

CV 09-00434 DAE-BMK

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

At 3 o'clock and 7 min

ORDER SETTING RULE 16 SCHEDULING CONFERENCE

ORDER SETTING STATUS CONFERENCE

for Monday, December 07, 2009 at 9:00 a.m before:

Magistrate Judge Barry M. Kurren in Courtroom 6

Magistrate Judge Leslie E. Kobayashi in Courtroom 7

Magistrate Judge Kevin S.C. Chang in Courtroom 5

Pursuant to Rule 16 of the Federal Rules of Civil Procedure ("Fed.R.Civ.P.") and Local Rule 16.2 of the Rules of the United States District Court for the District of Hawaii:

- Parties are reminded that, unless otherwise ordered by the Court, a meeting of the parties must occur at least 21 days prior to the Scheduling Conference and a report submitted to the Court. Except as otherwise provided by L.R. 26.1(c), no formal discovery may be commenced before the meeting of the parties.
- Each party shall file a Scheduling Conference Statement pursuant to L.R. 16.2(b), and shall attend in person or by counsel.
- Failure to file and/or attend will result in imposition of sanctions, (including fines or dismissal), under Fed.R.Civ.P. 16(f) and L.R. 11.1.

DATED at Honolulu, Hawaii on Friday, September 11, 2009.

/s/ Susan Mollway
Chief, U.S. District Judge

I hereby acknowledge receipt of the Order Setting Rule 16 Scheduling Conference.

Date September 11, 2009

Signature *John J. Parker*
Atty (X) Secy () Messenger ()

THIS SCHEDULING ORDER IS ATTACHED TO THE INITIATING DOCUMENT (COMPLAINT/NOTICE OF REMOVAL) & MUST BE SERVED WITH THE DOCUMENT. PLEASE DO NOT REMOVE.



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 MICHAEL G.M. OSTENDORP #5853
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 Honolulu, Hawaii 96801
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FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

SEP 11 2009

at De'clock and 45 min. M.
 SUE BEITIA, CLERK

Attorney for Plaintiff
 NORMAN M.W. PANG

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

CV09 00434

NORMAN M.W. PANG,)
)
 Plaintiff,)
)
 vs.)

Civil No.)
)
 COMPLAINT; DEMAND FOR)
 JURY TRIAL AND SUMMONS)

BMK

)
)
 PAMELA BURNS, President and)
 CEO of the Hawaiian Humane)
 Society in her individual capacity;)
 KEONI VAUGHN, Manager of field)
 services at the Hawaiian Humane)
 Society in his individual capacity;)
 RIGO NIERA, Director of animal)
 protection of Hawaiian Humane)
 Society in his individual capacity;)
 INGA GIBSON, Hawaii State)
 Director of The Humane Society of)
 the United States in her individual)
 capacity; REBECCA RHOADES,)
 Executive Director of Kauai Humane)
 Society in her individual capacity;)
 SCOTLUND HAISLEY, Senior)
 Director, Emergency Services of the)
 Humane Society of the United States)

ATTEST: A True Copy
 SUE BEITIA
 Clerk, United States District
 Court, District of Hawaii
 Deputy

in his individual capacity; ROWDY)
 SHAW, Team member of The)
 Humane Society of the United States)
 in his individual capacity; Presently)
 unknown Honolulu Police)
 Department Officer in his individual)
 capacity; JACKIE Last Name)
 Presently Unknown of the Humane)
 Society of the United States in her)
 individual capacity; PRESENTLY)
 UNKNOWN DOES 1-10;)
 PRESENTLY UNKNOWN DOE)
 PARTNERSHIPS 1-10;)
 PRESENTLY UNKNOWN)
 CORPORATIONS 1-10; and)
 PRESENTLY UNKNOWN)
 GOVERNMENT ENTITIES 1-10,)
)
 Defendants.)
 _____)

COMPLAINT

Plaintiff NORMAN M. W. PANG, by and through his undersigned counsel,
 respectfully files his Complaint against PAMELA BURNS, President and CEO of
 the Hawaiian Humane Society in her individual capacity; KEONI VAUGHN,
 Manager of field services at the Hawaiian Humane Society in his individual
 capacity; RIGO NIERA, Director of animal protection of Hawaiian Humane
 Society in his individual capacity; INGA GIBSON, Hawaii State Director of The
 Humane Society of the United States in her individual capacity; REBECCA
 RHOADES, Executive Director of Kauai Humane Society in her individual

capacity; SCOTLUND HAISLEY, Senior Director, Emergency Services of the Humane Society of the United States in his individual capacity; ROWDY SHAW, Team member of The Humane Society of the United States in his individual capacity; Presently unknown Honolulu Police Department Officer in his individual capacity; JACKIE Last Name Presently Unknown of the Humane Society of the United States in her individual capacity PRESENTLY UNKNOWN DOES 1-10; PRESENTLY UNKNOWN DOE PARTNERSHIPS 1-10; PRESENTLY UNKNOWN CORPORATIONS 1-10; and PRESENTLY UNKNOWN GOVERNMENT ENTITIES 1-10, and alleges and avers as follows:

JURISDICTION AND VENUE

1. Jurisdiction is conferred on this Court by Article III, Section 1 of the United States Constitution and 28 U.S.C. Sections 1331 and 1343(3), (4) which confer original jurisdiction on federal district courts in suits to redress the deprivation of rights, privileges and immunities as stated below. Supplemental jurisdiction over Mr. Pang's State of Hawaii claims is conferred by 28 U.S.C. Section 1367.
2. Venue is properly established in the District of Hawaii pursuant to 28 U.S.C. Section 1391(b)(2) as all events or omissions giving rise to the claims occurred within the City and County of Honolulu, State of Hawaii.
3. This is an action for compensatory damages and injunctive relief brought pursuant to 42 U.S.C. Sections 1983, 1985, 1986 and 1988 to redress the deprivation of Mr. Pang's rights, privileges and immunities secured to Mr. Pang by

the First, Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and the Hawaii Constitution and laws.

PARTIES

4. At all times relevant, all named Defendants were acting under the color of law within the City and County of Honolulu, State of Hawaii.
5. At all times relevant PAMELA BURNS, President and CEO of the Hawaiian Humane Society in her individual capacity; KEONI VAUGHN, Manager of field services at the Hawaiian Humane Society in his individual capacity; RIGONIERA, Director of animal protection of Hawaiian Humane Society in his individual capacity; INGA GIBSON, Hawaii State Director of The Humane Society of the United States in her individual capacity were residents of the City and County of Honolulu, State of Hawaii.
6. At all times relevant REBECCA RHOADES, Executive Director of Kauai Humane Society in her individual capacity was a resident of the City and County of Kauai, State of Hawaii.
7. Upon information and belief SCOTLUND HAISLEY, Senior Director, Emergency Services of the Humane Society of the United States in his individual capacity; ROWDY SHAW, Team member of The Humane Society of the United States in his individual capacity and JACKIE Last Name Presently Unknown of the Humane Society of the United States in her individual capacity were residents

of another state, but participated in all relevant events behavior within the City and County of Honolulu, State of Hawaii.

8. Presently unknown Honolulu Police Department Officer in his individual capacity and PRESENTLY UNKNOWN DOES 1-10; PRESENTLY UNKNOWN DOE PARTNERSHIPS 1-10; PRESENTLY UNKNOWN CORPORATIONS 1-10; and PRESENTLY UNKNOWN GOVERNMENT ENTITIES 1-10, who participated at all relevant times in the underlying actions within the City and County of Honolulu, State of Hawaii is presently unknown despite diligent and good faith efforts to obtain his true identify.

9. Norman M.W. Pang is the widower of Bonnie Pang, who for seventeen years operated Animal Haven, located in Waianae, City and County of Honolulu, State of Hawaii, and at all times relevant to this complaint was a resident of the State of Hawaii.

10. Animal Haven, Inc. is a Hawaii non-profit 501(c)(3) organization established in 1992 and according to its charter was dedicated to providing “permanent sanctuary for all species of animals and birds where they would be completely safe and well cared for.”

11. At all times relevant The Hawaiian Humane Society (hereinafter “HHS”) was a Hawaii non-profit corporation with its primary place of business on Oahu which has authority to officially investigate and issue citations for animal cruelty on behalf of the City and County of Honolulu.

FACTUAL BACKGROUND

12. Bonnie Pang was a committed adherent of the no-kill philosophy of animal care and was opposed to the HHS's practice of euthanizing abandoned animals. Bonni thought of Animal Haven as a Hospice and treated her animals just like humans were treated in Hospices. Because of her outspoken disagreements with the HHS, in 1995 employees of HHS falsely accused her of animal neglect and abuse.
13. Because of the false allegations by HHS, Bonnie Pang was indicted and tried on charges of animal abuse and neglect. She was acquitted.
14. After winning the criminal case, the Pangs filed a civil lawsuit (Civil No. 97-3072 in the First Circuit) against HHS and the City and County of Honolulu and openly expressed their opposition to HHS's practice of killing animals instead of making them available for adoption.
15. HHS has admitted a history of investigating Animal Haven for animal abuse and neglect, but since 1995, no one has come forward with any information about Animal Haven sufficiently credible for HHS to obtain a warrant to enter their property or for the prosecutor to bring charges.
16. Residents of Oahu who favored Animal Haven's no-kill philosophy came to depend on Bonnie Pang to take in sick and/or abandoned animals. During the relevant time period of this complaint there were approximately 100 cats, 100 dogs and 200 birds, mostly chickens and ducks, under the care of Animal Haven.

17. Many of the animals and birds brought to Animal Haven were already malnourished, ill, diseased, crippled and/or terminally ill when Bonnie Pang accepted them; in some cases people would simply leave the animal by the entrance to the property or even throw the animal over the fence.
18. Bonnie Pang found it difficult, if not impossible, to turn away any abandoned, sick or injured animal or bird and provided care and love to any animal brought to the hospice/shelter.
19. Bonnie Pang told her husband that if anything ever happened to her, she did not want any of the animals turned over to HHS because of HHS's established practice of euthanizing animals under its care. Bonnie knew for instance that HHS in another case had killed all 400 animals.
20. On July 13, 2009, Bonnie Pang passed away in her sleep.
21. Plaintiff Norman M.W. Pang, having had only a minor role in the day-to-day operation of Animal Haven realized that he could not adequately accommodate the special needs of many of the animals so he immediately sought help in finding a new home for them.
22. Norman Pang obtained an offer of assistance from Oahu Society for the Prevention of Cruelty to Animals (hereinafter "OSPCA"), who in turn contacted the Humane Society of the United States (hereinafter "HSUS").
23. On July 15, 2009, personnel from the HSUS acting under the color of law informed Mr. Pang along with personnel from OSPCA that they would care for the

animals from now on and had him sign a Voluntary Relinquishment of Ownership that transferred ownership of all the animals and birds at Animal Haven to OSPCA and their personnel as of July 15, 2009.

24. Despite the transfer of ownership of the animals effected on July 15, Plaintiff Pang continued to provide food and water for the animals until July 19, 2009.

25. On Friday, July 17, 2009, HSUS personnel including Scotlund Haisley went on Mr. Pang's property and Mr. Haisley stated that he was satisfied that there was no basis for any criminal complaint. Subsequently, Mr. Haisley met with the Defendants from HHS and the unknown police officer.

26. On July 19, 2009, when HSUS started removing the animals from the property Mr. Haisley once again stated that there was no basis for any criminal complaint.

27. On July 19, 2009, the day that HSUS was moving their animals to the new shelter, HSUS personnel from the mainland appeared on Mr. Pang's property with video recording equipment and displayed official looking law enforcement badges and conducted themselves in a manner suggesting they had police authority and therefore acted under the color of law. HSUS intended to deceive Mr. Pang and others into believing that they were law enforcement officers.

28. At all relevant times prior to the search and videotaping of Mr. Pang and his property on July 19, HSUS had consulted with the Honolulu Police Department

(hereinafter "HPD") and the Hawaiian Humane Society. At the time that HSUS searched and videotaped the property the animals had been the responsibility of OSPCA and HSUS for days.

29. Since HSUS staff had already assumed responsibility for the animals and kennels any pictures showing the condition of the kennels four days after they took control evidence only the neglect of the kennels by HSUS. Because HSUS and the HHS did not care for the animals in the kennels for four days prior to HSUS' July 19 videotaping, they were assured of video footage of apparent neglect.

30. HSUS's staff deceived Pang by telling him they were only making a training video. The real purpose of the video was to create a carefully edited portrayal of animal neglect and/or abuse at Animal Haven for use as evidence in charging Mr. Pang with a supposed crime. HSUS had already met surreptitiously with representatives from HHS, HPD and Dr. Rebecca Rhoades from the Kauai Humane Society and had conspired with HHS to achieve HHS's goal of entering Animal Haven property to fabricate evidence of animal abuse.

31. HHS was aware that Plaintiff was taking all reasonable measures to move the animals at Animal Haven to a new shelter and HHS has admitted that no person had provided any information to HHS that would have provided probable cause for issuance of a warrant.

32. Despite their knowledge that there was no probable cause to believe that there was any violation of the law to enforce, HHS conspired with HSUS to enter

Plaintiff's property for the primary purpose building a case against Mr. Pang and then, as an after thought, relocating the animals.

33. Soon after Norman Pang's cry for help in caring for these unfortunate animals, HSUS posted footage from the video they had taken on Plaintiff's property on the HSUS website along with solicitations for fundraising for their organization.

34. Despite Mr. Pang's prudent and timely efforts to find shelter for the animals, immediately after the rescue HHS posted on their website statements alleging that Mr. Pang and others were getting away with the "murder" of animals and also posted a scurrilous allegation that the evidence had been destroyed by Mr. Pang and boasted that they had provided photographs, video and statements as evidence to the Honolulu Prosecutor's Office to be used in prosecution of Mr. Pang. HHS' action resulted in casting Mr. Pang in a false light and are defamation.

35. HHS and HSUS both launched a media campaign of vilification against Plaintiff, accusing him of animal abuse and neglect and other unsupportable acts of criminal conduct.

36. This included, but was not limited to publication on the Internet and statements to print and broadcast news outlets constituting wanton defamation of Mr. Pang.

37. The defamatory actions and impersonating a law enforcement officer actions of the Defendants constitute a tort under the laws of the State of Hawaii.

38. Acting under the color of law, Defendants worked a denial of Pang's rights, privileges and/or immunities secured by the United States Constitution, by Federal law, and the Hawaii State Constitution and laws. To wit; Defendants willfully and maliciously retaliating against him because he sued HHS and the City and County of Honolulu for malicious prosecution, among other claims, and by conspiring for the purpose of impeding and hindering the due course of justice, with intent to deny Pang equal protection of laws and to silence the exercise of his free expression.

39. As a result of the retaliation by the Defendants because of Pang's exercise of his First Amendment right to petition, Pang has been deprived of his right to equal protection of the laws, and the due process of law, in violation of the Fifth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C.

§1983. At all times relevant herein, the conduct of all Defendants was subject to 42 U.S.C. §§1983, 1985, 1986, and 1988 and the laws of the State of Hawaii.

WHEREFORE: Plaintiff prays that judgment be entered in their favor and against the Defendants identified during the course of this litigation as follows:

- a. Compensatory damages in an amount to be proven at trial;
- b. General damages in an amount to be proven at trial;
- c. Injunctive Relief for an order to cease the dissemination of defamatory statements by any and all means;

- d. The costs and expenses of this litigation, including but not limited to reasonable attorneys' fees;
- e. Post judgment interest where it is allowed by law; and
- f. Whatever other relief this Honorable Court deems meet and just.

DATED: Honolulu, Hawaii 9/11/09



MICHAEL G.M. OSTENDORP

Attorney for Plaintiff
NORMAN M.W. PANG

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

NORMAN M.W. PANG,

Plaintiff,

vs.

PAMELA BURNS, President and
CEO of the Hawaiian Humane
Society in her individual capacity;

KEONI VAUGHN, Manager of field
services at the Hawaiian Humane
Society in his individual capacity;

RIGO NIERA, Director of animal
protection of Hawaiian Humane
Society in his individual capacity;

INGA GIBSON, Hawaii State
Director of The Humane Society of
the United States in her individual
capacity; REBECCA RHOADES,

Executive Director of Kauai Humane
Society in her individual capacity;

SCOTLUND HAISLEY, Senior
Director, Emergency Services of the
Humane Society of the United States
in his individual capacity; ROWDY

SHAW, Team member of The
Humane Society of the United States
in his individual capacity; Presently
unknown Honolulu Police

Department Officer in his individual
capacity; JACKIE Last Name
Presently Unknown of the Humane
Society of the United States in her

) Civil No.


) DEMAND FOR JURY TRIAL

individual capacity; PRESENTLY)
UNKNOWN DOES 1-10;)
PRESENTLY UNKNOWN DOE)
PARTNERSHIPS 1-10;)
PRESENTLY UNKNOWN)
CORPORATIONS 1-10; and)
PRESENTLY UNKNOWN)
GOVERNMENT)
ENTITIES 1-10,)
)
Defendants.)
_____)

DEMAND FOR JURY TRIAL

The Plaintiff, pursuant to Rule 38 of the Federal Rules of Civil Procedure, demands a trial by jury in this action.

DATED: Honolulu, Hawaii 9/11/09.



MICHAEL G.M. OSTENDORP

Attorney for Plaintiff
NORMAN M.W. PANG

individual capacity; PRESENTLY)
 UNKNOWN DOES 1-10;)
 PRESENTLY UNKNOWN DOE)
 PARTNERSHIPS 1-10;)
 PRESENTLY UNKNOWN)
 CORPORATIONS 1-10; and)
 PRESENTLY UNKNOWN)
 GOVERNMENT)
 ENTITIES 1-10,)
)
 Defendants.)
 _____)

SUMMONS

TO: ABOVE NAMED DEFENDANTS:

PAMELA BURNS, President and CEO of the Hawaiian Humane Society in her individual capacity; KEONI VAUGHN, Manager of field services at the Hawaiian Humane Society in his individual capacity; RIGONIERA, Director of animal protection of Hawaiian Humane Society in his individual capacity; INGA GIBSON, Hawaii State Director of The Humane Society of the United States in her individual capacity; REBECCA RHOADES, Executive Director of Kauai Humane Society in her individual capacity; SCOTLUND HAISLEY, Senior Director, Emergency Services of the Humane Society of the United States in his individual capacity; ROWDY SHAW, Team member of The Humane Society of the United States in his individual capacity; Presently unknown Honolulu Police Department Officer in his individual capacity; JACKIE Last Name Presently Unknown of the Humane Society of the United States; PRESENTLY UNKNOWN DOES 1-10; PRESENTLY UNKNOWN DOE PARTNERSHIPS 1-10; PRESENTLY UNKNOWN CORPORATIONS 1-10; and PRESENTLY UNKNOWN GOVERNMENT ENTITIES 1-10

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P.

12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is as follows:

Law Office of Michael G.M. Ostendorp
MICHAEL G.M. OSTENDORP
P.O. Box 3345
Honolulu, Hawaii 96801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: SEP 11 2009

~~SUE BEITIA~~
~~Signature of Clerk or Deputy Clerk~~



Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: