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8 Attorneys for Plaintiffs and Petitioners

Cathy Nguyen, Rebecca Arvizu,

9 and No Kill Advocacy Center

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

Case No. _____

13 CATHY NGUYEN, an individual,

14 REBECCA ARVIZU, an individual, on behalf
of herself and all other Los Angeles County
15 taxpayers; and

16 NO KILL ADVOCACY CENTER, a nonprofit
charitable corporation,

17
18 Plaintiffs and Petitioners,

19 v.

20 COUNTY OF LOS ANGELES;

21 LOS ANGELES COUNTY DEPARTMENT OF
ANIMAL CARE AND CONTROL;

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

24 DOES 1 through 10, inclusive,

25 Defendants and Respondents.
26

**VERIFIED PETITION FOR WRIT OF
MANDATE (C.C.P. § 1085, et seq.);
COMPLAINT FOR INJUNCTIVE RELIEF
(C.C.P. § 526a; 42 U.S.C. § 1983)**

1 Plaintiffs and petitioners Cathy Nguyen, Rebecca Arvizu, and No Kill Advocacy Center
2 (“Plaintiffs”), by and through their undersigned counsel, bring this action for a writ of mandate
3 pursuant to Code of Civil Procedure sections 1085, et seq., and for injunctive relief pursuant to
4 Code of Civil Procedure section 526a, and 42 U.S.C. § 1983, alleging as follows against
5 Defendants and Respondents County of Los Angeles; Los Angeles County Department of Animal
6 Care and Control (“DACC”); Marcia Mayeda, in her official capacity as DACC’s Director; and
7 DOES 1 through 10, inclusive (“Defendants”):

8 INTRODUCTION

9 1. Defendants have engaged and continue to engage in an ongoing pattern and
10 practice of abuse and failure to follow state law at the six animal shelters that they operate in Los
11 Angeles County. Defendants’ consistent violations of law, as detailed in this Petition and
12 Complaint, have resulted in the senseless and wrongful killing of thousands of impounded
13 animals, in direct contravention of the State of California’s policy, codified into law, to promote
14 adoption over death for these animals. Moreover, when Plaintiffs have attempted to speak out
15 against Defendants’ unlawful conduct and practices, Defendants have taken retaliatory actions
16 against Plaintiffs, thereby depriving Plaintiffs of their constitutional rights. By this Petition and
17 Complaint, Plaintiffs ask this Court to order Defendants to cease and desist from further violations
18 of law, and to promptly begin performing their legally-mandated duties to the animals entrusted to
19 their care and to the public at large.

20 THE PARTIES

21 2. Plaintiff Cathy Nguyen is a citizen and resident of Orange County, California. She
22 regularly volunteers with nonprofit animal rescue groups that redeem impounded animals from
23 Los Angeles County shelters, provide foster care and medical and behavioral rehabilitation to such
24 animals, as needed, and then place the animals into suitable adoptive homes, with the mission to
25 reduce the killing of homeless animals by the County shelters. In connection with her volunteer
26 work, Ms. Nguyen regularly visits the County shelters, particularly the shelter located in the City
27 of Carson, to spend time with and evaluate the condition of the animals impounded there. During
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1 her visits, Ms. Nguyen has formed emotional bonds with the animals at the Carson shelter.
2 Because of her familiarity with and emotional connections to these animals, Ms. Nguyen has
3 suffered direct, concrete, and particularized injury to her aesthetic interest in observing and
4 enjoying the animals as a result of Defendants' violations of law as set forth in detail in this
5 Petition and Complaint.

6 3. Plaintiff Rebecca Arvizu is and has been a citizen and resident of Los Angeles
7 County, California, since 1993. As a citizen and resident of Los Angeles County, Ms. Arvizu is
8 assessed for and is liable to pay, and within one year before the commencement of this action, has
9 paid, a tax therein. She brings this action on behalf of herself and all other Los Angeles County
10 residents and taxpayers. As an animal lover and concerned citizen, Ms. Arvizu regularly visits the
11 Los Angeles County animal shelters, particularly the shelter located in the City of Agoura, to
12 spend time with and evaluate the condition of the animals impounded there. During her visits, Ms.
13 Arvizu has formed emotional bonds with the animals at the Agoura shelter. Because of her
14 familiarity with and emotional connections to these animals, Ms. Arvizu has suffered direct,
15 concrete, and particularized injury to her aesthetic interest in observing and enjoying the animals
16 as a result of Defendants' violations of law as set forth in detail in this Petition and Complaint.

17 4. Plaintiff No Kill Advocacy Center is, and at all times relevant hereto has been, a
18 nonprofit charitable corporation, qualified under Internal Revenue Code section 501(c)(3),
19 organized and existing under the laws of the State of California, and having its principal place of
20 business in San Clemente, California. Founded in 2004, No Kill Advocacy Center is dedicated to
21 saving the lives of the millions of lost, abandoned, abused and neglected animals that find their
22 way into the nation's animal shelters every year. Among other things, No Kill Advocacy Center
23 presents seminars and provides consulting services on reforming traditional animal shelters and
24 implementing laws designed to reduce and ultimately eliminate the killing of healthy or treatable
25 impounded animals. As a result of Defendants' violations of law as set forth in detail, but without
26 limitation, in this Petition and Complaint, Plaintiff No Kill Advocacy Center has been frustrated in
27 its efforts to save animals from death at the shelters, and No Kill Advocacy Center has been forced
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1 to divert resources from its regular programs to, among other things, consulting on, monitoring,
2 and investigating conditions at Defendants' shelters.

3 5. Defendant County of Los Angeles is a political subdivision of the State of
4 California duly organized and existing under the laws of the State of California.

5 6. Defendant DACC is the administrative body of Defendant County of Los Angeles
6 charged with preserving and protecting animal and public safety and with enforcing all State and
7 local laws governing the animal shelter system serving all unincorporated areas of Los Angeles
8 County and approximately fifty contracting cities situated within Los Angeles County. DACC
9 operates six animal shelters throughout Los Angeles County, which are located in the cities of
10 Agoura, Baldwin Park, Carson, Castaic, Downey, and Lancaster.

11 7. Defendant Marcia Mayeda ("Mayeda") is, and at all times relevant hereto has been,
12 the Director of DACC. In this capacity, Defendant Mayeda is, and at all times relevant hereto was,
13 the official responsible for the administrative management of DACC and for ensuring that all
14 DACC shelters, subordinate officials, and employees comply with all relevant and applicable state
15 and local laws and DACC policies governing Los Angeles County's shelter system.

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

23 9. Plaintiffs are informed and believe, and based thereon allege, that at all times
24 relevant hereto each of the Defendants was the agent, servant, representative, joint venturer or
25 employee of each of the remaining Defendants and in doing the things hereinafter alleged, each
26 Defendant was acting within the course and scope of said agency, servitude, representation, joint
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1 venture, or employment, with the advance knowledge, permission, consent, acquiescence,
2 authorization, direction or subsequent ratification of each and every remaining Defendant.

3 **FACTS COMMON TO ALL CAUSES OF ACTION**

4 10. In 1998, the California Legislature enacted Senate Bill 1785 ("SB 1785"). The
5 purpose of SB 1785 was to shift California's animal shelter system in the direction of saving,
6 rather than taking, the lives of animals delivered to the care of the animal shelters located
7 throughout the State. SB 1785 addressed this goal by, among other things, making animal shelters
8 throughout the State, and the animals held there, more accessible to the public and to animal
9 rescue organizations, and making the animal shelters more accountable for the treatment of the
10 animals entrusted to their care.

11 11. SB 1785 is currently codified in various places throughout the Civil Code, the Food
12 and Agricultural Code, and the Penal Code. In all three Codes, the Legislature specifically
13 codified the State's policy favoring life (by re-homing), over death, for shelter animals. (Civ.
14 Code § 1834.4; Food & Ag. Code § 17005; Pen. Code § 599d).

15 12. To accomplish the State policy of saving rather than killing impounded animals,
16 existing State law now imposes upon all animal shelters located within the State a series of life-
17 affirming duties, including, among other things, and without limitation:

- 18 a. to hold and make impounded animals available for adoption or owner
19 redemption for a statutory holding period of at least four or six days,
20 depending on shelter hours of operation, and not including the day of
21 impoundment, or, in the case of truly feral cats only, for at least three days,
22 not including the day of impoundment, unless the animals are irremediably
23 suffering from a serious illness or severe injury, or are unweaned newborns
24 who have been taken in without their mother, or, in the case of owner-
25 relinquished dogs only, if the dog has a history of vicious or dangerous
26 behavior documented by DACC, in order to allow owners or other members
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of the public time to reclaim or adopt the animals (Food & Ag. Code, §§ 17006, 31108, 31108.5, 31752, 31752.5, 31753, 31754);

- b. to work cooperatively with nonprofit animal rescue and/or adoption organizations to promote adoption and reduce the rate of shelter killing, including but not only by releasing any animals scheduled to be put to death to such organizations when the organizations request to redeem those animals, except in the limited circumstances when (i) the animals are irremediably suffering from a serious illness or severe injury, or (ii) the animals are dogs that have been adjudicated after a proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq., to be so vicious that their release would create a significant threat to the public health, safety, or welfare (Food & Ag Code, §§ 31108, 31645, 31752, 31752.5, 31753, 31754);
- c. to treat impounded animals kindly and humanely, and provide them with adequate nutrition, shelter, exercise, and water, and prompt and appropriate veterinary care, during the period of their impoundment (Civ Code, §§ 1815, 1834, 2080; Pen. Code, §§ 597e, 597f, 597.1, 599); and
- d. to keep specified and accurate records on all impounded animals and to perform reasonable identification and tracking measures to enable shelters, rescuers, rescue organizations, and owners to locate animals within the shelter system (Food & Ag Code, § 31107, 31108, 31752, 32001, 32003; Pen. Code, §§ 597f, 597.1).

13. In violation of these and other mandatory duties imposed by law, Plaintiffs are informed and believe that Defendants:

- a. Routinely kill healthy and adoptable animals without first holding the animals for the minimum period of time mandated by law (at least four or six days, depending on shelter hours of operation, and not including the day of impoundment). (Food & Ag. Code, §§ 31108, 31752, 31753, 31754.)

For example, a review of records received by a third party from DACC pursuant to various Public Records Act requests demonstrates that between January 2006 and April 2007, DACC killed approximately 717 dogs and 2,221 cats that DACC classified upon intake as “normal” (i.e., not “aggressive,” “feral,” “geriatric,” “ill,” “injured,” “malnourished,” or “unweaned”) on or before the animals’ fourth day of impoundment. Thus, according to its own records, DACC killed at least 2,938 healthy and adoptable dogs and cats during a 16-month period without first holding those animals for the minimum of four days, not including the day of impoundment, that is required by law for all shelters in the State, regardless of their hours of operation. Indeed, the same records reveal that approximately 488 of these dogs and 1,398 of these cats, all of whom DACC classified as “normal” upon intake, were killed on the very same day that they were impounded. Thus, during a 16-month period, DACC killed at least 1,886 healthy and adoptable animals without holding the animals even a single day to allow time for their owners to find them or for other members of the public to adopt them. Upon information and belief, the actual number of healthy and adoptable animals that DACC killed on the first day of impoundment or before the minimum statutory holding period expired is actually much higher, because DACC routinely classifies animals as other than “normal” when there is, in fact, nothing seriously wrong with the animals.

- b. Routinely kill animals that are ill or injured, but treatable, or untreatable but not irremediably suffering, without first holding the animals for the minimum period of time mandated by law (at least four or six days, depending on shelter hours of operation, and not including the day of impoundment). (Food & Ag. Code, §§ 17006, 31108, 31752, 31753,

31754.) For example, a review of records received by a third party from DACC pursuant to various Public Records Act requests demonstrates that between January 2006 and April 2007, DACC killed approximately 148 dogs and 111 cats that DACC classified simply as “malnourished” or having a “skin condition,” on or before the animals’ fourth day of impoundment. Thus, according to its own records, DACC killed at least 259 dogs and cats during a 16-month period without first holding those animals for the minimum of four days, not including the day of impoundment, that is required by law for all shelters in the State, regardless of their hours of operation, simply because the animals were “malnourished” or had a “skin condition.” Indeed, the same records reveal that approximately 97 of these dogs and 61 of these cats, all of whom DACC classified merely as “malnourished” or with a “skin condition,” were killed on the very same day that they were impounded. Thus, during a 16-month period, DACC killed at least 158 animals that were malnourished or had a skin condition, but were otherwise treatable or adoptable, without holding the animals even a single day to allow time for their owners to find them or for other members of the public to adopt them. Upon information and belief, the actual number of ill or injured, but treatable, or untreatable but not irremediably suffering, animals that DACC killed on the first day of impoundment or before the minimum statutory holding period expired is actually much higher, because DACC routinely classifies animals as “malnourished,” “ill,” “injured,” or having a “skin condition,” among other similar classifications, and kills the animals on the basis of these classifications without holding them for the minimum mandatory period, when the animals are, in fact, not suffering irremediably from any serious illness or severe injury.

1 c. Routinely kill animals without holding the animals for the minimum period
2 of time mandated by law (at least four or six days, depending on shelter
3 hours of operation, and not including the day of impoundment), on the basis
4 of impermissible criteria, including but not limited to being “geriatric.”
5 (Food & Ag. Code, §§ 31108, 31752, 31753, 31754.) For example, a
6 review of records received by a third party from DACC pursuant to various
7 Public Records Act requests demonstrates that between January 2006 and
8 April 2007, DACC killed approximately 241 dogs and 41 cats that DACC
9 classified as “geriatric” on or before the animals’ fourth day of
10 impoundment. Thus, according to its own records, DACC killed at least
11 282 dogs and cats during a 16-month period without first holding those
12 animals for the minimum of four days, not including the day of
13 impoundment, that is required by law for all shelters in the State, regardless
14 of their hours of operation, simply because the animals were “geriatric.”
15 Indeed, the same records reveal that approximately 205 of these dogs and
16 37 of these cats, all of whom DACC classified merely as “geriatric,” were
17 killed on the very same day that they were impounded. Thus, during a 16-
18 month period, DACC killed at least 242 animals that were geriatric, but
19 were otherwise healthy and adoptable, without holding the animals even a
20 single day to allow time for their owners to find them or for other members
21 of the public to adopt them.

22 d. Routinely kill animals without holding the animals for the minimum period
23 of time mandated by law (at least four or six days, depending on shelter
24 hours of operation, and not including the day of impoundment), on the
25 ground that the animals are “aggressive,” when the animals are not owner-
26 relinquished dogs with a history of vicious or dangerous behavior that is
27 documented by DACC. (Food & Ag. Code, §§ 31108, 31108.5, 31752,
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31753, 31754.) For example, a review of records received by a third party from DACC pursuant to various Public Records Act requests demonstrates that between January 2006 and April 2007, DACC killed approximately 343 dogs and 24 cats that DACC classified as “aggressive” on or before the animals’ fourth day of impoundment. Indeed, 305 of these animals were killed on the very first day that they were impounded. Of the 343 “aggressive” dogs killed on or before their fourth day of impoundment, only 25 were owner-relinquished, and, upon information and belief, not all of those dogs had a history or vicious or dangerous behavior documented by DACC. Upon information and belief, the situation is actually much worse, because DACC routinely classifies animals as “aggressive,” and kills them on the basis of that classification before the minimum statutory holding period expires, when the animals are, in fact, merely scared and stressed by the shelter environment.

- e. Routinely kill feral cats without holding the cats for the minimum period of time mandated by law (at least three days, not including the day of impoundment). (Food & Ag. Code, § 31752.5). For example, a review of records received by a third party from DACC pursuant to various Public Records Act requests demonstrates that between January 2006 and April 2007, DACC killed approximately 497 cats that DACC classified as “feral” on or before the animals’ third day of impoundment. Indeed, the same records reveal that approximately 166 of these cats were killed on the very same day that they were impounded. Upon information and belief, the situation is actually much worse, because DACC routinely classifies cats as “feral” (and fails to hold them for the longer period of time required for other animals, i.e., four or six days, depending on shelter hours of operation,

1 and not including the day of impoundment) when the cats are, in fact,
2 perfectly tame but scared and stressed by the shelter environment.

- 3 f. Routinely violate the spirit and purpose of the minimum statutorily-required
4 holding period for impounded animals, by killing animals that have
5 technically been impounded for a sufficient period of time, but have been
6 given no meaningful opportunity for reunification with their owners or
7 adoption, because Defendants segregate such animals in sections of their
8 shelters that are not readily accessible to the public;
- 9 g. Routinely fail to release animals scheduled to be put to death to nonprofit
10 rescue and/or adoption organizations that are willing to take them when the
11 animals are not irremediably suffering from any serious illness or severe
12 injury, and are not dogs that have been adjudicated after a proper hearing
13 pursuant to Food & Ag. Code, §§ 31601, et seq., to be so vicious that their
14 release would create a significant threat to the public health, safety, or
15 welfare. (Food & Ag. Code, §§ 31108, 31645, 31752, 31752.5, 31753,
16 31754.) In fact, on a number of occasions, Defendants have killed animals
17 when a rescuer has notified DACC employees that the rescuer was en route
18 to redeem the animals, or even when the rescuer was already at the shelter
19 ready to pick up the animals. On several other occasions, DACC has
20 refused to release animals to rescue organizations requesting to take them
21 on the ground that DACC has deemed the animals to be “aggressive,” even
22 though mere aggression (as opposed to an adjudication of viciousness after
23 a proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq.,) is not a
24 statutorily permissible reason to fail to release an animal to rescue (and
25 typically mild animals often exhibit “aggressive” behaviors when exposed
26 to the stressors of a shelter environment). In addition, DACC routinely
27 violates its own policies by, among other things, failing to contact purebred
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1 rescue organizations before killing purebred animals, to determine whether
2 the organizations are able to take those animals. Thus, purebred animals are
3 habitually killed when rescue organizations that might have been willing
4 and able to save them are unaware of their existence at the shelters.

5 h. Routinely fail to treat animals kindly and humanely, including but not only
6 by failing to provide the animals with adequate water, shelter, and exercise.
7 (Civ. Code, §§ 1815, 1834, 2080; Pen. Code, §§ 597e, 597f, 597.1, 599.)
8 Dogs and cats at the County shelters, including but not limited to the Carson
9 and Lancaster shelters, are often left in filthy kennels and cages where they
10 are forced to lie or stand in their own excrement and urine. Throughout the
11 hot summer, and continuing now into the cooler weather, many animals
12 were, and continue to be, locked in their kennels and cages without any
13 access to water, or, with access only to murky, filthy water. When the dogs
14 at the Carson shelter are actually given water, their entire kennel space is
15 often soaked because of the manner in which the automatic watering system
16 and the kennels are constructed. Moreover, while the dog kennels are built
17 to provide the dogs with both indoor and outdoor areas, animal shelter
18 workers at the Carson shelter, among other shelters, routinely block off the
19 indoor access, leaving the animals imprisoned in the outdoor area.
20 Plaintiffs also are informed and aware of multiple situations where animals
21 at various County shelters have died unexpectedly and under disturbing
22 circumstances, giving rise to suspicion that they had been abused and/or
23 intentionally injured by staff at the County shelters.

24 i. Routinely fail to provide impounded animals with adequate and appropriate
25 veterinary attention. (Civ. Code, §§ 1815, 1834; Pen. Code, §§ 597f, 597.1.)
26 Obviously injured and ill animals have been brought in to various County
27 shelters and have been left in cages for days without any veterinary care and
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1 with no pain medication. A number of these animals have died painful
2 deaths as a result of failing to receive any veterinary attention. In other
3 instances, animals have been injured after impoundment and have been left
4 to languish and die without any attention to their injuries. Even when
5 medication is prescribed for animals, shelter employees often fail to
6 administer the medication as required.

- 7 j. Routinely failing to keep required and accurate records on impounded
8 animals and to perform reasonable identification and tracking measures to
9 enable shelters, rescuers, rescue organizations, and owners to locate animals
10 within the shelter system. (Food & Ag. Code, § 31107, 31108, 31752,
11 32001, 32003; Pen. Code, §§ 597f, 597.1). For example, shelter staff
12 habitually fails to scan impounded animals for microchips, a simple
13 procedure that could lead to the reunification of lost animals with their
14 owners. Shelter staff also habitually fails to record any efforts made to
15 locate and contact the owners of impounded animals. Further, shelter staff
16 fails to regularly update the DACC website, which should contain a brief
17 description of every impounded animal, including, among other things, the
18 animal's color, breed, sex and impound number, as well as a photograph of
19 the animal. The website is an essential tool for people who are searching
20 for their lost animals, as well as people who are looking for an animal to
21 adopt. On several occasions, the website has not been updated for several
22 days at a time. As a result, numerous stray animals that were impounded
23 and killed at the end (or before expiration) of their holding periods were
24 never listed on the website, preventing owners and potential adopters who
25 may have been checking the website from finding these animals. Finally, a
26 review of records received by a third party from DACC pursuant to various
27 Public Records Act requests reveals that between January 2006 and April
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2007, DACC listed approximately 550 animals as “missing.” That means that DACC “lost” an average of 39 animals every month during that 16-month period, as a direct result of Defendants’ improper record keeping and tracking measures.

14. In addition to the above-referenced violations of law, Plaintiffs are informed and believe that Defendants also violate their statutory obligation to promote life-saving alternatives to killing impounded animals by, among other things, allowing the County shelters to remain consistently understaffed, or staffed with employees who refuse basic and reasonable public requests for assistance, leading to animals being killed unnecessarily because shelter staff fail to assist the public with adoptions or with the reunification of animals with owners. For example, telephones at the County shelters are routinely left unanswered, preventing people who are calling to inquire about lost animals or to adopt from receiving any information from shelter staff. As a result, many animals that may otherwise be reunited with their owners or adopted are killed by Defendants either during their statutory holding period or when their holding period expires. The lack of capable shelter staff also contributes to significant difficulties when members of the public visit shelters to adopt animals. People habitually are kept waiting as much as several hours to see animals they are interested in adopting. On various occasions, people interested in adopting particular animals have left the shelters in frustration without ever getting to see those animals, resulting in the needless killing of animals that could have been adopted into new homes.

15. After repeatedly attempting to address Defendants’ violations of law with Defendants to no avail, including by reporting Defendants’ violations to the media, on November 21, 2007, Plaintiffs delivered to Defendants a letter demanding that Defendants immediately:

- a. cease and desist from killing any animal that is not irremediably suffering from a serious illness or severe injury, a feral cat, or an owner-relinquished dog with a history of vicious or dangerous behavior documented by DACC, before expiration of the minimum statutory period of at least four or six

1 days, depending on shelter hours of operation, and not including the day of
2 impoundment;

3 b. cease and desist from killing any feral cat before expiration of the minimum
4 statutory holding period of at least three days, not including the day of
5 impoundment;

6 c. adopt, implement, and enforce policies and protocols for determining
7 whether an impounded animal is truly (i) irremediably suffering from a
8 serious illness or severe injury, (ii) feral, or (iii) aggressive;

9 d. adopt, implement, and enforce a policy and protocol requiring staff to
10 accurately classify animals upon intake (and ensuring that they will do so);

11 e. ensure that all animals are held in areas of DACC shelters where they are
12 readily accessible to the public;

13 f. engage in reasonable measures to reunite animals with their owners or to
14 make animals available for adoption prior to killing them;

15 g. release any animal scheduled to be killed for any reason other than
16 irremediable suffering to any non-profit rescue organization that is willing
17 to take the animal;

18 h. adopt, implement, enforce, and make publicly available policies and
19 protocols for ensuring that all animals in DACC's care are treated kindly
20 and humanely, provided with prompt and appropriate veterinary care, and
21 receive adequate nutrition, water, shelter, and exercise (including exercise
22 outside of their cages or kennels); and

23 i. implement a meaningful and mutually agreed upon system of monitoring,
24 including but not limited to, the conduct of audits, the review of DACC
25 employee training, and regular public access to DACC's chameleon
26 database, to ensure that Defendants comply with the foregoing requests.
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1 16. On or about December 13, 2007, Defendants, under the direction of DACC
2 Director Mayeda, took retaliatory actions against Plaintiff Nguyen and her animal rescue partner,
3 Janet Taylor, including, but not limited to, (i) indefinitely suspending Ms. Taylor's status as a
4 volunteer at the Carson shelter (ii) refusing to release any animals to either Plaintiff Nguyen or
5 Ms. Taylor, either in their capacity as volunteers for nonprofit animal rescue groups that are
6 willing to care for those animals, or as members of the public, (iii) revoking the "Adoption
7 Partner" status of the Irvine Animal Care Center, for which Ms. Nguyen volunteers, and which has
8 the capacity and is willing to house animals that DACC plans to kill, and (iv) ordering that no
9 DACC animals could attend an adoption event those animals previously were scheduled to attend,
10 which was sponsored by the Irvine Animal Care Center and held on Sunday, December 16, 2007.
11 As a consequence of Defendants' retaliatory actions, Plaintiff Nguyen, Ms. Taylor, and the Irvine
12 Animal Care Center have been prevented from rescuing and finding homes for animals that DACC
13 plans to or has already killed.

14 17. On December 14, 2007, Plaintiffs received a letter from Defendant Mayeda. The
15 letter listed a number of DACC policies, asserted that those policies are in conformance with state
16 law, and further asserted that DACC "encourage[s] [Plaintiffs] and other groups to continue to
17 partner with us to find suitable homes" for animals impounded by DACC. Ms. Mayeda's letter
18 failed to substantively respond to Plaintiffs' claims that Defendants have been violating and
19 continue to violate state law, failed to acknowledge any wrongdoing on the part of DACC,
20 including the retaliatory actions taken against Ms. Nguyen which have prevented her from
21 working to find suitable homes for DACC animals, and further failed to indicate any manner in
22 which DACC plans to alter its practices to comply with state law.

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FIRST CAUSE OF ACTION

Petition for Writ of Mandate

(By All Plaintiffs Against All Defendants)

18. Plaintiffs re-allege and incorporate by reference each and all of the allegations contained in the preceding paragraphs of this Petition and Complaint, as though fully set forth herein.

19. Defendants have a mandatory, nondiscretionary duty to comply with all the provisions of law set forth above, among others, regarding the proper care and treatment of impounded animals.

20. As set forth above, Defendants routinely violate the law by, among other things, (i) failing to hold and make animals available for adoption or owner redemption for the full statutorily-required holding period; (ii) killing animals before expiration of the minimum statutory holding period on the basis of impermissible criteria and/or erroneous classifications; (iii) segregating animals in sections of the shelters that are not readily accessible to the public, so the animals have little to no chance of being found by their owners or adopted into new homes; (iv) failing to release animals scheduled to be put to death to nonprofit rescue and/or adoption organizations that request to redeem those animals, when the animals are not irremediably suffering from any serious illness or severe injury, and are not dogs that have been adjudicated after a proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq., to be so vicious that their release would create a significant threat to the public health, safety, or welfare; (v) failing to treat impounded animals kindly and humanely, including failing to provide them with adequate nutrition, water, shelter, and exercise, and with prompt and appropriate veterinary care; (vi) failing to keep required and accurate records on impounded animals and to perform reasonable identification and tracking measures to enable shelters, rescuers, rescue organizations, and owners to locate animals within the shelter system, and (vii) failing to provide reasonable assistance to members of the public inquiring about reclaiming or adopting impounded animals.

1 21. As a direct and proximate result of Defendants' violations of law as set forth in
2 detail, but without limitation, in this Petition and Complaint, Plaintiff Nguyen and Arvizu have
3 suffered direct, concrete, and particularized injury to their aesthetic interests in observing and
4 enjoying the animals whom they regularly visit, and plan to continue visiting, at Defendants'
5 shelters. Among other things, Plaintiffs Nguyen and Arvizu have personally observed animals
6 locked in filthy kennels or cages, where the animals were forced to stand or lie in their own feces
7 and urine, without access to water or with access only to murky, dirty water; dead animals lying in
8 kennels or cages alongside live animals; sick or injured animals suffering in kennels or cages
9 without veterinary attention; and animals locked in the outside area of their kennels with little or
10 no access to shade. Observing the animals living under these conditions has been injurious to the
11 legally protectable aesthetic sensibilities of Plaintiffs Nguyen and Arvizu.

12 22. As a direct and proximate result of Defendants' violations of law as set forth in
13 detail, but without limitation, in this Petition and Complaint, Plaintiff No Kill Advocacy Center
14 has been frustrated in its efforts to save animals from death at the shelters, and No Kill Advocacy
15 Center has been forced to divert resources from its regular programs to, among other things,
16 consulting on, monitoring, and investigating conditions at Defendants' shelters.

17 23. Plaintiffs have on a number of occasions notified Defendants of Defendants' failure
18 to comply with their legal obligations and demanded change, including but not only by delivering
19 to Defendants the November 21, 2007 letter described in paragraph 15 of this Petition and
20 Complaint.

21 24. Defendants have failed to respond adequately to Plaintiffs' demands.

22 25. Plaintiffs have exhausted all administrative remedies available to them, or are
23 excused from exhausting their remedies because they are seeking to enforce a public, rather than
24 private right, or as a result of futility of pursuing such remedies, among other things.

25 26. Plaintiffs have no administrative remedy and no plain, speedy or adequate remedy
26 in the ordinary course of law. The only remedy provided by law for Plaintiffs to obtain relief is
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1 this Petition for Writ of Mandate pursuant to sections 1085, et seq., of the Code of Civil
2 Procedure.

3 27. Plaintiffs will suffer irreparable harm if the relief requested herein is not granted, as
4 will the public at large.

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

10 SECOND CAUSE OF ACTION

11 Claim for Injunctive Relief Pursuant to Code Civ. Proc. § 526a

12 (By Plaintiff Arvizu Against All Defendants)

13 29. Plaintiffs re-allege and incorporate by reference each and all of the allegations
14 contained in the preceding paragraphs of this Petition and Complaint, as though fully set forth
15 herein.

16 30. By engaging in the unlawful acts and omissions set forth in this Petition and
17 Complaint, among other violations of law pertaining to the treatment and care of impounded
18 animals, Defendants have and continue to illegally expend and/or waste public funds allocated to
19 the running of the County shelter system. Among other things, but without limitation, Defendants
20 pay for the killing and disposal of the bodies of animals that could have been returned to their
21 owners or placed into new homes, with positive net revenue resulting to the County in the form of
22 impoundment or adoption fees. Defendants also pay shelter operation expenses (such as
23 equipment, supply and utility costs) and salaries to shelter staff members who fail or refuse to
24 perform basic duties mandated by law, such as: (i) holding and making animals available for
25 adoption or owner redemption for the minimum statutorily required period; (ii) accurately
26 classifying animals upon impoundment to avoid wrongful killing; (iii) making impounded animals
27 accessible to the public for viewing, to facilitate owner redemption or adoption; (iv) releasing
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1 animals scheduled to be put to death to nonprofit rescue and/or adoption organizations that are
2 willing to take them, except in the limited circumstances when the animals are irremediably
3 suffering from a serious illness or severe injury, or are dogs that have been adjudicated after a
4 proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq., to be so vicious that their release
5 would create a significant threat to the public health, safety, or welfare; (v) treating impounded
6 animals kindly and humanely, including but not only by cleaning their kennels or cages, and
7 providing the animals with water, shelter, exercise, and prompt and necessary veterinary care; (vi)
8 keeping required and accurate records on impounded animals and performing reasonable
9 identification and tracking measures to enable shelters, rescuers, rescue organizations, and owners
10 to locate animals within the shelter system; and (vii) providing reasonable assistance to members
11 of the public who call or visit the shelters to inquire about particular animals.

12 31. Plaintiff Arvizu, as a citizen and taxpayer of the County of Los Angeles, is entitled
13 pursuant to Code of Civil Procedure section 526a to a judgment in the form of a judicial injunction
14 restraining and preventing Defendants from continuing to illegally expend and/or waste public
15 funds in the manner described in this Petition and Complaint.

16 THIRD CAUSE OF ACTION

17 Claim for Injunctive Relief Pursuant to 42 U.S.C. § 1983

18 (By Plaintiff Nguyen Against All Defendants)

19 32. Plaintiffs re-allege and incorporate by reference each and all of the allegations
20 contained in the preceding paragraphs of this Petition and Complaint, as though fully set forth
21 herein.

22 33. As set forth in this Petition and Complaint, Defendants have, under color of law,
23 taken retaliatory actions against Plaintiff Nguyen after she and the other Plaintiffs complained
24 about Defendants' violations of law, both to Defendants and to the media, attempted to hold
25 Defendants accountable for their actions, and demanded that Defendants take immediate steps to
26 correct their unlawful conduct.

34. Defendants' actions in retaliating against Ms. Nguyen have violated Ms. Nguyen's rights to freedom of speech and to petition for redress of grievances, as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

35. On December 17, 2007, Plaintiff Nguyen delivered a letter to Defendants demanding that they cease and desist from violating her Constitutional rights, and rescind the retaliatory actions they have taken against her.

36. Defendants have failed to respond to Plaintiff Nguyen's demand.

37. Pursuant to 42 U.S.C. § 1983, Plaintiff Nguyen is entitled to injunctive relief restraining and preventing Defendants from continuing to violate her constitutional rights by taking retaliatory actions against her because of her exercise of those rights.

38. Plaintiff Nguyen has no administrative remedy and no plain, speedy or adequate remedy in the ordinary course of law to prevent Defendants from continuing to violate her constitutional rights. The only remedy provided by law for Plaintiff to obtain relief from Defendants' continuing violation of her constitutional rights is this claim for injunctive relief pursuant to 42 U.S.C. § 1983.

39. Plaintiff Nguyen will suffer irreparable harm if the injunctive relief requested herein is not granted.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment on this Petition and Complaint, as follows:

1. On the First Cause of Action:

a. Issue a Writ of Mandate directing Defendants to immediately cease and desist from:

i. killing any animal that is not irremediably suffering from a serious illness or severe injury, an unweaned newborn taken in without its mother, a feral cat, or an owner-relinquished dog with a history of vicious or dangerous behavior documented by DACC, before expiration

1 of the minimum statutorily-required holding period of at least four or six
2 days, depending on shelter hours of operation, and not including the day
3 of impoundment;

4 ii. killing any feral cat before expiration of the minimum statutory holding
5 period of at least three days, not including the day of impoundment;

6 iii. holding animals in areas of Defendants' shelters that are not readily
7 accessible to the public;

8 iv. killing any animal without first employing reasonable efforts to identify
9 the animal's owner, reunite the animal with the owner, or make the
10 animal meaningfully available for adoption to other members of the
11 public, including rescue organizations;

12 v. refusing to release any animal scheduled to be put to death to any
13 nonprofit rescue and/or adoption organization that requests to redeem
14 the animal, unless the animal is irremediably suffering from a serious
15 illness or severe injury, or is a dog that has been adjudicated after a
16 proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq., to be so
17 vicious that the dog's release would create a significant threat to the
18 public health, safety, or welfare.

19 b. Issue a Writ of Mandate directing Defendants to immediately begin:

20 i. holding all animals that are not irremediably suffering from a serious
21 illness or severe injury, or are not unweaned newborns taken in without
22 their mother, or are not feral cats, or are not owner-relinquished dogs
23 with a history of vicious or dangerous behavior documented by DACC,
24 for the minimum statutory period of at least four or six days, depending
25 on shelter hours of operation and not including the day of impoundment;

26 ii. holding all feral cats for the minimum statutory period of at least three
27 days, not including the day of impoundment;
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- iii. adopting, implementing, and enforcing policies and protocols for determining whether an impounded animal is truly (a) irremediably suffering from a serious illness or severe injury, (b) an unweaned newborn that cannot survive without its mother, (c) feral, or (d) vicious;
- iv. adopting, implementing, and enforcing a policy and protocol requiring staff to accurately classify animals upon intake (and ensuring that they will do so);
- v. making animals meaningfully accessible to the public at all times that the animals are impounded at DACC shelters;
- vi. releasing animals scheduled to be put to death to any nonprofit rescue and/or adoption organization that is willing to take the animals, unless the animals are irremediably suffering from a serious illness or severe injury, or are dogs that have been adjudicated after a proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq., to be so vicious that their release would create a significant threat to the public health, safety, or welfare;
- vii. establishing policies and procedures that will ensure cooperation between shelter personnel and rescue organizations, as required by law;
- viii. adopting, implementing, and enforcing policies and protocols for ensuring that all animals in DACC's care are treated kindly and humanely, provided with prompt and appropriate veterinary care, and receive adequate nutrition, water, shelter, exercise (including exercise outside of their cages or kennels);
- ix. keeping complete and accurate records on impounded animals as required by law, including but not limited to the date of impoundment, a description of the animal (including sex, age, species and breed), health

condition, veterinary care provided, and location within the shelter system;

- x. performing reasonable identification and tracking measures to enable shelters, rescuers, rescue organizations, and owners to locate animals within the shelter system, including but not limited to scanning all impounded animals for microchips, contacting the owners of microchipped animals or animals wearing identification tags, contacting rescue organizations known to have an interest in adopting particular types of animals to inform them when such animals have been impounded or are about to be killed, and maintaining updated information on all impounded animals on the DACC website at all times, including photographs of the animals;
- xi. providing prompt assistance to members of the public, including rescue organizations, inquiring, whether by telephone or in person, about reclaiming or adopting particular animals.

2. On the Second Cause of Action:

- a. Issue an order preliminarily and permanently enjoining Defendants from:
 - i. killing any animal that is not irremediably suffering from a serious illness or severe injury, an unweaned newborn taken in without its mother, a feral cat, or an owner-relinquished dog with a history of vicious or dangerous behavior documented by DACC, before expiration of the minimum statutorily-required holding period of at least four or six days, depending on shelter hours of operation, and not including the day of impoundment;
 - ii. killing any feral cat before expiration of the minimum statutory holding period of at least three days, not including the day of impoundment;

- iii. holding animals in areas of Defendants' shelters that are not readily accessible to the public;
 - iv. killing any animal without first employing reasonable efforts to identify the animal's owner, reunite the animal with the owner, or make the animal meaningfully available for adoption to other members of the public, including rescue organizations;
 - v. refusing to release any animal scheduled to be put to death to any nonprofit rescue and/or adoption organization that requests to redeem the animal, unless the animal is irremediably suffering from a serious illness or severe injury, or is a dog that has been adjudicated after a proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq., to be so vicious that the dog's release would create a significant threat to the public health, safety, or welfare.
- b. Issue an order preliminarily and permanently mandating that Defendants:
- i. hold all animals that are not irremediably suffering from a serious illness or severe injury, or are not unweaned newborns taken in without their mother, or are not feral cats, or are not owner-relinquished dogs with a history of vicious or dangerous behavior documented by DACC, for the minimum statutory period of at least four or six days, depending on shelter hours of operation and not including the day of impoundment;
 - ii. hold all feral cats for the minimum statutory period of at least three days, not including the day of impoundment;
 - iii. adopt, implement, and enforce policies and protocols for determining whether an impounded animal is truly (a) irremediably suffering from a serious illness or severe injury, (b) an unweaned newborn that cannot survive without its mother, (c) feral, or (d) vicious;

- iv. adopt, implement, and enforce a policy and protocol requiring staff to accurately classify animals upon intake (and ensuring that they will do so);
- v. make animals meaningfully accessible to the public at all times that the animals are impounded at DACC shelters;
- vi. release animals scheduled to be put to death to any nonprofit rescue and/or adoption organization that is willing to take them, unless the animals are irremediably suffering from a serious illness or severe injury, or are dogs that have been adjudicated after a proper hearing pursuant to Food & Ag. Code, §§ 31601, et seq., to be so vicious that their release would create a significant threat to the public health, safety, or welfare;
- vii. establish policies and procedures that will ensure cooperation between shelter personnel and rescue organizations, as required by law;
- viii. adopt, implement, and enforce policies and protocols for ensuring that all animals in DACC's care are treated kindly and humanely, provided with prompt and appropriate veterinary care, and receive adequate nutrition, water, shelter, and exercise (including exercise outside of their cages or kennels);
- ix. keep complete and accurate records on impounded animals as required by law, including but not limited to the date of impoundment, a description of the animal (including sex, age, species and breed), health condition, veterinary care provided, and location within the shelter system;
- x. perform reasonable identification and tracking measures to enable shelters, rescuers, rescue organizations, and owners to locate animals within the shelter system, including but not limited to scanning all

1 impounded animals for microchips, contacting the owners of
2 microchipped animals or animals wearing identification tags, contacting
3 rescue organizations known to have an interest in adopting particular
4 types of animals to inform them when such animals have been
5 impounded or are about to be killed, and maintaining updated
6 information on all impounded animals on the DACC website at all
7 times, including photographs of the animals;

8 xi. provide prompt assistance to members of the public, including rescue
9 organizations, inquiring, whether by telephone or in person, about
10 reclaiming or adopting particular animals.

11 3. On Both the First and Second Causes of Action:

- 12 a. Issue an order mandating Defendants to prove to the satisfaction of the
13 Court that Defendants are in compliance with the Court's orders in these
14 proceedings, through audits, monitoring, review of County training
15 materials and evidence of training of County employees, and/or such other
16 procedures as the Court deems appropriate to ensure compliance with its
17 orders;
- 18 b. Retain jurisdiction of this matter until Defendants have demonstrated to the
19 satisfaction of the Court the modification and implementation of their
20 internal practices, policies and procedures in accordance with the relief
21 granted herein.

22 4. On the Third Cause of Action:

- 23 a. Issue an order preliminarily and permanently enjoining Defendants from
24 taking any further retaliatory actions against Plaintiff Nguyen;
- 25 b. Issue an order preliminarily and permanently mandating that Defendants:
- 26 i. reinstate the volunteer status of Plaintiff Nguyen's rescue partner, Janet
27 Taylor, at the Carson shelter;
- 28

- 1 ii. release to Plaintiff Nguyen or Ms. Taylor any animal either of them
2 requests to redeem from any of the six DACC shelters, either in her
3 capacity as a member of the public or as a volunteer for and
4 representative of any nonprofit animal rescue organization, unless the
5 animal is truly suffering irremediably, or is a dog that has been
6 adjudicated after a proper hearing pursuant to Food & Ag. Code, §§
7 31601, et seq., to be so vicious that the dog's release would create a
8 significant threat to the public health, safety, or welfare;
9 iii. reinstate the "Adoption Partner" status of the Irvine Animal Care
10 Center, and release to the Irvine Animal Care Center and any volunteer
11 for or representative of the Irvine Animal Care Center any animal from
12 any of the six DACC shelters that the Irvine Animal Care Center
13 requests to redeem, unless the animal is truly suffering irremediably, or
14 is a dog that has been adjudicated after a proper hearing pursuant to
15 Food & Ag. Code, §§ 31601, et seq., to be so vicious that the dog's
16 release would create a significant threat to the public health, safety, or
17 welfare.

5. On All Causes of Action:

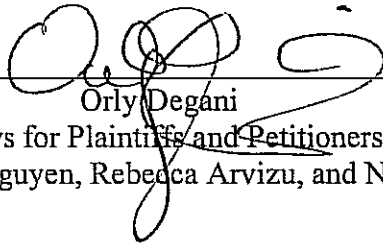
- a. Award Plaintiffs all costs incurred in this suit, including attorneys' fees;
- b. Award such other relief as the Court may deem just and proper.

Dated: December 20, 2007

RESPECTFULLY SUBMITTED,

EISENBERG RAIZMAN THURSTON & WONG LLP
Sheldon Eisenberg
Orly Degani
Melissa Bonfiglio

By: _____



Orly Degani

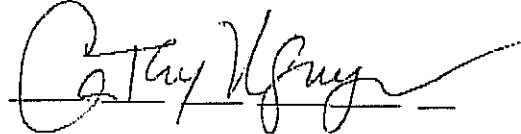
Attorneys for Plaintiffs and Petitioners
Cathy Nguyen, Rebecca Arvizu, and No Kill Advocacy
Center

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VERIFICATION

I, Cathy Nguyen , Plaintiff and Petitioner in this matter, have read the foregoing Verified Petition for Writ of Mandate and Complaint for Injunctive Relief and am familiar with its contents. All facts alleged in this Petition and Complaint 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 December 19, 2007, at Tring, California.



Cathy Nguyen