feed and exercise a shelter animal. While it is
23 great for the ONE animal to have a chance at adoption, as more
24 fully detailed below, the others, especially the big dogs, are
25 forced to be stuck in their filthy kennels. Cats fail to get
26 requisite care and feeding.

27 //

1 38. Based on the deceitful manner in which Respondent OCAC
2 addresses the issue of access, the inescapable conclusion is any
3 representation by Respondent OCAC should be viewed with
4 suspicion.

5 **FIRST CAUSE OF ACTION**

6 **For Violation of *California Civil Code* Section 1834.4(a) and**
7 ***California Food & Agriculture Code* Section 17005(a)**

8 **(Against All Defendants)**

9 39. Petitioner re-alleges and incorporates herein by reference
10 the allegations of Paragraphs 1 through 38, inclusive set forth
11 above herein.

12 40. *California Civil Code* section 1834.4(a) and *California Food*
13 *and Agriculture Code* section 17005(a) state:

14
15 "(a) It is the policy of the state that no adoptable animal
16 should be euthanized if it can be adopted into a suitable home.
17 Adoptable animals include only those animals eight weeks of age
18 or older that, at or subsequent to the time the animal is
19 impounded or otherwise taken into possession, have manifested no
20 sign of a behavioral or temperamental defect that could pose a
21 health or safety factor risk or otherwise make the animal
22 unsuitable for placement as a pet, and have manifested no sign
23 of disease, injury, or congenital or hereditary condition that
24 adversely affects the health of the animal or that is likely to
25 adversely affect the animal's health in the future." (emphasis
26 added)

27 41. Respondent OCAC refuses and continues to refuse to open the
28 shelter for public access to all animals available for adoption,
terminated programs which promote animals for adoption and
instead elects to euthanize adoptable animals.

1 **CURRENT PROCEDURES SET THE ANIMALS UP FOR FAILURE.**

2 42. By closing its doors to the public, OCAC has substantially
3 restricted an animals chance for adoption. Adoption rates are
4 down 51% as compared to prior years when the doors were opened.
5 Respondent OCAC terminated proven successful programs and
6 refuses to implement procedures to promote the health and
7 welfare of the animals which will support adoptability.

8 **Dogs languish in their kennels for days without any**
9 **interaction or exercise.**

10 43. Respondent OCAC falsely claims, "All animals in the shelter
11 receive responsible and individualized care...OCAC provides in-
12 kennel enrichment daily for dogs."

13 44. Contrary to the practices of past administrations,
14 Respondent OCAC's current practices cause large dogs to be
15 confined to their kennels for days up to a week. The only break
16 comes if a volunteer is able to take them out for a walk.

17 45. The prolonged confinement causes stress on the animals and
18 takes a toll on the animal's mental and physical condition.
19 Over time, without a means to release all the pent up energy,
20 this causes the dog to exhibit signs of what is known as kennel
21 stress such as barking excessively, show barrier reactivity³, or
22 over excitement and jumping on a human if human attempts contact
23 - all behavior issues which not only decrease a dog's chances of
24 adoption, but as more fully described below, increases the dog's
25 chances of being killed by OCAC.

26 **Insufficient staff to render basic and necessary care to**
27 _____

28 ³ When dogs jump up and down when people walk by,

1 **increase a dog's chances for adoption.**

2 46. The "conciierge" appointment-to-see-a-specific-animal system
3 described hereinabove (para. 36) results in less time for kennel
4 attendants to get the animals out of their kennels for exercise
5 and to clean the kennels and feed animals.

6 47. There is evidence for the past two years, kennel attendants
7 have been required to perform maintenance at the shelter. If a
8 kennel door is broken or the waste receptacle backs up, there is
9 no onsite maintenance personnel. Due to OCAC's unreasonable
10 demands upon the kennel attendants, there is no time for kennel
11 attendants to walk and interact with the big dogs.

12 **Respondent OCAC terminated on site programs which had**
13 **increased a dog's chance for adoption.**

14 48. Prior administrations encouraged and promoted a program of
15 daily Dog Play Dates where the dogs were able to run freely,
16 interact with each other, kennel attendants and volunteers.
17 There is an on-site open area referred to as the "Yard" which is
18 a large grassy area where the animals would be able to engage in
19 their Dog play date. It is a well-known principle in animal
20 care that exercise, the opportunity to interact with humans and
21 other dogs support the shelter animal's mental and physical
22 wellbeing, which in turn supports a better temperament and
23 behavior, increasing adoptability.

24 49. Respondent OCAC terminated the Big Dog Play programs citing
25 worker safety. As more fully detailed below, the worker
26 sustained injuries due to Respondent OCAC's failure to properly
27 maintain the premises. The injury had absolutely nothing to do
28

1 with any shelter animals' behavior.

2 50. There is evidence within the past two years, the grass yard
3 would often flood from broken sprinklers. Due to Respondent
4 OCAC's failure to properly maintain the sprinklers, the grass
5 yard would become muddy. This resulted in a kennel attendant's
6 slip and fall. Rather than address the broken sprinkler and
7 flood issue, OCAC terminated big Dog Play Dates.

8 51. Seeing the dogs' stress caused by confinement, kennel
9 attendants proposed alternative areas to conduct the Dog Play
10 Dates. Without any due consideration, Management dismissed the
11 proposal.

12 52. Small dogs' chances of adoption have also been severely
13 constricted by the appointment-to-see-a-specific-animal policy.
14 *Solely due to the volunteer run program*, three days a week small
15 dogs get out of their kennels and interact in the play yard with
16 other dogs and humans. In the past when the public was allowed
17 to come into the shelter, they were able to stand at the fence
18 of the play yard and observe the small dog interactions. This
19 provided an excellent opportunity for the potential adopters to
20 observe each dog's temperament and how the dogs interacted with
21 people and other dogs. This greatly assisted a family's decision
22 to adopt and give the animal a chance for adoption.

23 **THERE IS EVIDENCE RESPONDENT OCAC ENGAGES IN PRETEXT TO LABEL A**
24 **DOG WITH A BEHAVIOR PROBLEM TO SUPPORT THEIR KILLING RAMPAGE OF**
25 **ADOPTABLE DOGS.**

26 53. "Gunner" was a three year old mixed breed weighing
27 approximately 85 pounds and strong. Volunteers worked with him
28

1 to increase his chances to be adopted and he responded very well
2 to training. Gunner learned to stop pulling on his leash on
3 walks and how to calmly meet and interact other dogs. Gunner
4 performed basic obedience on command such as "sit" "stay" and
5 "down." He relished getting hugs and eagerly returned
6 affection. Gunner was a favorite with kennel personnel and
7 volunteers. He had all the attributes of an adoptable dog.

8 54. Notwithstanding videos showing all of Gunner's positive
9 traits, and Gunner's behavior and temperament demonstrating his
10 adoptability while with a volunteer just the day before, on
11 September 7, 2021, Respondent OCAC killed him citing "declining
12 behavior."

13 55. There are many other dogs that were killed by Respondent
14 OCAC under pretext to justify euthanasia. Even worse, there is
15 evidence that "excessive barking" was deemed as a behavior
16 problem to support the decision to kill.

17 56. To ensure temperament/behavior evaluations condemning a
18 healthy animal to lose its life to euthanasia are valid,
19 Respondent OCAC must hire qualified professionals such as
20 properly credentialed animal behaviorists. These professionals
21 may then perform evidence-based, lawful behavior evaluations to
22 determine whether the dog has a behavioral or temperamental
23 defect that could pose a health or safety risk or otherwise make
24 the animal unsuitable for placement as a pet, before reaching
25 the irreversible decision to euthanize. The individuals
26 currently entrusted with deciding whether an animal is to lose
27 its life at OCAC are bereft of those qualifications.
28

1 **THERE IS EVIDENCE RESPONDENT OCAC ENGAGES IN PRETEXT TO LABEL A**
2 **CAT TO SUPPORT THEIR KILLING RAMPAGE OF ADOPTABLE CATS.**

3 57. The health and temperament are noted in writing upon intake
4 of animals by Respondent OCAC. Notwithstanding written notes
5 that a cat is "healthy" upon arrival, often without any exam by
6 a registered vet tech or veterinarian, the same cat is
7 thereafter deemed "irremediably suffering from a serious illness
8 or severe injury"⁴ and scheduled for euthanasia. There is
9 evidence the change in status was noted within 13 minutes of
10 being deemed "healthy" and without any physical exam.

11 58. There is additional evidence healthy kittens that were
12 fostered and returned to the shelter for the chance to be
13 adopted or fostered by another rescue were euthanized within two
14 (2) hours of arrival at the shelter.

15 **RESPONDENT OCAC KILLS ADOPTABLE DOGS AND WITHOUT ANY WARNING IN**
16 **THAT THEY FAIL TO MAINTAIN THE OC RESCUE TRACK APP WITH TIMELY**
17 **INFO.**

18 59. A prior administration created "OC Rescue Track" which is a
19 digital application that is supposed to be maintained by
20 Respondent OCAC which identifies available dogs. There is a
21 color code assigned to each dog. "Yellow" shows dogs that are
22 being promoted mostly to Rescues. This is due to the dog having
23 medical issues or minimal behavior issues. "Goldenrod" is used to
24 indicate "high alert" that the dog is closer to a euthanasia
25 date. "Red" means a euthanasia date has been set. Rescue
26

27 ⁴Language from *CA Food & Ag sec 17006*
28 which authorizes euthanasia rather than
being held for adoption or owner redemption

1 organizations can also log in and see medical notes for each
2 dog.

3 60. Relying upon OC Rescue Track, rescue organizations allocate
4 their time and resources to pull⁵ a dog from OCAC, in order to
5 save it from euthanasia, rehabilitate any behavioral issues,
6 with the goal of making it adoptable.

7 61. Since June 2022, as a result of Respondent OCAC's failure
8 to timely maintain and update OC Rescue Track, there is evidence
9 30 dogs were killed unexpectedly, silently, and without any
10 warning. These potentially adoptable dogs were denied a chance
11 at rescue, a chance to live.

12 **RATHER THAN CONTINUE TO EUTHANIZE ADOPTABLE ANIMALS, RESPONDENT**
13 **OCAC MUST FOCUS ITS RESOURCES ON PROGRAMS WHICH PROMOTE**
14 **ADOPTION.**

15 62. There are many ways which the Court may compel Respondent
16 OCAC to increase an animal's chance at adoption rather than
17 being euthanized:

18 -Bring back programs like DOGS PLAYING FOR LIFE which
19 educates and trains kennel attendants and volunteers on how to
20 handle, "read" and interact with the animal to increase positive
21 behaviors and minimize the risk of any adverse incidents;

22 -Reinstate the relationship with OC Shelter Partners, an
23 intervention program which has a vast network and proven track
24 record to place adoptable animals and which previously had an
25 on-site office at OCAC to facilitate dogs getting out alive;

26 - Recruit volunteers. Volunteer recruitment has been
27 _____

28 ⁵ "pull" means to remove from shelter

1 dormant for two years. It was recently revived, but with
2 minimal effort; and

3 - Increase meaningful community Outreach. Under a prior
4 administration, there were many adoption fairs, one resulted in
5 100 adoptions in one weekend.

6
7 **SECOND CAUSE OF ACTION**

8 **For Violations of California Civil Code Section 1834.4(b) and**
9 **California Food and Agriculture Code Section 17005(b)**

10 **(Against Respondent OCAC and Does 1-25, Inclusive)**

11 63. Petitioner re-alleges and incorporates herein by reference
12 the allegations of Paragraphs 1 through 62, inclusive, set forth
13 hereinabove.

14 64. California Civil Code section 1834.4(b) and California Food
15 and Agriculture Code section 17005(b) state in pertinent part:
16

17 "**(b) It is the policy of the state that no treatable animal**
18 **should be euthanized. A treatable animal shall include any**
19 **animal that is not adoptable but that could become adoptable**
with reasonable efforts." (emphasis added)

20 65. "EVE" was a one year young Pointer mix. Eve arrived at OCAC
21 with a treatable non-life threatening neurological condition.
22 With medication and the diligent time and effort of the
23 volunteers working with Eve, the condition greatly improved and
24 was minimally noticeable to volunteers.

25 66. Contrary to videographic evidence of Eve's barely
26 noticeable condition, and rather than continue to provide
27 treatment and provide EVE a chance to be adopted, Respondent
28

1 OCAC cited Eve's neurological condition as getting worse and
2 killed her on 11/10/21.

3 **67.** Kittens are euthanized rather than treated with reasonable
4 efforts to become adoptable. Kittens are killed for having
5 scabies, a non-life threatening skin parasite which is treatable
6 with medication. When kittens are very young, and the mother is
7 absent, they need to be fed several times a day. Rather than
8 staff the shelter so reasonable efforts such as feeding kittens
9 may be performed, Respondent OCAC's management elect to kill the
10 kittens.

11 **THIRD CAUSE OF ACTION**

12 **For Violation of California Food & Agriculture Code Section**
13 **31108 for Failure to Cooperate with Rescue Organizations and**
14 **Adoption Organizations**

15 **(Against Respondent OCAC and Does 1-25, Inclusive)**

16 68. Petitioners re-allege and incorporate by reference the
17 allegations of Paragraphs 1 through 67, inclusive, set forth
18 hereinabove.

19 69. California Food and Agriculture Code Section 31108(b)
20 provides, in pertinent part:

21
22 "(b) ...Any stray dog that is impounded pursuant to this division
23 shall, before the euthanasia of that animal, be released to a
24 nonprofit, as defined in Section 501(c)(3) of the Internal
25 Revenue Code, animal rescue or adoption organization if
26 requested by the organization before the scheduled euthanasia of
27 that animal." (emphasis added)

28 70. Petitioners re-allege and incorporate by reference the
allegations of Paragraphs 59 through 61, regarding OCAC's

1 failure to maintain the OC Rescue Track App With Timely Info, as
2 set forth hereinabove.

3 **OCAC fails to cooperate with Rescues or adoption**
4 **organizations and as a result, adoptable dogs are**
5 **euthanized.**

6 71. Max was a three-year-old American Bulldog. Boise Bully
7 Breed Rescue, a rescue that has saved many dogs from OCAC,
8 reached out to OCAC and expressed interest to "pull" MAX. In so
9 doing, Boise Bully Breed Rescue requested information be sent by
10 Respondent OCAC so an appropriate foster could be arranged.
11 Rather than provide information, Respondent OCAC elected to kill
12 Max.

13 72. 501(c)(3) Rescues trying to partner with OCAC are ignored.
14 There is a gross lack of cooperation by the Rescue Coordinators
15 which include but is not limited to: a complete failure to
16 respond to emails and telephone calls - and when there is a
17 response, it is weeks after a call or email is sent, which is
18 too late for the animals to be saved from euthanasia.

19 73. Due to the policies and procedures imposed by current
20 management, Respondent OCAC has decreased the animals' chances
21 of adoption through rescues. Due to OCAC's lack of cooperation,
22 reputable rescues have ceased or materially decreased pulling
23 animals from OCAC: German Shepherd Rescue of Orange County,
24 Labradors and Friends, Coastal German Shepherd Rescue and
25 Promise for Paws, to name just a few.

26
27 //

1 shelter in violation of the 3-day hold requirement.

2
3 **FIFTH CAUSE OF ACTION**

4 **For Violation of California Civil Code Section 1834**
5 **for Failure to Provide Animals with Necessary and Prompt**
6 **Veterinary Care, Nutrition, and Shelter and to Treat them Kindly**
7 **(Against Respondent OCAC and Does 1-25)**

8 81. Petitioners re-allege and hereby incorporate by reference
9 all the allegations of Paragraphs 1 through 80, inclusive, set
10 forth hereinabove

11 82. California Civil Code section 1834 states:

12 **"A depository of living animals shall provide the animals with**
13 **necessary and prompt veterinary care, nutrition, and shelter,**
14 **and treat them kindly..."**

15 83. During past administrations, animals would have
16 examinations conducted by veterinarians. Under the current
17 management at Respondent OCAC, many animals are seen and
18 examined by veterinary technicians only.

19 84. There is evidence of many incidents wherein animals have
20 not received necessary and prompt veterinary care:

21 -Rather than be treated for non-life-threatening conditions
22 such as having scabies or ringworm, kittens are euthanized, and

23 -Dog Sabrina - Initially Sabrina was promoted to the public
24 by OCAC as a four year old chihuahua with no medical issues.
25 When she was identified for adoption, during the adoption/exit
26 exam Sabrina was found to have a heart murmur and was actually
27 10 years old. After Sabrina was released to a rescue and went
28

1 directly to a private veterinarian, it was revealed in addition
2 to a severe heart murmur, Sabrina suffered from an inguinal
3 hernia and had two mammary tumors. It is clear Respondent OCAC
4 did not provide Sabrina with a proper veterinary medical
5 examination or provide her with proper medical treatment.

6 85. In violation of law, Respondent OCAC deprives animals with
7 necessary shelter:

8 -Animals are forced to be in Kennels filled with feces
9 which often are not cleaned for days. There was a recent back
10 up of plumbing which resulted in sewer backing up and causing
11 flood in kennels of animal waste, an example of which is
12 attached hereto and marked as Exhibit 1 which shows the waste
13 high up on kennel walls, and

14 -Animals without any behavior or medical issues are
15 confined to a "Quarantine Building" without any contact or fresh
16 air and in dark interior stalls with no sunlight.

17 86. In violation of law, there is evidence that Respondent OCAC
18 has recently been depriving animals of nutrition.

19 -"Montana" is a dog that came into the shelter at 62
20 pounds. Upon release from OCAC, Montana was taken to a
21 veterinarian and Montana weighed 45 pounds. This represents 17
22 pounds in weight loss; Montana lost almost 30% of his body
23 weight while at OCAC.

24 87. Montana is not an isolated case. Recently, volunteers
25 report seeing several animals which appear to have lost
26 significant amounts of weight while at the shelter.

27 //

1
2 SIXTH CAUSE OF ACTION

3 (Complaint for Declaratory and Injunctive Relief)

4 88. Petitioners reallege and incorporate herein by reference
5 the allegations of Paragraphs 1 through 87, inclusive, of this
6 Petition.

7
8 89. An actual controversy exists in that Petitioners contend
9 Respondent OCAC has failed and continues to fail to follow the
10 laws as set forth herein. Petitioner further contends that
11 Respondent OCAC has established a pattern and practice of
12 violations of law and that the incidents complained of herein
13 are not isolated or random. On the other hand, OCAC ignores
14 the pleas of employees, volunteers, rescue organizations and the
15 general public and insists it has acted in accordance with the
16 law and that its policies and procedures are consistent with the
17 law.
18

19
20 90. This Court is asked to intervene and to resolve this
21 conflict, and to order Respondent OCAC to comply with the law in
22 regards to its operation of the animal shelter in Orange County.

23 91. In furtherance thereof, Petitioners respectfully request
24 this Honorable Court to appoint an independent third party
25 Monitor to oversee compliance and report findings back to this
26 Court. As detailed above, Respondents have demonstrated a
27 consistent history of unreliable reporting.
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PRAYER

WHEREFORE, Petitioner prays:

For the reasons stated herein, Petitioners ask this Court to issue an injunction, as follows:

1. For an order of this Court, to enjoin OCAC from violating the law as outlined herein, and order OCAC to take the following actions:

- (A) Stop the unlawful killing of adoptable animals;
- (B) Immediately terminate the appointment-to-see-a-specific-animal only policy and open the shelter to the public;
- (C) Hire additional qualified Kennel Attendants;
- (D) Cease the current Temperament/Behavior Assessments deciding whether a dog is to be euthanized which are currently conducted in an improper and negligent manner;
- (E) Hire qualified personnel to perform Temperament/Behavior Assessments of animals to determine the animals' fates;
- (F) Cooperate with rescue organizations and adoption organizations and promptly release animals to them upon their request; and in furtherance thereof:
- (G) Provide daily updates to the application known as "OC Rescue Track" with real-time information;

1 (H) Stay any euthanasia date upon notification of interest by a
2 rescue organizations and adoption organizations;

3 (I) Accept cats whether they are strays or owner relinquished;

4 (J) Hold all stray cats/ kittens at least three days;

5
6 (K) Reinstate the animal welfare program known as "TNR" which
7 will seriously reduce the number of stray cats, spread of
8 disease and euthanasia;

9 (L) Reinstate other animal welfare programs such as Spay and
10 Neuter clinic where the public or rescue organizations and
11 adoption organizations may access these services for a
12 reasonable fee and Adoption Days wherein OCAC is open to the
13 public to encourage adoption;

14
15 (M) Reinstate programs which educate kennel staff and volunteers
16 on how to interact and provide enrichment for animals to
17 increase their adoptability, such as Dogs Playing for Life;

18
19 (N) Reinstate the relationship with OC Shelter Partners and
20 allow said organization to maintain an office at OCAC.

21 (O) Provide shelter animals with necessary and prompt veterinary
22 care, nutrition, shelter and treat them kindly which
23 includes but is not limited to:

24
25 a. Before an animal can be euthanized, require a licensed
26 veterinarian to sign a declaration attesting to his/her
27 agreement that euthanization is medically warranted and
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1 which explains the basis in support thereof;

2 b. Permanent removal of Shelter Director and Assistant
3 Shelter Director from participation in any discussions or
4 decisions regarding the euthanization of animals or
5 regarding the provision of veterinary care to animals;

6 c. Replace current staff who do not follow the law and do
7 not act in the best interest of the animals under their
8 care with staff who do;

9 d. Provide dogs with a break from the kennel by daily
10 walks;

11 e. Clean and maintain the kennels on an at least daily
12 basis so they are free of leftover food, feces, and urine;

13 f. Provide the animals with proper nutrition and water;

14 g. Limit the housing in quarantine of animals to those
15 that require same due to the animal's medical condition or
16 if an animal has had a "bite incident" which resulted in
17 injury to another human or animal; and

18 h. House animals that are deemed to have owners who are
19 either detained, hospitalized or deceased, in the general
20 kennels rather than in the quarantine building.

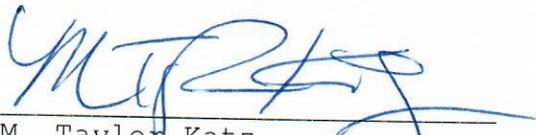
21 (P) Appoint a monitor to oversee compliance and report findings
22 back to this Court on a schedule deemed appropriate by the
23 Court.
24

1 2. Award of costs and reasonable attorney's fees pursuant
2 to *California Code of Civil Procedure* section 1021.5; and

3 3. For such other and further relief as this Honorable
4 Court deems just and proper.

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7 Dated: September 21, 2022

Respectfully submitted,

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10 M. Taylor Katz
11 Attorney for Petitioners
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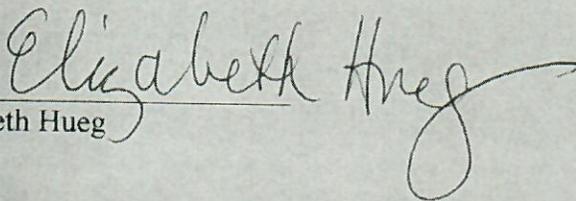
VERIFICATION

I, Elizabeth Hueg have read the foregoing "Petition For Writ of Mandate/Complaint for Declaratory and Injunctive Relief" and know its contents.

I am a Petitioner in this matter. The matters in this document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on September 19, 2022 at San Clemente, California.


Elizabeth Hueg

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VERIFICATION

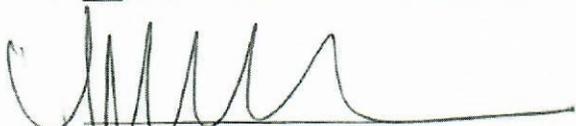
I, Markelle Pineda am an officer of SAFE Rescue Team, a California non-profit 501(3)(c) corporation, Petitioner, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.

I have read the foregoing Petition for Writ of Mandate/Complaint for Declaratory and Injunctive relief and know its contents.

The matters in this document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on September 20, 2022 at Sunset Beach, California.


Markelle Pineda

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VERIFICATION

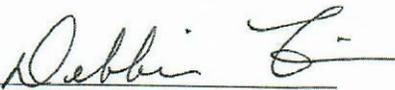
I, Debbie Robin Friedman, am an officer of Cats in Need of Human Care, a California non-profit 501(3)(c) corporation, Petitioner, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.

I have read the foregoing Petition for Writ of Mandate/Complaint for Declaratory and Injunctive relief and know its contents.

The matters in this document related to cats are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on September 20, 2022 at Orange, California.


Debbie Robin Friedman