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Santa Paula Animal Rescue Center, Inc. and
Lucky Pup Dog Rescue

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

SANTA PAULA ANIMAL RESCUE CENTER,
INC., a nonprofit charitable corporation; and,
LUCKY PUP DOG RESCUE, a nonprofit
charitable corporation,

Petitioners,

v.

COUNTY OF LOS ANGELES;

LOS ANGELES COUNTY DEPARTMENT OF
ANIMAL CARE AND CONTROL;

MARCIA MAYEDA, in her official capacity as
Director, Los Angeles County Department of
Animal Care and Control; and

DOES 1 through 10, inclusive,

Respondents.

Case No.: **21STCP03313**

**VERIFIED PETITION OF WRIT OF
MANDATE (C.C.P. § 1085, *et seq.*)**

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1. Petitioners Santa Paula Animal Rescue Center, Inc. and Lucky Pup Dog Rescue.com (“Petitioners”), by and through their undersigned counsel, bring this action for a writ of mandate pursuant to Code of Civil Procedure § 1085, *et seq.*, alleging as follows against Respondents County of Los Angeles; Los Angeles County Department of Animal Care and Control (“DACC”); Marcia Mayeda, in her official capacity as DACC’s Director; and DOES 1 through 10, inclusive (“Respondents”).

INTRODUCTION

2. In 1998, the California Legislature passed, and the Governor signed, a series of measures denominated as the Hayden Act with the goal of, among other things, ending euthanasia of animals in California's municipal shelters by 2010. To realize this goal, the law imposed the obligation upon shelters to release any impounded animal scheduled for euthanasia to a 501(c)(3) animal rescue or adoption organization unless that animal was "irremediably suffering" from a serious injury or severe illness. In defiance of the Hayden Act's release requirement, DACC routinely denies 501(c)(3) animal rescue and adoption organizations' requests to redeem impounded animals scheduled for euthanasia who are not irremediably suffering.

3. DACC's on-going violation of the Hayden Act takes at least two forms that are the subject of this action. First, DACC requires that 501(c)(3) organizations wishing to exercise their right to redeem impounded animals to (a) navigate and comply with multiple burdensome procedural requirements and (b) accept a number of substantive obligations nowhere present in the governing state law in order to become DACC-approved adoption partners ("AP"). Not only can the process take months to complete, the County's application and approval process provides the County with the ability to arbitrarily deny applications of rescue organizations that meet the sole requirement for obtaining shelter animals scheduled for death: 501(c)(3) status. By imposing these extra-legal requirements on rescue organizations, the County denies non-AP organizations, like Petitioner Lucky Pup, the right to save and re-home soon-to-be-euthanized animals. Second, DACC also denies even pre-approved AP organizations, like Petitioner SPARC, the right to redeem animals that, according to DACC, have supposed "behavioral issues," which is not a justification for withholding an animal under the Hayden Act.

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4. DACC's failure to perform its nondiscretionary duty to release impounded animals to 501(c)(3) organizations, like the Petitioners, not only violates the Hayden Act's express language, it also directly undermines the Legislature's intent of ending euthanasia in California's municipally-operated shelters. The result of DACC's willful violation of state law is stark: while an estimated less than 1% of impounded animals are irremediably suffering from a serious injury or severe illness, in the last 12 months alone DACC has euthanized 30% of its impounded animals. And, on a more granular level, the same DACC shelter that has repeatedly denied SPARC the right to redeem impounded animals—the Agoura Animal Care Center—euthanized 64% of its impounded animals over the last 12 months, in contrast to adopting out only 21% of the animals it had admitted in the same time period.

5. As California citizens and 501(c)(3) animal rescue organizations, Petitioners have a beneficial interest in Respondents' compliance with the Hayden Act. DACC's failure to comply with its nondiscretionary statutory mandate not only violates Petitioners' statutory right to adopt, care for, and rehome shelter animals, but has also resulted in the death of thousands of innocent animals that Petitioners and other animal rights organizations would have readily rescued. To vindicate Petitioners' statutory rights as federally recognized 501(c)(3) rescue organizations and to stop DACC's unlawful killing of animals in defiance of state law, Petitioners respectfully request that the Court enter a writ of mandate ordering Respondents to comply with the Hayden Act's release requirement.

THE PARTIES

6. Petitioner Santa Paula Animal Rescue Center, Inc. is, and at all times relevant hereto has been, a nonprofit charitable corporation, qualified under Internal Revenue Code section 501(c)(3), organized and existing under the laws of the State of California, and having its principal place of business in Santa Paula, California. In 2012, the City of Santa Paula approved SPARC's proposal to operate as the city's animal shelter. SPARC is dedicated to presenting a humane, community-based solution for homeless pets. Its no-kill shelter provides humane care and treatment for the stray and abandoned animals of Santa Paula as well as educational, spay/neuter, vaccination, licensing services to the community's pets. Among other things, SPARC redeems impounded animals scheduled for euthanasia from DACC shelters to prevent their euthanasia by caring for and rehoming those animals. As a result of Respondents' failure to perform their ministerial duty to release impounded animals to 501(c)(3)

1 organizations, SPARC's interests in saving animals from death at DACC-run shelters have been injured,
2 and it has been financially injured by being forced to divert resources from its regular programs to,
3 among other things, consult on, monitor, and investigate Respondents' failure to act in conformance with
4 state law.

5 7. Petitioner Lucky Pup Dog Rescue.com is, and at all times relevant hereto has been, a
6 nonprofit charitable corporation, qualified under Internal Revenue Code section 501(c)(3), organized
7 and existing under the laws of the State of California, and having its principal place of business in San
8 Diego, California. Founded in 2010, Lucky Pup is dedicated to saving the lives of lost, abandoned,
9 abused, and neglected animals confined in California's animal shelters. Among other things, Lucky Pup
10 redeems vulnerable, injured, and ill dogs from kill shelters and provides them with care and rehabilitation
11 before rehoming them. As a result of Respondents' failure to perform their ministerial duty to release
12 impounded animals to 501(c)(3) organizations, Lucky Pup's interests in saving animals from death at
13 DACC-run shelters have been injured, and it has been financially injured by being forced to divert
14 resources from its regular programs to, among other things, consult on, monitor, and investigate
15 Respondents' failure to act in conformance with state law.

16 8. Respondent County of Los Angeles is a political subdivision of the State of California
17 duly organized and existing under the laws of the State of California.

18 9. Respondent DACC is the administrative body of Respondent County of Los Angeles
19 charged with preserving and protecting animal and public safety and with enforcing all state and local
20 laws governing the animal shelter system serving all unincorporated areas of Los Angeles County and
21 contracting cities situated within Los Angeles County. DACC operates six animal shelters throughout
22 Los Angeles County, which are located in the cities of Agoura, Baldwin Park, Carson, Castaic, Downey,
23 Lancaster, and Palmdale.

24 10. Respondent Marcia Mayeda is, and at all times relevant hereto has been, the Director of
25 DACC. In this capacity, Mayeda is, and at all times relevant hereto was, the official responsible for the
26 administrative management of DACC and for ensuring that all DACC shelter, subordinate officials, and
27 employees comply with all relevant and applicable state and local laws and DACC policies governing
28 Los Angeles County's shelter system.

11. Petitioners do not know the true names and capacities, whether individual, corporate, partnership, or otherwise, of Respondents sued herein as Does 1 through 10, inclusive. Petitioners therefore sue these Respondents by such fictitious names pursuant to California Code of Civil Procedure section 474. Petitioners are informed and believe, and based thereon allege, that Does 1 through 10, and each of them, is responsible in some manner for the violations alleged herein. When Petitioners ascertain the true names and capacities of Does 1 through 10, they will seek leave of the Court to amend this Petition accordingly.

12. Petitioners are informed and believe, and based thereon allege, that at all times relevant hereto each of the Respondents was the agent, servant, representative, joint venturer, or employee of each of the remaining Respondents and in doing the things hereinafter alleged, each Respondent was acting within the course and scope of said agency, servitude, representation, joint venture, or employment, with the advance knowledge, permission, consent, acquiescence, authorization, direction, or subsequent ratification of each and every remaining Respondent.

BACKGROUND FACTS

13. In 1998, noting the “social and economic costs of euthanasia,” the California Legislature enacted the Hayden Act with the purpose of shifting California’s animal shelter system from *taking* to *saving* the lives of animals delivered to their care. The Hayden Act’s provisions are codified throughout the Civil Code, the Food and Agricultural Code, and the Penal Code. In all three codes, the legislature specifically emphasized the state’s policy favoring life by rehoming stray and abandoned animals over euthanasia. *See* Civ. Code § 1834.4; Food & Ag. Code § 17005; Pen. Code § 599d.

14. The Legislature envisioned that, with the Hayden Act’s mandate, “[p]ublic and private shelters and humane groups [w]ould work together to end euthanasia of adoptable and treatable animals” ANIMALS—STRAYS—ANIMAL SHELTERS, 1998 Cal. Legis. Serv. Ch. 752 (S.B. 1785). In order to reach its goal of ending euthanasia, the legislature saw the need for public shelters to “work with humane animal adoption organizations to the fullest extent possible” *Id.* In that vein, the Hayden Act added various sections to the Food and Agricultural Code that broadly require animal shelters to release impounded animals scheduled for euthanasia to animal rescue groups.

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1 15. Specifically, California Food and Agricultural Code section 31108(b)(1) mandates that
2 “[e]xcept as provided in Section 17006, any stray dog that is impounded . . . shall, before the euthanasia
3 of that animal, be released to a nonprofit, as defined in Section 501(c)(3) of the Internal Revenue Code,
4 animal rescue or adoption organization if requested by the organization before the scheduled euthanasia
5 of that animal.” The Code imposes the same release requirement on impounded stray cats, Cal. Food &
6 Agric. Code § 31752(c)(1), and stray animals of other species, *id.* § 31753, and applies the release
7 requirement to owner-relinquished animals as well, *id.* § 31754. The only general exception¹ to the
8 release requirement—“as provided in Section 17006,” *id.* § 31108(b)(1)—mandates that “[a]nimals that
9 are irremediably suffering from a serious illness or severe injury shall not be held for owner redemption
10 or adoption.”² *Id.* § 17706.

11 16. These statutory provisions expressly impose a mandatory duty on Respondents to release
12 any impounded animal scheduled for euthanasia to a 501(c)(3) animal rescue or adoption organization.
13 The *only* exception to Respondents’ responsibility to perform that ministerial duty is when the animal
14 sought to be redeemed is irremediably suffering from a serious illness or severe injury. *See* California
15 Bill Analysis, A.B. 2754 Sen., 8/18/2000 (Hayden Act “[r]equires a shelter, prior to euthanasia of a stray
16 dog or cat for any reason (rather than for any reason other than irremediable suffering), to release the
17 dog or cat to a nonprofit animal rescue organization.”).

18 17. Respondents regularly fail to conform with the statutory requirement to release
19 impounded animals scheduled for euthanasia to nonprofit animal rescue and adoption organizations in
20 two ways. First, DACC has and enforces a policy of only allowing 501(c)(3) animal rescue and adoption
21

22 ¹ Section 17006 also provides that “newborn animals that need maternal care and have been impounded
23 without their mothers may be euthanized without being held for owner redemption or adoption,” and
24 Section 31108.5 provides that an owner-relinquished dog can be immediately euthanized if the agency
25 charged with enforcing state and local animal laws” has previously documented the dog’s history of
vicious or dangerous behavior. Neither of these narrow, fact-dependent exceptions to the release
requirement exist in this case.

26 ² DACC has agreed and this Court has ordered that an “irremediably suffering” animal is an animal with
27 a medical condition who has a poor or grave prognosis for being able to live without severe, unrelenting
28 pain despite necessary veterinary care. *Nguyen et al. v. County of Los Angeles et al.*, Case No. BS112581,
Stip. Order on Pet. for Writ of Mandate and Compl. for Inj. Relief, Ex. A (Los Angeles Super. Ct. Oct.
20, 2008).

1 organizations that are preapproved adoption partners (“AP”) to redeem impounded animals scheduled
2 for euthanasia.

3 18. DACC’s requirement that a 501(c)(3) become an AP before it can redeem impounded
4 animals creates a material and unauthorized impediment for rescue organization to exercise their rights
5 under the Hayden Act. DACC’s process and requirements for becoming an AP are onerous and create
6 unreasonable delays. An organization must complete an application form and provide its Articles of
7 Incorporation, by-laws, online status report from the Secretary of State, statement of purpose indicating
8 the primary breed or species the organization adopts, adoption agreement the organization uses in
9 adopting animals to new homes, list of all individuals authorized to adopt animals on the organizations’
10 behalf, list of the organization’s board of directors, letters of recommendation from two current APs,
11 letter of recommendation from a veterinarian, and letter of recommendation from an animal care or
12 control agency with which the organization has done business. Once an organization submits this
13 documentation, DACC can take months to process an application. Even more significantly, this process
14 also provides DACC with the unlawful opportunity to make a discretionary decision, not authorized by
15 the Hayden Act, on whether to grant or deny an organization’s application to rescue an impounded
16 animal before it is killed.

17 19. In addition to the burden of the application process, an organization must agree to a series
18 of obligations in order to maintain AP status that nowhere appear in governing California law. For
19 example, under DACC’s requirements, APs must submit monthly reports to the DACC, advise DACC
20 of all organizational changes in the AP’s operation, and permit DACC to inspect the organization’s
21 facilities unannounced. Additionally, APs can only redeem animals of the specific species stated in their
22 organizational mission and articles of incorporation and are prohibited from transferring redeemed
23 animals to other rescue organizations. If an AP does not meet any of these requirements, it will be
24 immediately suspended pending the outcome of DACC’s investigation and review of that investigation
25 by DACC’s Adoption Partner Review Committee, which can issue the AP with a written warning,
26 suspend the AP, or revoke what the DACC refers to as the AP’s “*privilege* of participating in the
27 Adoption Partner program.”

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1 20. Contrary to DACC’s representation, the ability of 501(c)(3) animal rescue and adoption
2 organizations to redeem impounded animals scheduled for euthanasia is a *right*, not a *privilege*. DACC’s
3 imposition of the AP requirement violates this right, and Petitioner Lucky Pup’s right has been violated
4 in this precise manner. In August 2021, DACC denied Lucky Pup’s request to redeem a dog named
5 Derek, who was impounded at the DACC’s Downey Animal Care Center and scheduled for euthanasia,
6 because Lucky Pup is not a preapproved adoption partner. And on September 27, 2021, DACC denied
7 Lucky Pup’s request to redeem another impounded animal scheduled for euthanasia for the same reason.

8 21. The second way in which Respondents fail to perform their ministerial duty under the
9 Hayden Act is by denying even pre-approved 501(c)(3) animal rescue and adoption organizations the
10 right to redeem impounded animals for reasons not permitted by the Hayden Act. Specifically, DACC
11 regularly denies 501(c)(3) animal rescue and adoption organizations’ requests to redeem impounded
12 animals based on claims that those animals have behavioral issues, notwithstanding the fact that the
13 Hayden Act’s release requirement does not allow for any such exception.

14 22. Petitioner SPARC’s right to redeem impounded animals has been violated by
15 Respondent’s impermissible imposition of an exception for animals with so-called “behavioral
16 problems.” For example, in February 2020, SPARC—a pre-approved adoption partner—was denied the
17 right to redeem a dog named Gunnar from DACC’s Agoura Animal Care Center because DACC
18 determined he had behavioral problems. And in June 2021, DACC again denied SPARC the right to
19 redeem an impounded dog, Winston, for supposed behavioral problems. The consequence of these
20 denials were severe: DACC euthanized both Gunnar and Winston after denying SPARC’s redemption
21 requests.

22 23. DACC has a pattern and practice of denying qualified animal rescue organizations the
23 right to redeem an impounded animal scheduled for euthanasia because of purported behavioral issues,
24 leading to the unlawful killing of those animals.

25 24. Respondents’ failure to comply with their obligations under the Hayden Act’s release
26 requirement has contributed to unnecessarily high rates of euthanasia amongst animals impounded by
27 the DACC. Though experts estimate that less than 1% of shelter animals are irremediably suffering from
28 a serious illness or severe injury, statistics from DACC’s own website demonstrate that DACC has

1 euthanized 30% of the animals it impounded from July 1, 2020 through June 30, 2021. Broken down by
2 shelter, the numbers are even more egregious: the Agoura Animal Care Center, the DACC facility that
3 twice denied SPARC the right to redeem impounded dogs scheduled for euthanasia, euthanized 64% of
4 its impounded animals from July 2020 through June 2021; during the same time period, only
5 approximately 21% of Agoura's impounded animals were adopted. These numbers reflect the County's
6 failure to implement the Hayden Act's purpose of ending the use of euthanasia in California's shelters.

7 CAUSE OF ACTION

8 Petition for Writ of Mandate

9 (Cal. Code Civ. Pro. § 1085 *et seq.*)

10 25. Petitioners reallege and incorporate by reference each and all of the allegations contained
11 in the preceding paragraphs of this Petition as though fully set forth herein.

12 26. The issuance of a writ of mandate requires a clear, present, and ministerial duty on the
13 part of the respondent and a clear, present, and beneficial right on the part of the petitioner to the
14 performance of that duty. *California Assn. for Health Services at Home v. Department of Health*
15 *Services*, 148 Cal.App.4th 696, 704 (2007). A writ of mandate "is proper where . . . the claim is that an
16 agency has failed to act as required by law." *Id.* at 705.

17 27. Respondents have a mandatory, nondiscretionary duty to comply with the provisions of
18 law set forth above, among others, regarding the release of impounded animals scheduled for euthanasia
19 to 501(c)(3) animal rescue and adoption organizations with the only exception for animals irremediably
20 suffering from a serious illness or severe injury. Cal. Food & Agric. Code §§ 31108(b)(1), 31752(c)(1),
21 31753, 31754, 17706.

22 28. Respondents routinely violate the law by denying 501(c)(3) animal rescue and adoption
23 organizations the right to redeem impounded animals scheduled for euthanasia. These denials are a result
24 of, among other things, Respondents' policies of requiring 501(c)(3) animal rescue and adoption
25 organizations to be APs to redeem impounded animals and prohibiting even APs from rescuing
26 impounded animals who are not irremediably suffering from a serious illness or severe injury.

27 29. Petitioners, as California citizens and 501(c)(3) animal rescue organizations, have a
28 beneficial right to Respondents' performance of their ministerial duty and, as a direct and proximate

result of Respondents' failure to perform that duty, have suffered direct, concrete, and particularized injuries. Petitioners' organizational missions are to rescue and rehome abandoned and stray animals to prevent those animals from being euthanized, and their ability to redeem impounded animals scheduled for euthanasia is a prerequisite to performing that mission. Respondents' violations of the Hayden Act also negatively impacts Petitioners' pecuniary interests by, among other things, diversion of their finite resources from performing their core mission. Additionally, Petitioners have a beneficial interest as citizens to compel Respondents' performance of their obligation to run publicly funded animal shelters that operate in conformity with state law.

30. Petitioners have demanded that Respondents cease and desist from their failure to comply with their legal obligations in a September 14, 2021 letter to Respondent Mayeda. Respondents have not responded to Petitioners' demand.

31. Petitioners have exhausted all available administrative remedies or are excused from exhausting their remedies because they are seeking to enforce a public, rather than private, right, or as a result of futility in pursuing such remedies, among other things.

32. Petitioners have no administrative remedy and no plain, speedy, or adequate remedy in the ordinary course of law. The only remedy provided by law for Petitioners to obtain relief is this petition for writ of mandate pursuant to Code of Civil Procedure section 1085 *et seq.*

33. This litigation, if successful, will result in enforcement of a public duty and of important public rights affecting the public interest, including, without limitation, the public's right to compel Respondents to comply with state laws concerning the proper care and treatment of impounded animals, and with the state policy of saving and re-homing, instead of killing, such animals.

PRAYER FOR RELIEF

34. WHEREFORE, Petitioners respectfully request that this Court:

a. Issue a Writ of Mandate directing Respondents to:

- i. Immediately cease and desist from refusing to release to any nonprofit rescue or adoption organization, whether or not it is a preapproved adoption partner, any impounded animal scheduled for euthanasia unless

1 that animal is irremediably suffering from a serious illness or severe
2 injury;

3 ii. Immediately begin releasing to any requesting nonprofit rescue or
4 adoption organization, whether or not it is a preapproved adoption partner,
5 any impounded animal scheduled for euthanasia unless that animal is
6 irremediably suffering from a serious illness or severe injury;

7 b. Issue an Alternative Writ of Mandate directing Respondents to immediately begin
8 releasing impounded animals scheduled for euthanasia and not irremediably suffering
9 from a serious illness or severe injury to 501(c)(3) animal rescue and adoption
10 organizations or in the alternative to show cause before this Court at the specified
11 time and place why the relief prayed for should not be granted;

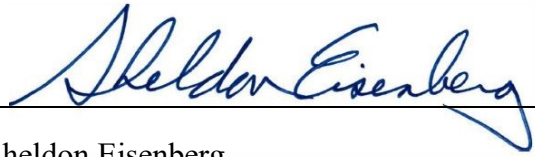
12 c. Award Petitioners all costs incurred in this suit, including attorneys' fees; and

13 d. Award such other relief as the Court may deem just and proper.

14 Date: October 4, 2021

Respectfully submitted,
SULLIVAN & TRIGGS, LLP

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17 By: _____


Sheldon Eisenberg
Gillian Kuhlmann
Nairi Shirinian

Attorneys for Plaintiffs and Petitioners
Santa Paula Animal Rescue Center, Inc. and
Lucky Pup Dog Rescue.com

1 **VERIFICATION**

2 I, Jean-Marie Webster, hereby declare as follows:

3 I am the principal officer for Santa Paula Animal Rescue Center, Inc. I have read the attached
4 **VERIFIED PETITION OF WRIT OF MANDATE (C.C.P. § 1085, et seq.)** ("Petition") and know
5 all of the contents of said Petition. The contents of the Petition are true and correct of my own knowledge
6 except as to those matters which are stated on information and belief, and as to those matters I believe
7 them to be true.

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

10 Executed this 4th day of October 2021, at Santa Paula, California.

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Jeanmarie webster (Oct 4, 2021 16:47 PDT)

13 Jean-Marie Webster
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1 **VERIFICATION**

2 I, Christine Haslet, hereby declare as follows:

3 I am the founder of Lucky Pup Dog Rescue.com. I have read the attached **VERIFIED**
4 **PETITION OF WRIT OF MANDAE (C.C.P. § 1085, et seq.)** ("Petition") and know all of the contents
5 of said Petition. The contents of the Petition are true and correct of my own knowledge except as to those
6 matters which are stated on information and belief, and as to those matters I believe them to be true.

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

9 Executed this 4th day of October 2021, at San Diego, California.

10 
11 Christine Haslet (Oct 4, 2021 13:04 PDT)

12 **Christine Haslet**
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