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ATTORNEYS FOR DEFENDANTS
MARC SAYER AND RENEE BRODEN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

GENTLE GIANTS RESCUE AND ADOPTIONS, INC. A California Non-Profit Public Benefit Corporation, BURT WARD, an individual, and TRACY WARD, an Individual,

Plaintiffs,

v.

BARBARA LAID, an Individual, MARC SAYER, an Individual, RENEE BRODEN, an Individual, JAMIE GARCIA, an Individual, and DOES 1 through 100 Inclusive,

Defendants,

CASE NUMBER: 05 CC 09035

DECLARATION OF DEFENDANT MARC SAYER IN SUPPORT OF DEFENDANT'S MOTION TO STRIKE THE PLAINTIFFS COMPLAINT AS A STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION SUIT
(C.C.P. § 425.16 et.seq.)

HON: DEREK G. JOHNSON

TIME:

DEPT. C7

DATE:

I, Marc Sayer, declare under the penalty of perjury under the laws of the State of California that the below is true and correct to the best of my knowledge. I am a resident of the State of Oregon.

1. I am the operator of Gracieland.org, and the founder of Deaf Dane Rescue, Inc.
2. I have devoted my time and efforts to this cause since 2002. However, I have been an owner of Great Danes since the 1970's.
3. In addition to my rescue efforts, I am the founder of the Western States Great Dane Rescue Association, (WSGDRA) whose goal is to improve the overall quality of rescue, to facilitate cooperation between rescues, and to help ensure that no Dane is euthanized for lack of a rescue to take him or her.

4. To facilitate an exchange of information and protect against a Dane being put down, the WSGDRA has a "load sharing" program that allows rescues to communicate about dogs and to transfer dogs from rescues that are overcrowded to rescues that have space.

5. I am a member of an informal organization named ROARS. We are a coalition of adopters, rescues, breeders, breed enthusiasts, lawyers, animal advocates, breed clubs, and people in the animal welfare field, all of whom have come together to see to it that no one else has to go through the things some of us have experienced in adopting a dog. We represent at least a dozen different breeds. Our rescue members range from local mom and pop operations, to regional and even national organizations. Our members hail from California, Arizona, Nevada, Oregon, Washington, Montana, Utah, Colorado, and even as far away as Alabama. We all share one common goal, to improve the quality of rescue overall, to protect dogs in rescue and the public.

6. Because of our stated goal of improving the quality of rescues, we actively investigate information concerning rescue facilities, by reviewing public information sites. ROARS members brought their concerns to the Norco City Counsel. This in turn led to a meeting with Los Angeles County animal control. As shown below, L.A. County Animal Control elected to stop releasing dogs to Gentle Giants.

7. As a result of ROARS appearance at the City Counsel meeting, a reporter undertook a story related our overall concerns. I placed a link on the ROARS web-site to this article. A true and correct copy of this newspaper article is attached as NOL Exhibit "5."

8. In addition to the Newspaper report, I posted the following, including the statement presented by the Los Angeles County Animal Shelter. This statement was:

L.A. County Says No to GG

Los Angeles County Animal Control has stopped sending dogs to Gentle Giants Rescue located in Norco CA. This means that, in addition to the Norco shelter, all six of the L.A. Co. shelters will no longer be sending any dogs to GG or to anyone at their address. According to Ron R. Edwards, Deputy Director County of Los Angeles Department of Animal Care and Control "I have directed our six County of Los Angeles Animal Care Centers to discontinue adoptions to Gentle Giants until an investigation is complete as to the allegations made about their organization. Norco Animal Control is currently investigating the complaints and I will be in touch with them to determine if and when we are able to resume adoptions to them once again." Mr. Edwards went on to say, "We do all that we can to make sure that the animals that we adopt are going into the best possible environment and until we know that those requirements are being met, we will not be adopting to Gentle Giants." And Mr Edwards urged everyone, "If you have specific information about Gentle Giants (positive or negative), I would encourage you to contact the Norco Animal Control at (951) 737-8972 to share your information with them if you haven't already."

9. At ROARS we recognize that there are numerous opinions as to how a rescued dog should be treated. As part of my involvement in Western States Great Dane Rescue Association and ROARS, I helped develop and I personally subscribe to the following statements:

"All rescue groups have different philosophies, different goals, different numbers of foster homes available, operate in different climates and cultures, etc. Because of this, all rescues operate somewhat differently. We are cognizant of this, and we have worked with some of our rescue partners and advisors to create a list of standards of care that we expect all rescues to provide for the Danes we send them (and if possible all Danes in their care). We will be asking all rescues to agree to the following terms before we transport a Dane (or other animal) to or from their rescue:

Animal will be housed indoors while in the care of my rescue. Animal will be kept in my home or in a supervised foster home. If rescue utilizes indoor kennels, Animal will receive a minimum of one hour of personal attention outside of the kennel daily, being cared for by staff, volunteers, or myself. Animal will not be housed in an outdoor kennel. Animal will be adopted under a contract requiring that Animal be housed indoors for the lifetime of Animal.

Animal's temperament will be evaluated prior to adoption by myself (if experienced), a professional trainer or behaviorist, or a volunteer with supervised experience evaluating temperament, and the evaluation will be recorded and retained in Rescue's records.

Animal will be altered prior to adoption, unless a qualified medical condition precludes it, on the advice of a veterinarian. No spay/neuter contracts will be considered, even for young puppies. A veterinarian will evaluate Animal's health, and records shall be kept and transferred to adopter. All health conditions identified by a veterinarian will be treated, or for chronic conditions, treatment will begin prior to adoption, at the advice of at least one veterinarian. Animal will be up-to-date on relevant area vaccinations prior to adoption, unless this goes against a veterinarian's advice based on health. Adoption contract will require

that the Animal be kept up-to-date on vaccinations (see above), and free of parasites including heartworms (including preventative where this is a problem). If Rescue permits adopters to use holistic preventatives, etc, in place of conventional vaccinations and treatments, Animal must be under the care of a qualified holistic veterinarian.

A home visit will be done for adopters prior to adoption. Rescue understands that Dane T.R.A.I.N. may be able to provide volunteers for home visits for out-of-area adoptions. Rescue will require and verify references for any potential adopter, including one or more veterinarian reference.

For out-of-area adoptions, Rescue will contact all same-breed rescues in the state of the potential adoption, to ensure adopter is not on a "do-not-adopt" list. Rescue has made arrangements to recover Animal if adoption were to fail.

Rescue will inform adopter of the unique nutritional, medical, and behavioral requirements of the breed, including Blot and Torsion, growth issues such as HOD, OCD, and Pano, etc. An adoption packet with articles listing such things is strongly recommended. Rescue will always be available for any questions from the adopter, for the life of the Animal.

Adoption contract will stipulate that if the adoption were to fail, the Animal will be returned to the Rescue, and never be sold, given away, abandoned, or released to an animal shelter.

Animal will receive some basic training while in the care of Rescue, concentrating on positive reinforcement techniques. Rescue will require adopters to continue with basic training, and will emphasize the importance of training with breeds like the Great Dane. A requirement of formal obedience classes in the contract is strongly recommended, especially for puppies."

10. The ROARS Web-site offers individuals an opportunity to discuss the experiences they have had in adoptions. As a means to express themselves, our web-site posts third party comments. Representative postings of third parties are set out in NOL Exhibit "6" which are true and correct copies of the e-mails that I have posted on behalf of others. These postings are e-mails sent to ROARS, and are not offered as the truth, but rather as a demonstration that I have been involved in posting others comments.

11. In the Plaintiffs complaint, they allege that I accused them of violating the law. This is not accurate. On the ROARS web-site I posted the publically available records related to this non profit public benefit corporation. The posting read in relevant part:

Want to see Gentle Giant's tax return for 2003?

This is the only year available so far, and it is only a half year really, as it covers May through December. It is sparse, but it does give some interesting information. Did you know that Tracy takes a salary? Yep, according to their IRS Form 990 (the "tax return" for charitable organizations) Tracy took \$7000 in salary in 2003. While this is not illegal or anything, it is unusual in the rescue community. Especially given that it represents almost 1/3 of total expenditures for that portion of the year. And in addition to the salary, there were also payroll taxes due in the amount of \$1,379. So total cost to the rescue was really \$8,379 as I read the return, which is more than 1/3 of the total expenditures for that portion of the year. Check it out for yourself, and draw your own conclusions.

In checking out their 501c3 application, we discovered that their projected income for 2004 was listed at \$263,000. And that they expect to spend almost 1/3 of that, \$84,000 on Tracy's salary alone.

12. It is relevant to note that contrary to the language in the complaint claiming that I accused them of illegal activity, I stated "While this is not illegal or anything, it is unusual in the rescue community..."

13. I am personally aware of the fact that there are many thousands of rescues throughout the United States.

14. Within ROARS there are individuals from shelters, rescues, trainers, kennel owners, and individuals.

15. I have never libeled the Plaintiffs, but I am genuinely concerned for the well-being of the dogs in their care.

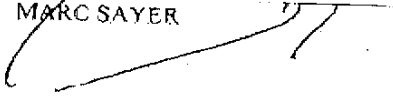
16. I believe that I have a right and a duty to share these numerous articles and actions taken by governmental agencies, as well as complaints from individuals, as a member of a large community of dog rescuers.

17. My web-site, while it may seem provocative, is in fact a factually sound representation of the facts related to governmental actions and expressions of dissatisfaction of individuals who have conducted business with the Plaintiffs.

18. I am personally aware that there are many thousands of web-sites devoted to the discussion of dog rescue. Because of the time, cost and distance involved, it is a usual practice for those of us involved in rescues to communicate and exchange information and ideas via the internet.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 11th day of October, 2005, in the State of Oregon.

MARC SAYER

A handwritten signature in black ink, appearing to read "MARC SAYER", written over a horizontal line.