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**ASSOCIATED HUMANE SOCIETIES,  
INC., a New Jersey Corporation d/b/a  
ASSOCIATED HUMANE SOCIETIES OF  
NEW JERSEY**

**Plaintiff,**

**v.**

**CITY of NEWARK and GARDEN STATE  
VETERINARY SERVICES,**

**Defendants.**

**SUPERIOR COURT OF NEW JERSEY  
ESSEX COUNTY: LAW DIVISION**

**DOCKET NO. ESX-L 7303-11**

**Civil Action**

**COMPLAINT and JURY DEMAND**

Plaintiff, Associated Humane Society (hereinafter referred to as "AHS"), with its primary business address being 124 Evergreen Avenue, Newark, New Jersey, states the following by way of Complaint against Defendants, City of Newark (hereinafter referred to as "Newark") and Garden State Veterinary Services (hereinafter referred to as "GSVS") herein:

**ALLEGATIONS COMMON TO ALL COUNTS**

1. Plaintiff, AHS, is a 501C3, non-profit, charitable organization whose 100 year-old mission is to rescue animals, provide free veterinary services and attempt to adopt out those animals in conformity with the laws of the state of New Jersey.

2. AHS operates three facilities in New Jersey, one in Newark, one in Tinton Falls and the Popcorn Park Zoo in Lacey Township. The Popcorn Park Zoo is a multifunctional facility, offering veterinary services, sheltering and preservation for animals of all kinds as well as providing education and teaching.

3. Defendant GSVS is a veterinary hospital located in Tinton Falls, New Jersey that provides veterinarian services and 24-hour care if required.

4. On March 16, 2011, AHS was contacted by an Animal Control officer of Newark, pursuant to a contract between AHS and Newark, to rescue a pit bull that had been thrown down a 16 floor garbage chute and was near death.

5. AHS rescued the dog and brought it back to AHS's shelter in Newark, where its on-staff veterinarian provided emergency care to the dog, stabilized him and had him transported to GSVS for further veterinarian services.

6. The dog survived through the night at AHS and into March 17, 2011 and, in honor of St. Patrick's Day, the Executive Director of AHS, Roseann Trezza, named the dog "Patrick".

7. Patrick's rescue has gone "viral," meaning that it has hundreds of thousands of hits on the internet thereby making Patrick a "celebrity" and a very valuable brand for commercial exploitation and fundraising.

8. The individual who abandoned Patrick, Kisha Curtis, was located and is being prosecuted by the Essex County Prosecutor's Office.

9. In connection with the criminal prosecution, on April 26, 2011, the Honorable Joseph Cassini, III, executed an Order requiring that Patrick remain at GSVS until the resolution

of the criminal matter because the Prosecutor's Office deemed Patrick as "evidence" in the prosecution of Ms. Curtis.

10. On May 4, 2011, AHS filed a motion to vacate Judge Cassini's April 26, 2011 Order on the basis that it was entered without notice to AHS and because AHS continued to have a possessory interest in Patrick.

11. On May 17, 2011, Judge Cassini entered an interim order authorizing an AHS employee to visit Patrick at GSVS.

12. On June 20, 2011 Judge Cassini vacated the May 17, 2011 interim Order and continued the April 26, 2011 Order.

13. On June 21, 2011, AHS filed a Notice of Appeal and Motion for Emergent Relief in the Superior Court, Appellate Division challenging Judge Cassini's June 20, 2011 Order.

14. On June 23, 2011, the Appellate Division affirmed Judge Cassini's June 20, 2011 Order, but, the Court declined to address the issue of ownership of Patrick.

15. On June 29, 2011, Judge Cassini ordered that Patrick was to be temporarily cared for in the home of Patricia and Thomas Scavelli ("Scavellis"), the owner/operators of GSVS, pending final outcome of the criminal case against Kisha Curtis.

16. Patrick is now in good health and is able to be returned to AHS.

17. Patrick remains in the possession of GSVS by way of the Scavellis.

#### **FIRST COUNT**

18. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-17 as if set forth herein verbatim and at length.

19. On December 21, 2010, by way of Resolution, Newark agreed to enter into a contract with AHS for the period of one year beginning February 1, 2011 and terminating on January 31, 2012 for AHS to provide the City with animal control services.

20. Newark and AHS entered into an Agreement dated February 1, 2011 wherein Newark contracted with AHS to "provide animal control services in order to protect the health, safety and welfare of the citizens of the City of Newark." (hereinafter referred to as the "Agreement").

21. The Agreement further provides that "Contractor (AHS) shall provide shelter, for stray animals which are either picked up by the City's Animal Control officers or picked up by Contracted Vendor at the request of the City, for not more than seven (7) days pursuant to N.J.S.A. 4:19-16.16-7 and upon the eighth day may be humanely disposed or sold or given away for adoption according to State law."

22. Newark and AHS have entered into similar Agreements for AHS to be the city's primary animal control facility for the previous twenty years.

23. The contract between AHS and Newark identifies AHS as an independent contractor giving AHS full authority over any animal placed in the care and custody of AHS.

24. On March 16, 2011, AHS was performing its obligations under the Agreement with Newark when AHS took control of Patrick from the Newark animal control officer because Patrick was an abandoned animal found in Newark.

25. Pursuant to the Agreement, after seven days, AHS had full authority over Patrick and could determine whether or not Patrick would be humanely disposed or sold or given away for adoption.



26. On May 2, 2011, Newark informed AHS that it was taking the position that AHS had no possessory interest in Patrick.

27. Newark further informed AHS that the city did not want AHS to perform any further services with respect to Patrick and specifically instructed AHS to take no further action with respect to Patrick.

28. After revoking the Agreement with AHS, Newark delegated the authority to make any future decision regarding Patrick to GSVS.

29. Newark had never attempted to take possession of any other animal from AHS or delegated the authority to make decisions regarding any other animal in the previous twenty years.

30. In addition, Newark, although not a party to the criminal prosecution of Kisha Curtis, intervened and opposed AHS's motion seeking custody of Patrick and opposed AHS's application for emergent relief filed with the Appellate Division.

31. Plaintiff has suffered injury as a direct and proximate result of Defendants actions.

**WHEREFORE**, AHS demands judgment against Newark in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

## **SECOND COUNT**

32. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-31 as if set forth herein verbatim and at length.

33. AHS has a contractual relationship with GSVS whereby AHS would deliver animals it rescued to GSVS for veterinary services that AHS could not provide.

34. Each time AHS delivered an animal to GSVS, GSVS would return the animal back to AHS once the veterinary services were provided.

35. In addition, AHS would pay for the veterinary services rendered by GSVS.

36. This prior course of dealings occurred over the period of several years and comprised of many transactions.

37. In the past course of dealings, GSVS had never retained custody of any animal delivered to them by AHS once the contracted veterinary services were completed.

38. On March 17, 2011, AHS delivered Patrick to GSVS so that GSVS could provide veterinary services to help save his life, as it had done with numerous other animals in similar situations in the past.

39. AHS agreed to pay for all veterinary services rendered by GSVS for Patrick.

40. AHS expected that GSVS would return Patrick to AHS once the contracted veterinary services were completed.

41. GSVS has completed the agreed upon veterinary services for Patrick.

42. GSVS, through Newark, has taken the position that it will not return Patrick to AHS at any time.

43. GSVS's failure to return Patrick to AHS in a timely manner breached their agreement and has caused Plaintiff to suffer injury as a direct and proximate result.

**WHEREFORE**, AHS demands judgment against GSVS in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

**THIRD COUNT**

44. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-43 as if set forth herein verbatim and at length.

45. Newark and GSVS have interfered with AHS's ability to perform under its Agreement with Newark by refusing to return Patrick to AHS.

46. Plaintiff has suffered injury as a direct and proximate result of Defendants actions.

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

#### **FOURTH COUNT**

47. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-46 as if set forth herein verbatim and at length.

48. On March 17, 2011, AHS delivered Patrick to GSVS so that GSVS could provide veterinary services to help save his life.

49. AHS expected that GSVS would return Patrick to AHS's possession once the contracted veterinary services were completed.

50. GSVS has completed the agreed upon veterinary services for Patrick.

51. GSVS has refused to return Patrick to AHS despite AHS's request for his return.

52. GSVS's failure to return Patrick to AHS in a timely manner constitutes a conversion of goods and has caused Plaintiff to suffer injury as a direct and proximate result.

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

#### **FIFTH COUNT**

53. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-52 as if set forth herein verbatim and at length.

54. On May 5, 2011, AHS registered a trademark for "Patrick", a pit bull for advertising and fundraising purposes, in New Jersey, trademark registration number 23699.

55. "Patrick", his story and any images relating thereto are the intellectual property of AHS.

56. Newark and GSVS have both utilized "Patrick" and his story for economic gain.

57. Newark and GSVS have infringed upon AHS's trademark of "Patrick" and Plaintiff has suffered injury as a direct and proximate result of Defendants actions.

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

#### **SIXTH COUNT**

58. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-57 as if set forth herein verbatim and at length.

59. Upon information and belief, at some time in April 2011, representatives from Newark and GSVS had a discussion regarding Patrick and the desire to keep Patrick away from AHS so that Newark and GSVS could utilize Patrick and his story for economic gain.

60. On May 2, 2011, Newark informed AHS that the city did not want AHS to perform any further services with respect to Patrick and specifically instructed AHS to take no

further action with respect to Patrick; Newark then delegated the authority to make any future decision regarding Patrick to GSVS.

61. On May 20, 2011, Newark, a non-party to the criminal prosecution, filed an opposition to AHS's motion to vacate Judge Cassini's April 26, 2011 order taking the position that Patrick should remain at GSVS.

62. Newark's opposition was almost exclusively based on a ten (10) page Certification of Pat Scavelli, the administrative director of GSVS.

63. GSVS was not a party to the criminal prosecution and was not represented by counsel at the June 2, 2011 motion hearing.

64. At the June 2, 2011 hearing, counsel for Newark argued for Patrick to remain at GSVS, a facility located outside of Newark, even though he represented Newark.

64. Patrick is now residing in the home of Pat Scavelli.

65. Newark and GSVS have conspired to deprive AHS of its property interest in Patrick.

66. Plaintiff has suffered injury as a direct and proximate result of Defendants actions.

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

### SEVENTH COUNT

67. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-66 as if set forth herein verbatim and at length.

68. When Patrick was rescued his story became highly publicized and was featured on numerous local and national news programs.

69. On or about March 18, 2011, a "Patrick Miracle" facebook website was created in honor of Patrick's rescue.

70. The creation of this website caused numerous telephone and email contacts to be made to GSVS inquiring about Patrick's well being and how donations could be made to be utilized for his care.

71. By March 19, 2011, the phone call volume seeking to donate money to Patrick became too much for GSVS to handle.

72. On March 21, 2011, Pat Scavelli, administrative director of GSVS, created a "PayPal" account; an online account to receive and hold monetary donations for Patrick.

73. At the direction of Pat Scavelli, an advertising company posted pictures of Patrick on the GSVS website--[www.gsvs.org](http://www.gsvs.org)—along with a PayPal icon directing donations to the account created by Pat Scavelli.

74. The PayPal account received numerous donations as soon as it was created.

75. On or about March 24, 2011, Pat Scavelli had the PayPal account link removed from the GSVS website because it had received sufficient donations to provide for Patrick's veterinary care.

76. GSVS has never provided AHS with any of the donations it received for Patrick or an accounting of the donations it received for Patrick.

77. Plaintiff has suffered injury as a direct and proximate result of Defendant GSVS's actions.

**WHEREFORE**, AHS demands judgment against GSVS in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

**EIGHTH COUNT**

78. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-77 as if set forth herein verbatim and at length.

79. GSVS is not a registered charity for purposes of receiving charitable donations.

80. GSVS accepted donations for Patrick under false pretences that the donations would be going to a registered charitable organization such as AHS.

81. Plaintiff has suffered injury as a direct and proximate result of Defendant GSVS's actions.

**WHEREFORE**, AHS demands judgment against GSVS in the form of the following:

- a. Compensatory and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and



- f. For such other and further relief as the Court deems just and equitable.

**NINTH COUNT**

82. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-81 as if set forth herein verbatim and at length.

83. Plaintiff had a protectable business right and a reasonable expectation to advance business opportunities, which were violated by Defendants.

84. On a continuing basis, Defendants have intentionally, willfully and recklessly interfered with Plaintiffs business activities such that Plaintiffs business rights and opportunities have been irreparably damaged.

85. By their intentional, willful and reckless interference with Plaintiffs business activities, the Defendants have interfered with Plaintiff's contractual rights with third parties and have caused Plaintiff to sustain significant losses.

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory, punitive and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

**TENTH COUNT**

86. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-85 as if set forth herein verbatim and at length.

87. Defendant's actions, individually or in concert have wrongfully and without justification interfered with Plaintiff's expectation of economic advantage.

88. In the absence of Defendant's actions, it is reasonably probable that Plaintiff would have realized its economic advantage by continuing in its business without experiencing hardship.

89. Plaintiff has suffered injury as a direct and proximate result of Defendants actions.

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory, punitive and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

#### **ELEVENTH COUNT**

90. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-89 as if set forth herein verbatim and at length.

91. Defendants, each of them individually and in concert, took determinative roles and egregious actions against the Plaintiff with malicious intent which was designed to and having the affect of inflicting damage to the Plaintiff and depriving Plaintiff of a protected property interest.

92. Plaintiff has suffered injury as a direct and proximate result of Defendants actions and Plaintiff is entitled to punitive damages in accordance with N.J.S.A. 2A:15-5.9, et. seq.

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory, punitive and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

**TWELFTH COUNT**

93. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1-92 as if set forth herein verbatim and at length.

94. The Defendants, individually and with each other conspired to inflict damage upon the Plaintiff for each and every count as alleged throughout this Complaint.

95. Plaintiff has suffered injury as a direct and proximate result of Defendants actions and Plaintiff is entitled to punitive damages in accordance with N.J.S.A. 2A:15-5.9, *et. seq.*

**WHEREFORE**, AHS demands judgment against Defendants individually, jointly and severally in the form of the following:

- a. Compensatory, punitive and consequential damages;
- b. Interest;
- c. Costs of suit;
- d. Attorney's fees; and
- f. For such other and further relief as the Court deems just and equitable.

**CERTIFICATION OF COUNSEL**

Pursuant to R. 4:5-1, I hereby certify that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding. To the best of my knowledge at the present time, there are no other parties who should be joined in this action.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, notice is hereby given that Harry Jay Levin, Esq. is designated as trial counsel in this matter.

**JURY DEMAND**

A trial by jury is requested on all issues so triable.

**LEVIN CYPHERS**

Dated: August 30, 2011

By:   
Harry Jay Levin, Esq.

SUPERIOR COURT OF NEW JERSEY LAW DIVISION ESSEX VICINAGE
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FINANCE DIVISION RECEIVED/FILED #28