

STATE OF NEW MEXICO  
THIRD JUDICIAL DISTRICT COURT  
COUNTY OF DONA ANA

IRENE HOWCROFT,

PRB

PLAINTIFF,

VS.

Cause No: \_\_\_\_\_

VILLAGE OF CAPITAN, RANDY SPEAR,  
INDIVIDUALLY AND IN HIS CAPACITY  
AS CHIEF OF POLICE OF CAPITAN POLICE  
DEPARTMENT, KEVIN KENNEDY,  
INDIVIDUALLY AND IN HIS CAPACITY  
AS OFFICER WITH CAPITAN POLICE  
DEPARTMENT, DONA ANA COUNTY,  
DONA ANA COUNTY SHERIFF'S  
DEPARTMENT, JULIE BENTLEY, MIKE  
BULLOCK, BILL CREASEY, AND  
DONNA CARMICHAEL INDIVIDUALLY ,

DEFENDANTS.

**COMPLAINT FOR DAMAGES**

**COMES NOW** the Plaintiff by and through her undersigned attorneys and for her claim states:

**General Allegations**

1. Plaintiff is a resident of Lincoln County, New Mexico residing outside the Village of Capital city limits.
2. Defendant Village of Capitan ("Village") is a municipality located in Lincoln County, New Mexico and the employer of Defendant Randy Spear and Kevin Kennedy.
3. Defendant Randy Spear ("Spear") is a resident of Lincoln County, New Mexico and at all times relevant to this issue was the Chief of Police of the Capitan

Police Department (“Capitan PD”). All actions taken by this Defendant were within the course and scope of his employment with the Village.

4. Defendant Kevin Kennedy (“Kennedy”) is a resident of Lincoln County, New Mexico and at all times relevant to this issue was employed by the Village of Capitan, Capitan Police Department. All actions taken by this Defendant were within the course and scope of his employment with the Village.

5. Defendant Dona Ana County Board of County Commissioners have oversight over Defendant Dona Ana County Sheriff’s Department (“DACSD”) and both are government entities in Dona Ana County, New Mexico.

6. Defendant Julie Bentley (“Bentley”) is a resident of Edgewood, New Mexico.

7. Defendant Mike Bullock (“Bullock”) is a resident of Greenville, North Carolina.

8. Defendant Bill Creasey (“Creasey”) is a resident of the State of Tennessee.

9. Defendant Donna Carmichael is a resident of Capitan, Lincoln County, New Mexico.

11. The incidents giving rise to this Complaint occurred within the County of Lincoln, State of New Mexico.

12. Jurisdiction and venue are properly vested in this Court as Defendant Dona Ana County is situated in this Dona Ana County.

13. Plaintiff owns a business in Lincoln County, New Mexico and from which Plaintiff trains and sells Belgian Malinois Dogs d/b/a Ruidoso Malinois.

14. Plaintiff's property is located outside the Village limits of the Village of Capitan.

15. Plaintiff has been involved with raising and training dogs since she was a very young girl.

16. Plaintiff grew up in South Africa and received her education there.

17. Plaintiff received a degree from Phillips Graduate Institute which was located in Burbank, California in 1984.

18. Plaintiff's Master's degree was in Marriage, Family and Child Therapy.

19. Plaintiff moved from South Africa to California, in 1981.

20. Prior to coming to California, Plaintiff had lived in England and worked as a clinical social worker.

21. Plaintiff, in 2004 purchased her first Belgium Malinois and began researching the breed, breeding and training.

22. Plaintiff has attended numerous training schools.

23. Plaintiff, at the time of the incident which is subject matter of this complaint, was known as a reputable breeder and trainer in the United States and abroad of Belgian Malinois.

24. At the time of the incident which began on November 16, 2011, the Plaintiff was working pursuant to a contract with the New Mexico Department of Corrections to develop their first international K-9 program with the Country of Mexico.

25. Plaintiff began the contract with the New Mexico Department of Corrections on October 3, 2011 and stayed in Santa Fe, New Mexico until November 18, 2011, when the contract ended.

26. Plaintiff returned to Capitan, New Mexico to her kennels every Saturday and Sunday during the period of time she was under contract with the New Mexico Department of Corrections.

27. This contract with the New Mexico Department of Corrections was a United States State Department contract

28. At the time of the incident, which began on November 16, 2011, the Plaintiff was the kennel of choice for New Mexico Department of Corrections for future provision of K-9's, and as trainer for the ongoing relationship with the Country of Mexico.

29. During the K-9 program in October of 2011, the Plaintiff furnished three (3) K-9's from her kennel for this program.

30. The dogs were purchased by the New Mexico Department of Corrections for the program.

31. The contract with the Department of Corrections pivoted Ruidoso Malinois and Plaintiff into the top tier of Working Dog kennels in the United States.

32. Personal and professional relationships with State Department, New Mexico State Police and Border Patrol had been established, such that Plaintiff was going to be consulted to head up all future programs with State Department, K-9 Division and other international clients.

33. At the time of the incident which began on November 16, 2011, the Plaintiff had been advertising Belgian Malinois puppies, green dogs and trained dogs for sale on numerous websites on the internet.

34. At the time of the incident Plaintiff was selling Belgian Malinois dogs for between \$1,500.00 and \$15,000.00 per dog.

35. On or about the 18<sup>th</sup> day of November, 2011, Defendant Spear recklessly placed a call to the New Mexico Department of Corrections to falsely advise them that illegal drugs had been found on the property of Plaintiff, that Plaintiff's dogs were sick and had been seized, and that Plaintiff was also being charged with identity theft.

36. Defendant Spear maliciously informed the New Mexico Department of Corrections that the dogs which had been located at the Santa Fe premises since October 10, 2011, should be checked to determine whether or not the dogs were sick.

37. Defendant Spear did not, at any time, notify Plaintiff, Irene Howcroft, that anything was amiss at her facility, despite Plaintiff specifically asking him on November 19, 2011, in a telephone conversation.

38. Defendant Spear told Plaintiff that there were no issues at the kennel and nothing to be concerned about and asked Plaintiff when she would be returning to her kennel.

39. On November 16, 2011, Defendant Spear left the city limits of the Village of Capitan and initiated, on his own an investigation of alleged abuse of animals at 136 Dean Road, which is located outside the Village limits of the Village of Capitan.

40. Defendant Spear entered upon the property of Irene Howcroft without her knowledge or permission, at a location outside the village limits of the Village of Capitan, located in Lincoln County, New Mexico.

41. No other law enforcement agency requested or was even informed that Defendant Spear was conducting an investigation outside his jurisdictional area.

42. Defendant, Village of Capitan, acquiesced to this investigation and supported Defendant Spear in his seizure of Plaintiff's animals.

43. Defendant, Village of Capitan, failed to properly train and educate Defendant Spear and Defendant Kennedy in even the most basic jurisdictional issues.

44. Defendant, Village of Capitan, failed to properly train and educate Defendant Spear and Defendant Kennedy on the execution of search warrants and jurisdiction of municipal officers.

45. Defendant, Village of Capitan, failed to properly supervise Defendants Spear and Kennedy during this investigation.

46. Defendant, Village of Capitan, had full knowledge of Defendant Spear's investigation and supported his activities.

47. Defendant, Village of Capitan, took no action to prevent Defendant Spear or Defendant Kennedy from acting outside of their jurisdiction.

48. Defendants Spear and Kennedy failed to notify Plaintiff that one of Plaintiff's dogs had escaped while under the care, control and custody of Defendants.

49. Defendants Kennedy, Spear and DACSD seized Plaintiff's dogs on November 18, 2011 under the pretense that they were not being properly cared for and were sick. However Defendants failed to administer any medical treatment to the dogs until November 26, 2011, at 2:00 p.m., allowing the dogs to go an additional eight (8) days without medical treatment.

50. Defendants Kennedy, Spear and DACSD seized Plaintiff's medication for the dogs on November 18, 2011 and could have administered the medication if they chose to.

51. Defendants Spear and Kennedy failed to return Plaintiff's illegally seized dogs for twenty nine (29) days doing so on December 20, 2011.

52. Plaintiff, Irene Howcroft owned the premises located outside of Capitan, which served as training and boarding grounds for Belgian Malinois dogs.

53. Defendant Spear, acting outside his jurisdiction, viewed the kennels of Plaintiff, Irene Howcroft, on or about November 16, 2011, and determined some of the dogs appeared sick, and underweight. However he did not make any attempt to contact Plaintiff.

54. Defendant Spear knew nothing about the breed Belgium Malinois.

55. Belgium Malinois are working dogs whose ideal body weight is very lean.

56. Defendant Spear, acting outside his jurisdiction, contacted the Dona Ana County Sheriff's Department and requested that they assist him in seizing the dogs belonging to Plaintiff, Irene Howcroft.

57. Defendant, Dona Ana County Sheriff's Department, did assist Defendant Spear in illegally seizing the dogs belonging to Plaintiff and moving them to a kennel located within the city limits of Capitan.

58. Defendant Spear did not have authority from the Lincoln County Sheriff's Department to conduct an investigation and seizure outside his Capitan jurisdiction on Plaintiff's property.

59. Defendant, DASCD, did not have the authority to conduct an investigation and seizure outside of Dona Ana County, State of New Mexico.

60. Defendant, DACSD, caused to be posted in the Dona Ana News on November 21, 2011, a false and defamatory article which continues to be available on the

Dona Ana County Website which identifies Plaintiff's company name, Ruidoso Malinois and states that Plaintiff was causing cruelty to animals and selling sickly animals.

61. The article falsely states that Plaintiff knowingly sold dogs that were infected with giardia/coccidiosis and further falsely states both diseases can be transmitted to humans.

62. Defendant, DACSD, further states in the article that anyone that had purchased Belgium Malinois from Lincoln County should have the animal seen by a veterinarian as soon as possible.

63. Defendant, DACSD, also request within the article, anyone who may have been a victim of this breeder to contact Dona Ana County Sheriff's Department, knowing that Dona Ana County sheriff officers do not have jurisdiction in Lincoln County, New Mexico.

64. On November 18, 2011, Officers Robin Gojkovich, Patricia Norris, Valerie Ruford and Curtis Childress, all with the Defendant, Dona Ana County Sheriff's Department, arrived in Capitan, New Mexico to assist Defendant Spear in his out of jurisdiction investigation and seizure.

65. Defendant Spear, along with the officers from Defendant, DACSO, went to the office of Dr. Becky Washburn, the treating veterinarian of the dogs of Plaintiff Howcroft, to interview Dr. Washburn.

66. At various times during the existence of Plaintiff's kennel, some dogs had become infected with either giardia or coccidiosis.

67. Giardia and coccidiosis in dogs located in Lincoln County is common.



68. Treatment for giardia and coccidiosis is oral medication administered after diagnosis by a licensed veterinarian.

69. In early November, and prior to November 16, 2011, dogs from the kennel of Plaintiff, Irene Howcroft, had been diagnosed with giardia and coccidiosis.

70. Plaintiff, Irene Howcroft, sought treatment of the dogs from Dr. Becky Washburn.

71. Medication was received and purportedly given to the dogs by Julie Bentley.

72. Defendant, Julie Bentley was responsible for treating the dogs with proper medication in the absence of Plaintiff, Irene Howcroft.

73. Defendant, Julie Bentley was trained in the proper protocol for treating and feeding animals that had been diagnosed with infection of giardia and coccidiosis.

74. Defendant, Julie Bentley refused to follow proper protocol for treatment and feeding of the animals while in her care, causing the animals to continue to be infected and further cross-contaminated another section of the kennel.

75. Defendant, Julie Bentley failed to gather and send additional fecal samples to Dr. Becky Washburn to ascertain whether or not the treatment had been successful.

76. Defendant, Julie Bentley spoke with Defendant Creasey and gave untruthful information regarding Plaintiff and her kennel which was later published to the public by Defendant Creasey. Creasey's publication was on a web site that was directed at Plaintiff's New Mexico kennel.

77. Defendant Spear obtained information from Dr. Washburn at her clinic, which is located outside of the Village limits of Capitan.

78. In a search warrant issued on November 18, 2011, Defendant Spear listed Plaintiff Howcroft's property as 136 Dean Rd, Lincoln County, New Mexico, which is a location outside his law enforcement jurisdiction.

79. At no place on the warrant was the Magistrate Court ever told that Defendant Spear was seeking a warrant outside the Village Limits of Capitan or that he was acting under the authority of another agency.

80. Defendant Spear signed the November 18, 2011, search warrant as the "Chief of Police" of the Capitan Police Department.

81. Criminal charges were not filed against Plaintiff by Defendants until February 2012, two (2) days after the Tort Notice was served to Defendants.

82. Defendant Spear falsely claimed that he was doing his investigation on Plaintiff and her dogs as a private citizen when in fact, he was acting as a police officer.

83. Defendant Spear stated in his Affidavit that he had been employed by the Capitan Police Department for a period of approximately thirty three (33) years, which was not a true statement.

84. Defendant Spear was employed by the Capitan Police Department from 1978 until 1990 and again from 2005 until present.

85. Defendant Spear was very familiar with the location of landowners of the Village of Capitan and knew Plaintiff's property was located outside his jurisdiction.

86. Defendant Spear never once stated in any document filed with the Court that he was working under any authority other than Randy Spear, Chief of Police of the Capitan Police Department.

87. Defendant Spear lacked jurisdiction to investigate or secure search warrants or file criminal charges in against Plaintiff.

88. Defendant Spear's authority ended at the village limits of Capitan.

89. As part of Defendant Spear's illegal trespass, search and seizure of Plaintiff's property, Defendant Spear caused three (3) warrants to be issued by the Magistrate Court in Lincoln County, New Mexico; warrant numbered M32SW2011-29, hereinafter "Warrant 29", warrant numbered M32SW2011-30, hereinafter "Warrant 30" and warrant numbered M32SW2011-32, hereinafter "Warrant 32".

90. Warrant 29 shows it was signed by Magistrate Court Judge Lorena LaMay on November 22, 2011.

91. The Affidavit for the Search Warrant and Seizure (Warrant 29) states "In the Matter of Issuing a Search Warrant on the 18<sup>th</sup> day of November, 2011.

92. Warrant 29 requests seizure of the entire property of Plaintiff located at 136 Dean Road, Capitan. It is based upon information obtained by Defendant Spear illegally and is a product of a previous illegal search.

93. Defendant Spear did seize the entire real property of Plaintiff on the 18<sup>th</sup> of November, 2011, and utilized this same warrant to execute an additional search on November 19, 2011, and seize additional items from Plaintiff.

94. Defendant Spear did confiscate all documentation on the animals, including but not limited to proof of ownership, travel papers, health certificates, pedigrees, veterinarian records, radiographs, contracts, feed bills and/or receipts, feeding schedules, breeding documents, documentation on dog's names and history of dogs and documentation on sales and purchases, passports as well as Plaintiff's personal items.

95. Plaintiff's items illegally seized by Defendants were not returned to Plaintiff for more than three months causing Plaintiff additional damages for lost sales, lost contracts and angry clients to whom she could not send registration papers.

96. As a result of this illegal seizure of documents, Defendant Spear essentially shut down the business of Plaintiff, as she could not sell any dogs, register puppies, or continue to conduct her business in any manner.

97. Defendant Spear learned that two (2) dogs were to be shipped to the buyer and were located at Dr. Washburn's office to get health certificates for travel.

98. Upon learning of this information Defendant Spear sought Warrant # 32 on November 22, 2011, and did execute a second illegal warrant to seize the two (2) dogs from Dr. Washburn.

99. Defendant Spear seized Ruidoso Malinois dogs to prevent Plaintiff Howcroft from being able to ship and/or sell any of her dogs.

100. Defendant Spear refused to return any of Plaintiff's documents to Plaintiff for many months, effectively putting Plaintiff out of business and causing Plaintiff's previous clients to threaten Plaintiff because Plaintiff could not provide registration papers on dogs that had previously been sold by Plaintiff.

101. On Tuesday, November 1, 2011, Plaintiff's kennel was diagnosed with giardia/coccidiosis by Dr. Washburn.

102. On Wednesday, November, November 2, 2011, Plaintiff had one thousand dollars (\$1,000.00) deposited into the personal account of Defendant, Bentley to purchase medication and dog food.

103. The cost of mediation was less than four hundred dollars (\$400.00), leaving enough additional money to purchase fifteen (15) bags of dog food.

104. The medication was first given to the dogs on November 8, 2011, and should have been given each day for at least seven (7) days.

105. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that she was hired to care for the dogs on the property.

106. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that the dogs had not been fed since Thursday, November 10, 2011.

107. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that the dogs had not been fed due to the fact there was no food on the property.

108. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that she felt bad for the dogs so she went and bought dog food with her own money and fed the dogs.

109. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that she had ran out of food and the dogs had not eaten in forty eight (48) hours from November 16, 2011.

110. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that Defendant Bentley bought seven (7) sacks of food for the dogs on the 16<sup>th</sup> of November.

111. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that Defendant Bentley had in her possession twelve hundred dollars (\$1,200.00) belonging to Plaintiff which could be used for food.

112. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that Plaintiff told Bentley to boil an egg and give to each dog which Bentley refused to do.

113. Based on Defendant Spear's Statement of Facts in Support of Search Warrant on November 18, 2011, Defendant Bentley told Defendant Spear that she was leaving on Thursday, November 17, 2011, and returning on Sunday, November 20, 2011, and that the dogs would not be fed until she got back to town.

114. Defendant Bentley provided false information to Defendant Spear and Defendant DACSD and neither of these Defendants did anything to verify the statements provided by Defendant Bentley before they sought to illegally seize Plaintiff's property.

115. Neither Defendant Spear nor Defendant DACSD sought to verify any information provided by Defendant Bentley with the Plaintiff.

116. In fact on Thursday, November 10, 2011, Plaintiff purchased dog food from Lincoln County Mercantile.

117. On Friday, November 11, 2011, Plaintiff arrived at her kennel along with an out of town guest.

118. On Saturday, November 12, 2011, Plaintiff fed and medicated her dogs.

119. On Sunday, November 13, 2011, Defendant Bentley arrived for work over two (2) hours late.

120. On Sunday, November 13, 2011, Plaintiff fed and medicated her dogs.

121. When Plaintiff left the kennel on Sunday, November 13, 2011, there were four (4) bags of dog food at the kennel.

122. Defendant Spear and Defendant DACSO had received the bank statements of Defendant Bentley.

123. Had Defendant Spear and Defendant DASC0 reviewed Defendant Bentley's bank statements they would have seen the thousand dollar (\$1,000.00) deposit into Defendant Bentley's account with Plaintiff's notation "medication and supplies dogs."

124. Had Defendant Spear and Defendant DASC0 reviewed Defendant Bentley's bank statements they would have seen Defendant was being untruthful when she stated she was buying dog food with her own money.

125. Defendant Bentley's own bank statements for November of 2011 show no cash withdrawals and no dog food purchased during the time Defendant Bentley stated she had to buy dog food with her own money.

126. Defendant Bentley only worked at the kennel Sundays through Thursdays. Defendant was not present at the kennel on Fridays or Saturdays to know what occurred with regard to the dogs on those days.

127. Defendant Bentley also had dogs of her own at the kennel.

128. Defendant Bentley's dogs also suffered from giardia/coccidiosis and were treated for each.

129. Defendant Bentley also had three (3) horses, which were boarded on Plaintiff's property. Defendant Bentley left her three (3) horses on Plaintiff's property every Thursday afternoon and did not return to feed, water or care for them until she returned Sunday morning.

130. During Defendant Bentley's absence each week, Defendant's horses were only fed, watered and cared for by Plaintiff or one of Plaintiff's employees.

131. On November 22, 2011, when Defendant Spear, Defendant Kennedy and Defendant DACSO seized Plaintiff's property and dogs, Defendants allowed Defendant Bentley to remove her own six (6) dogs from the kennel and transport them to Edgewood, New Mexico.

132. Defendant Bentley's dogs were not checked and/or cleared of giardia/coccidiosis before they were allowed to leave the kennel.

133. Defendants Spear, Kennedy or DACSO did not notify the City of Edgewood or any other town Defendant was traveling through on her way to Edgewood that Defendant Bentley was transporting six (6) possibly infected dogs into their area.

134. Defendant Bentley's dogs ate the same food as Plaintiff's dogs ate.

135. Defendants Spear, Kennedy and DACSO allowed Defendant Bentley to leave Plaintiff's property with her three (3) horses failing to insure Defendant had secured proper traveling papers as required by law.

136. Defendants Spear, Kennedy and DACSO were aware Defendant Bentley was transporting the horses to Edgewood, New Mexico, and should have known Defendant Bentley needed to secure proper documentation through the New Mexico Livestock Board prior to removing the horses from Plaintiff's property.



137. On November 22, 2011, when Defendant Spear and Defendant Kennedy issued a Press Release stating that Defendant Spear, serving as Capitan Police Chief, enlisted the help of Dona Ana County Sheriff's Department in removing sick dogs from the premises.

138. The Ruidoso News on November 25, 2011, stated that Defendant Spear, serving as Chief of Police for Capitan, started a running bill for feeding costs on behalf of the Capitan Police Department.

139. When animals, property, and real property were seized in this matter, the real property, property, and animals were secured overnight by Defendant Kennedy of the Capitan Police Department.

140. It is alleged that Defendant Kennedy stayed at the premises, located outside the Village of Capitan all night in his Capitan Police Department issued vehicle so the search warrant issued for one day could be carried on to a second day.

141. However, Defendant Spear did not get any approval from the Judge issuing the search and seizure warrant to extend the search warrant to a second day.

142. Defendant, Village of Capitan paid Defendant Kennedy's wages to stand vigil at the property located outside the Village of Capitan.

143. Defendant, Village of Capitan thought the seizure of the dogs was funny, stating in a public meeting that Capitan was going to the dogs.

144. On November 18, 2011, Defendant Spear and Defendant Kennedy issued and served the first Warrant on Plaintiff's property, taking property and items belonging to Plaintiff.

145. Defendant Kennedy was familiar with the boundaries of Capitan and knew Plaintiff's property was located outside the boundaries of the Village of Capitan.

146. Defendant Kennedy knew he did not have the authority to act outside the boundaries of the Village of Capitan.

147. A second search warrant dated November 21, 2011, referred to Defendant Spear as affiant being a full time salaried law enforcement officer with the Capitan Police Department.

148. Defendant Spear signed the November 21, 2011, search warrant as Chief of Police, Randy Spear, Capitan Police Department.

149. A third additional search warrant was issued on November 22, 2011. Defendant Spear again signed the warrant as Chief of Police with no indication he was acting on behalf of another agency.

150. Once the animals were removed from the property of Plaintiff Howcroft, the Village of Capitan entered into an Agreement with the County of Lincoln to house the animals at a kennel owned by Lincoln County.

151. The cost of manpower to care for the dogs and to accommodate the dogs was paid by the Village of Capitan, as was the cost of the contract between the Village of Capitan and the County of Lincoln.

152. Veterinarian Omaha released an article on December 8, 2011, which stated that "Capitan Police Chief, Randy Spear" with the Capitan Police Department "seized 44 dogs ... from a Lincoln County dog breeder.

153. Ruidoso News, November 25, 2011, and Veterinarian Omaha's article of December 8, 2011, both stated "Spear asked that anyone wishing to donate dog or puppy food should call the Capitan Police Department.

154. Defendant Spear, then prepared a Search Warrant for the property of Plaintiff Howcroft by using what he stated were statements from Dr. Washburn, along with information from Julie Bentley.

155. In Defendant Spear's statement of probable cause for the search warrant dated November 18, 2011, Defendant Spear stated that Dr. Washburn had said "that three weeks ago her entire kennel was diagnosed with giardia and coccidiosis" when in fact what Dr. Washburn said was that she did fecal exams on 12 dogs, 10 of them being puppies, the other two were on the adult females, these all had giardia and coccidiosis and that the kennel manager, Julie Bentley, advised Dr. Washburn that the whole kennel had diarrhea and Dr. Washburn decided to treat all of them.

156. In his statement of probable cause for the search warrant Defendant Spear further stated that Dr. Washburn had stated "that she gave medication for 76 dogs at her kennel, that she is not sure if the kennel is clear of giardia and coccidiosis because Plaintiff had not brought in fecal samples for recheck when in fact what Dr. Washburn said was that the kennel manager, Julie Bentley, not Plaintiff, was to treat all dogs with the prescribed medication and then recheck them. No follow up fecal exams were performed on any of the dogs.

157. In Defendant Spear's statement of probable cause for the search warrant Defendant Spear further stated that Dr. Washburn had said "that the dogs Irene has on her property are high energy dogs and need to either be free fed or given at least five cups of

dog food a day.” When in fact what was said by Dr. Washburn was that the dogs are extremely high energy and depending on their weight, they could require five to six cups of food daily, for an eighty pound dog,

158. In Defendant Spear’s statement of probable cause for the search warrant Defendant Spear further claims Dr. Washburn stated “that the dogs need to have fresh water at all times” when actually what Dr. Washburn stated was that due to the high energy and excitable nature of the Malinois, they needed access to water and clean, fresh water is recommended.

159. In Defendant Spear’s statement of probable cause for the search warrant Defendant Spear further stated that Dr. Washburn had said “that Irene Howcroft refuses to microchip her dogs” when in fact Dr. Washburn stated that Plaintiff did not microchip her dogs, not that she refused to microchip them.

160. In Defendant Spear’s statement of probable cause for the search warrant Defendant Spear further stated that Dr. Washburn had said “that she has done radiographs on several of her dogs with poor hips” when what was actually said by Dr. Washburn was that Dr. Washburn had only done radiographs on one dog that I would have called poor hips. That Dr. Washburn had taken radiographs of several of Plaintiff’s dogs over the years.

161. In Defendant Spear’s statement of probable cause for the search warrant Defendant Spear further stated that Dr. Washburn has said “that Irene Howcroft had brought dogs in for their health certificates and the dog was not healthy enough to pass for a certificate” when what was actually said by Dr. Washburn was “no, I had not ever had an unhealthy dog for a health certificate.” This statement was defamatory.

162. Dr. Washburn further clarified that Defendant Spear had not even been the one asking her the questions, as it had been the group of officers from the Dona Ana County Sheriff's Department who was asking the questions, and what they had actually asked her was if Dr. Washburn did health certificates on Irene's dogs, and if any of Irene's dogs were not healthy enough to receive a health certificate. Dr. Washburn stated no.

163. Further, in Defendant Spear's statement of probable cause for the search warrant Defendant Spear further stated that Dr. Washburn had said "that most of Irene Howcroft's dogs are unmanageable and underweight" when what Dr. Washburn actually said was that some of her dogs are hard to manage because they are police protection dogs. Also due to their hyperactivity they are hard to keep in smaller kennels because they will continuously run circles or pace. This, in turn, will make them lose weight. It is hard to keep weight on these high energy dogs. This statement was defamatory.

164. Defendant Spear allegedly secured a search warrant from District Court Judge Karen Parsons, although Defendant Spear has been unable to produce a copy of the search warrant, and no return was ever produced on the warrant as well.

165. Defendant Spear, secured a second search warrant. In his Affidavit for Search Warrant and Seizure filed in the Magistrate Court of Lincoln County on the 18<sup>th</sup> day of November requests seizure of "all dogs, puppies located at this location in order to protect the health and safety of the animals and the public."

166. The Search Warrant was served at 1645 on November 18, 2011, by members of the Dona Ana County Sheriff's Department and the Capitan Police Department.

167. No one was at the property of Plaintiff Howcroft at the time of the execution of the search warrant.

168. At the time of the execution of the search warrant, Defendant Spear found four (4) thirty seven (37) pound sacks of puppy food and one (1) thirty seven (37) pound sack of adult dog food inside the residence.

169. The search warrant issued and acted upon by Defendant Spear and officers of the Defendant, Dona Ana County Sheriff's Department was found by the District Court to be an illegal search warrant.

170. On November 18, 2011, Defendant Spear did speak with an employee of Plaintiff and did tell that employee that none of the dogs or horses located on the property could leave the property.

171. Defendant Spear secured the property and left Defendant Kennedy to guard the property.

172. Defendant Spear and Defendant Dona Ana County Sheriff's Department returned the following day, and illegally continued the search of the property of Plaintiff Howcroft.

173. Defendant Kennedy and Defendant DACSO employees did access the dogs and puppies and collected feces from each dog.

174. The feces samples were taken to Dr. Becky Washburn, and it was determined the dogs were still infected with giardia and coccidiosis.

175. Dr. Becky Washburn, along with other veterinarians routinely diagnose dogs with giardia and coccidiosis.

176. The Lincoln County Sheriff's Department has never seized any dog located in Lincoln County New Mexico because they were infected with giardia and/or coccidiosis.

177. Defendant Capitan Police Department has never seized any dog located in the Village of Capitan who was infected with giardia and/or coccidiosis until it seized the dogs of Plaintiff Howcroft.

178. On November 22, 2011, Defendant Spear did receive information that two dogs from the kennel of Plaintiff had been taken to the office of Dr. Becky Washburn.

179. On November 22, 2011, Defendant Spear did seek a warrant for seizure of the dogs at the office of Dr. Becky Washburn, and did seize the dogs.

180. On November 22, 2011, Defendant Kennedy and Defendant Spear did seek an additional seizure warrant to allow seizure of the dogs belonging to Plaintiff.

181. Defendants Capitan Police Department and DACSO did seize a portion of the dogs and move them from the property of Plaintiff.

182. Defendant Capitan Police Department and Defendant DACSO did seize property included the passports associated with the seized dogs and all registration papers of the seized dogs, along with all of Plaintiff's paperwork from her office.

183. All warrants pertaining to the seizure of the animals were ultimately found to be illegal by the District Court.

184. During the transfer of the dogs from the property of Plaintiff Howcroft to the property located in Capitan, one of the dogs escaped from the Officers.

185. Defendant Capitan Police Department and Defendant DACSO were unable to catch the dog.

186. No notice was given to Plaintiff Howcroft of the seizure of the animals, as she was still located in Santa Fe.

187. No notice was given to Plaintiff Howcroft that one of the dogs had escaped.

188. Neither Defendant Capitan Police Department nor Defendant DACSO notified the public that the dog had escaped.

189. The dog was never retrieved and likely died from lack of food and water and or the extremely cold temperature.

190. The lost dog had a considerable value to Plaintiff Howcroft as the dog was one who was used for breeding purposes. Plaintiff has suffered damages for the loss of this dog.

191. The dogs, which were moved from the Plaintiff's property, were placed in conditions which were inhumane.

192. The dogs seized, some of which were large dogs, were placed in very small kennels, in which they could barely move around.

193. The kennels were not cleaned prior to the dogs being placed in them.

194. The dogs were required to stand in their own feces on cement in extremely cold weather.

195. The dogs were seized on November 22, 2011, and were not given their medication until November 27, 2011; despite the fact Defendant had proper medication which Defendants had seized from the Plaintiff Howcroft's property which could have been given to the dogs.



196. One dog was never administered the medication the dog needed for his eye during the entire twenty-nine days the dog was kept by the Defendant Capitan Police Department.

197. Plaintiff Howcroft provided food, medication, blankets, mats and the protocol for proper cleaning of the pens.

198. Half the dogs, which were left at the property of Ruidoso Malinois, were able to be watched by the Plaintiff.

199. Plaintiff noticed that the Defendant Capitan Police Department was not using proper protocol for the feeding of the animals and cleaning of the animals. Defendants ignored Plaintiff's instructions and the Office of the District Attorney had to be sent a document of protocol in order for Defendant Capitan Police Department to follow proper protocol in feeding and cleaning the pens, so that cross-contamination would not continue.

200. The dogs were examined by Dr. Warren Franklin and Dr. Lane Dixon, and both Dr. Franklin and Dr. Dixon did not see any reason for the dogs to be seized.

201. Dr. Becky Washburn did not believe there was any reason to seize the dogs from Plaintiff Howcroft.

202. Not all dogs were seized from the Plaintiff Howcroft's property because the Defendant Capitan Police Department and Defendant DACSO did not have sufficient space to seize all the dogs.

203. The remaining dogs were left on the Plaintiff's property, but were under seizure from Plaintiff Howcroft.

204. Plaintiff Howcroft was not allowed to feed or administer medicine to the dogs that remained on her property.

205. Plaintiff Howcroft was not allowed to feed or administer medicine to the horse on her property, as it had been seized by Defendant Capitan Police Department as well.

206. The Capitan Police Department seized all the registration and passports of the dogs belonging to Plaintiff Howcroft, along with many other items belonging to Plaintiff.

207. The property seized from Plaintiff Howcroft was seized illegally.

208. During the seizure of the dogs, and during the time immediately following the seizure of the dogs, Defendant Spear began to contact individuals with whom Plaintiff Howcroft either trained dogs for, or sold dogs to, or had contracts with.

209. Defendant Spear did provide defamatory information to individuals with the Department of Corrections which ultimately cost Plaintiff Howcroft her contract with the Department of Corrections.

210. Defendant Spear did provide defamatory information regarding Plaintiff Howcroft which was not true, and such information caused damages to the reputation of Plaintiff Howcroft, and caused her to lose sales of her dogs, and caused her to lose contracts with various individuals.

211. Defendant Spear did provide defamatory and damaging information to other individuals within the dog industry, which was not true, and such information did damage the reputation of Plaintiff Howcroft.

212. The Defendant Dona Ana County Sheriff's employees did cause a notice to the public to be placed on their website which contained information which was not true, and such information has caused extensive damage to the reputation of Plaintiff and has damaged her ability to sell her dogs, and to enter into contracts in the industry.

213. The veterinarian did publish information which was not true and such information was provided to the public and is now readily accessible by anyone who searches the internet to purchase a Belgium Malinois dog.

214. During Plaintiff's absence from her facility, Plaintiff had left two employees at her facility to care and feed her dogs.

215. One of the employees was Defendant, Julie Bentley.

216. Defendant Bentley misrepresented to Defendant Spear that there were problems at the kennels in that there was no feed for the dogs.

217. Defendant Spear did not investigate the truth of the statements of Defendant Bentley, but rather took everything she stated as the truth, and began to attempt to build a case against Plaintiff.

218. Defendant Bentley has published defamatory untrue statements on websites visited by persons interested in purchasing Belgium Malinois.

219. One such publication Defendant Bentley published under silentnomore Defendant stated that "My family even went and bought food for her kennel with our own money because she didn't have to do it even when we had been weeks with out pay because we couldn't let these animals go without food."

220. The statements made by Defendant Bentley were not true. In fact a review of her bank records does not show she purchased one single bag of dog food with her

own money, and these statements were published to a very well-known web site where people looking to purchase Belgian Malinois would look.

221. Defendant Bentley felt compelled to write a response to another internet publication in which she called Plaintiff “absolutely unstable woman” and further stated “they are doing fabulous in the care of authorities!”

222. Defendant Bentley did not have any knowledge of Plaintiff’s mental health nor did she have any knowledge as to the condition of the dogs under the authorities care. These were both untrue statements made to cause harm to Plaintiff and her kennel.

223. Defendant Bentley commented on yet another internet site under the name already taken Julie wherein she states “claims to have a masters trainers certificate from someone who NEVER issued her one.”

224. Defendant Bentley again attacks Plaintiff by causing untruths to be published causing further damage to Plaintiff and her kennel.

225. Defendant Bentley misrepresented to Defendant Spear that the dogs would go anywhere from 24 to 48 hours without food.

226. Defendant Bentley was hired by Plaintiff Howcroft to manage Plaintiff’s kennel in Plaintiff’s absence.

227. Defendant Bentley’s duties in her employment included feeding the dogs, giving proper medical attention to the dogs, exercising the dogs, and providing all care necessary to properly care for the dogs.

228. Defendant Bentley began a campaign to publicly discredit Plaintiff Howcroft which included making phone calls to other breeders and providing information to those persons about the health and care of the dogs which was not truthful.

229. Defendant Bentley told Defendant Spear that Plaintiff has used Defendant Bentley's credit card without Bentley's authorization and had stolen her credit card number, when in fact, Bentley had provided to Plaintiff through an e-mail her credit card number and pin number associated with the credit card.

230. The information provided to Defendant Spear regarding the credit card was used by Defendant Spear to file a criminal charge against Plaintiff, which was ultimately dismissed.

231. Defendant, Julie Bentley, told Defendant Spear that the dogs would go without food and that she would use her credit card to go buy food for the dogs because she felt sorry for the dogs. This was a false statement

232. Defendant Spear did not follow through with his investigation to require Defendant, Julie Bentley, to provide her credit card statements or do any elementary investigation of this false claim. Had he done so, Defendant Spear would have known that this statement was not true.

233. On information and belief, Defendant Spear made false allegations about Plaintiff and her dogs to Defendant Creasey.

234. Defendant Creasey began an internet campaign to discredit and ruin the reputation of Plaintiff, Irene Howcroft. This campaign was specifically directed to New Mexico residents as well as others with access to the internet.

235. Even after being told by Plaintiff Howcroft that the allegations were untrue, and the warrants and criminal charges had been dismissed, Defendant Creasey has continued to publish defamatory untrue statements on websites visited by persons interested in purchasing Belgium Malinois.

236. Plaintiff Howcroft has attempted to mitigate her damages by requesting from Defendant Creasey that he remove the untrue statements from the public.

237. Defendant Creasey has failed and refused to remove the defamatory comments from the internet.

238. Defendant Creasey's refusal to remove the defamatory statements has damaged Plaintiff, Irene Howcroft.

239. Plaintiff met Defendant Bullock in 2009 through his kennel, as she was looking to explore explosives dog training.

240. Plaintiff received training from Defendant Bullock from October, 2009 to January, 2010.

241. Plaintiff received two certificates from Defendant Bullock.

242. Defendant Bullock began an internet campaign to discredit and ruin the reputation of Plaintiff, Irene Howcroft, beginning in December of 2011 and continuing to date.

243. On information and belief, Defendant Spear also contacted Defendant Bullock to inquire about the certification of Plaintiff.

244. Defendant Bullock told Defendant Spear that the certificates held by Plaintiff Howcroft were fraudulent.

245. Defendant Bullock told Defendant Spear that Plaintiff had stolen his letterhead.

246. Defendant Bullock told Defendant Spear that the American Working Dog's Association does not recognize Howcroft's certificates.

247. Defendant Bullock told Eric Collins that Plaintiff's certificates were fraudulent and that Plaintiff had forged Defendant Bullock's signatures to the certificates.

248. Defendant Bullock told Defendant Creasey that Plaintiff's certificates were fraudulent.

249. Defendant Spear communicated with Defendant Bullock that criminal charges had been filed against Plaintiff, long before any charges had been filed.

250. Defendant Spear communicated with Defendant Bullock prior to December 21, 2011, and told Defendant Bullock that Defendant Spear had learned that Plaintiff Howcroft had caught Defendant Bullock with a child, and that instead of calling the police, that Plaintiff Howcroft had blackmailed Defendant Bullock into giving her certificates of training.

251. Defendant Spear further communicated with Defendant Bullock that prior to December 21, 2011, that Plaintiff Howcroft had pending criminal charges.

252. No criminal charges were filed by Defendants Randy Spear and/or Kevin Kennedy until February 16, 2012, two days after receiving a Tort Notice from Plaintiff Howcroft.

253. Defendants Spear and Kennedy charged Plaintiff Howcroft with multiple crimes, all of which were dismissed by Twelfth Judicial District Court Judge James Waylon Counts on January 14, 2012.

254. Defendant Bullock, after being told that the allegations were untrue, and the warrants and criminal charges had been dismissed, has continued to publish defamatory untrue statements on websites visited by persons interested in purchasing Belgium Malinois.

255. Defendant Bullock posted untrue statements on the internet web site complaintsboard.com under the name houndchaser1.

256. One such publication Defendant published regarding Plaintiff stated that “I know Miss Irene personally and I can tell you she is a fraud. She claims to have over twenty years training experience. That is a lie. She only got started with training in 2009 and she flunked out of the training school. She is abrasive and has no clue how to train a dog and has never trained one on her own. This is all fact, not hearsay.” “The things you hear about this woman are very true. She just screwed an Ohio State trooper out of a dog and then four weeks ago she tried to train a termite detection dog for a guy in Jersey. Well that didn’t happen. The guy got there and the dog couldn’t find any termites and then she blamed it on the handler. It was very unprofessional that she would take the guys \$8,000.00 and then not tell him she had never trained a bug detection dog before. She is a total scam.”

257. The statements made by Defendant Bullock regarding the Plaintiff were not true in any way, and these statements were published to a very well-known web site where people looking to purchase Belgian Malinois would look.

258. It is a website which if any person attempts to Google or search for Irene Howcroft or Ruidoso Malinois, this website and the postings by Defendant Bullock will



readily appear. Defendant Bullock directed his comments to New Mexico residents to harm Plaintiff's reputation.

259. If any person does a search for Belgian Malinois on the internet, the derogatory comments of Defendant Bullock will appear.

260. Plaintiff Howcroft has attempted to mitigate her damages by requesting from Defendant Bullock that he remove the untrue statements from the public.

261. Defendant Bullock has failed and refused to remove the defamatory comments from the internet.

262. Defendant Bullock's refusal to remove the comments have significantly damaged Plaintiff, Irene Howcroft.

263. Defendant Bullock, in a telephone conversation with Steven Pigotti of Granada in April of 2012, told Steven Pigotti that Petitioner had criminal charges and animal abuse charges, and that Plaintiff produced very substandard dogs.

264. At the time Defendant Bullock contacted Steven Pigotti, Plaintiff Howcroft and Pigotti had already reached an agreement for Howcroft to provide her Malinois to Pigotti at a cost of \$60,000.00.

265. As a result of this conversation, Mr. Pigotti cancelled a \$60,000.00 purchase from Plaintiff.

266. Defendant Bullock learned that Plaintiff Howcroft was negotiating a contract with Nico Douglas in Tennessee on or about January 23, 2013.

267. Defendant Bullock contacted the Board of Directors of the company owned by Mr. Douglas to tell them that Plaintiff, Irene Howcroft had criminal charges, had forged his signature on training certificates, had drug charges, animal abuse charges,

and identity theft charges in an attempt to sabotage the contract of Plaintiff Howcroft and to end the business relationship between Douglas and Plaintiff.

268. Defendant Bullock, in a direct conversation with Mr. Douglas, was so convincing that Mr. Douglas cancelled the pending contract and the \$35,000.00 that was to be paid to Plaintiff Howcroft.

269. Defendant Bullock was successful at not only ending the contract between Douglas and Plaintiff, but was able to secure that contract for himself.

270. Plaintiff met Defendant Creasey in 2010 when Defendant Creasey purchased a pup from Plaintiff.

271. Defendant Creasey has, without Plaintiff's permission posted images of Plaintiff on the internet, to include the Plaintiff in videos which are available for the public view, with full knowledge that the posting of these images of the Plaintiff could jeopardize the Plaintiff's personal safety and security.

272. Defendant Creasey, under the name of k9hawk did falsely publish on pedigreedatabase.com on December 17, 2011 the following false and defamatory statement: "Law enforcement has seized all k-9's and one horse from Ruidoso Malinois Kennel, Owner Irene Howcroft. She did many of the things posted on the complaint board. She is a master at deceiving people to make a sale, but when she cannot even manage to budget her money to keep dog food for the dogs and puppies and horses and unpaid workers, begin using their money to feed them, to keep them alive, there is a huge problem. Sadly it is her business and her rules and breeding dogs that produce puppies with Wobblers disease and other problems is her ethical choice, breeding bitches seven to nine litters is her ethical choice, but refusing to treat lame dogs, sick, denying them the

basics of food and blaming others is the last straw. Thankfully the authorities have seized the dogs because enough evidence was found to authorities the warrant. Now let's all pray that her legal team and her well know bullying techniques that have caused her to reinvent her identity and have ended her up with many warrant, judgments, and legal actions since then can not prevail against the legal system that is supposed to protect the innocent from people like her. “

273. Further, on April 30, 2012, Defendant Creasey published again on the same website the following false and defamatory statement: “I only post facts that I know and can prove. Yes, do the search. All I did was to dig a fraud and a liar out of the closet. Go and look at the 26 court cases against her. It will tell all. Just open the last few and you will start seeing the picture. If you have any dog sense at all, do you believe you can become a certified master trainer when only started in 2009? That in itself should be a big flag. It takes years to become a master trainer.”

274. Defendant Creasey on May 2, 2012, posted on the same web site the following false and defamatory statement: “To make others aware of this fraud and to prevent someone losing money to her scam, the people need to be award of this type of activity and how easy it is to get suckered into the web of deception. “ “She needs to be removed from this great web site from selling or advertising her services/dogs. I was suckered into her web and know how she operates. Very smart at deceiving and changing the facts.”

275. Defendant Creasey wrote on complaintsboard.com on December 1, 2012, as Bill Creasey the following false and defamatory statement: “Join the Crowd, the dog I finally got, third replacement, is a total freak. She is very skittish and scared of gun fire.

I have talked to several and all that got a dog out of Cobe is this way. You will never get papers as there are none to get, she lies about everything, when her mouth opens a lie comes out. There are many people after her so wait in line ...”

276. On April 26, 2012, Defendant Creasey posts the following false and defamatory statement: “By the way, she has only been in business since 2009, and the Master Trainer’s certificate she claims to have was forged, she attended Mike Bullocks’ school but did not make it, and he is helping New Mexico police against her. She is a con artist. Contact Capitan, NM police department if you have any information or if you bought one of her sick dogs.” This was published on April 26, 2012.

277. Defendant Bullock, a person who trained Plaintiff and provided Plaintiff with training certificates, posted to the public, that she was not a certified trainer.

278. Defendant Bullock posted to the public that Plaintiff Irene Howcroft had forged his name to certificates, which are in fact signed by Bullock.

279. Defendant Bullock certified Plaintiff Howcroft as Master Canine Narcotics and Obedience and she received a certificate from Bullock.

280. Defendant Bullock certified Plaintiff Howcroft with Diploma for Narcotics and Patrol and she received a certificate from Bullock.

281. As a result of the defamatory postings and slander and libel of Defendants Bullock and Creasey, anyone searching on the internet for information regarding Plaintiff will automatically pull up these postings.

282. Numerous individuals who were scheduled to purchase dogs from Plaintiff have backed out of purchasing dogs from Plaintiff as a result of reading the libelous and slanderous postings by Defendant Creasey, Defendant Bullock and Defendant Bentley.

283. Defendant Creasey more recently posted the following false and defamatory statement: “I will tell everyone for a fact, Irene Howcroft, not her real name, does not have any certifications for dog training. She is a liar, fraud, thief and disgrace to the dog industry. She has NOT done or said half of what she says. This crazy woman did not start training dogs until 2009, so think about it? How did she become all of what she says in four years.” “ She screwed me out of 650 plus my time.” “Beware of this wicked woman”.

284. Defendant Creasey posted similar libel and slander on [petstew.com](http://petstew.com) and [reviewstalk.com](http://reviewstalk.com), [scamfound.com](http://scamfound.com), [workingdogforum.com](http://workingdogforum.com), [exposeascam.com](http://exposeascam.com), [merareview.com](http://merareview.com).

285. Defendant Carmichael was hired by Plaintiff as a laborer on Plaintiff’s property.

286. In January of 2012, Defendant Carmichael came to work for Plaintiff until June of 2012, during which time Defendant Carmichael told Mark Sotello that Plaintiff was abusing cocaine, that she had been monitoring a bag of white substance in the refrigerator in Plaintiff’s office and this white substance had been decreasing in quantity as a steady rate.

287. Mark Sotello was the son of Mark Sotello, Sr., the K-9 handler with Fresno Police Department, California.

288. Defendant Carmichael told Richard Kessell that there were illegal narcotics in the refrigerator on Plaintiff’s property.

289. Defendant Carmichael told Richard Kessell that Plaintiff did not feed her dogs for three days consecutively every week, Thursday through Sunday.

290. Defendant Carmichael called the Fresno California Police Department in June or July 2012, to notify them that there was illegal activity and abuse at Plaintiff's kennel.

291. Plaintiff had a very good relationship with Fresno Police Department up until that point.

292. The Fresno Police Department was going to purchase additional dogs from Plaintiff Howcroft and were going to publish her name in a newspaper article regarding a K-9 dog which won in a competition and was one of Plaintiff Howcroft's dogs.

293. Because of the communication by Defendant Carmichael, the relationship between Plaintiff Howcroft and the Fresno Police Department was severed.

294. The information provided by Defendant Carmichael to the Fresno Police Department caused damages to Plaintiff Howcroft.

295. Further, on September 11, 2012, Defendant Carmichael, on [www.topix.com/forum/city/capitan-nm](http://www.topix.com/forum/city/capitan-nm), slandered Plaintiff by posting the following false and defamatory statement: "What is the county of Lincoln going to do about the puppy mill located on Dean Road in Capitan? Presently there are 15 puppies under the age of 6 weeks, and they are being sold, left and right, as trainable pups. The pups are sold as soon as they hit the ground, and deposits are being made daily. Many of them come back for biting children, untrainable (considering she does not have a trainer on sight), etc. The names of the pups brought back and then changed and sold again." "No food or water, especially on weekends." "There have also been more drugs found since the initial bust in November." "Many dogs have been placed or not even sent out because of no

training or false training via fraud, theft and con talk.” “Too many drugs, too much filth, and no care for the protection and betterment of the animals means shutting her down.”

296. On October 20, 2012, Defendant Carmichael posted additional slanderous and libelous statements on the same website.

297. Defendant Carmichael has slandered Plaintiff to numerous individuals in the New Mexico area by telling them Plaintiff was using drugs and abusing Plaintiff's dogs and not feeding and taking care of the dogs.

#### **First Cause of Action: Libel, Slander and Defamation**

298. Plaintiff incorporates the above allegations herein as if set out in full.

299. Defendants and each of them have committed libel, slander, and defamation of Plaintiff as set out above, causing Plaintiff damages, special and compensatory.

300. Each Defendant, other than the police and Village are responsible under New Mexico law for punitive damages to punish them for their intentional, wanton and malicious conduct.

Wherefore, premises considered, Plaintiff prays for special, compensatory, actual and punitive damages against each Defendant other than the police officers and Village of Capitan and County of Dona Ana and County of Dona Ana Sheriff's Office in an amount sufficient to punish the defendant for their intentional, wanton and malicious conduct.

#### **Second Cause of Action: Intentional Interference with Prospective Contractual Relations**

301. Plaintiff incorporates the above allegations herein as if set out in full.

302. Defendants and each of them have committed intentional interference with prospective contractual relations as described above causing Plaintiff damages, special and compensatory.

303. Each Defendant, other than the police and Village are responsible under New Mexico law for punitive damages to punish them for their intentional, wanton and malicious conduct.

Wherefore, premises considered, Plaintiff prays for special, compensatory, actual and punitive damages against each Defendant other than the police officers and Village of Capitan and County of Dona Ana and County of Dona Ana Sheriff's Office in an amount sufficient to punish the defendant for their intentional, wanton and malicious conduct.

**Third Cause of Action: Intentional Interference with Contractual Relations**

304. Plaintiff incorporates the above allegations herein as if set out in full.

305. Defendants and each of them have committed intentional interference with contractual relations as described above causing Plaintiff damages, special and compensatory.

306. Each Defendant, other than the police and Village are responsible under New Mexico law for punitive damages to punish them for their intentional, wanton and malicious conduct.

Wherefore, premises considered, Plaintiff prays for special, compensatory and actual damages as well as punitive damages against each Defendant other than the police officers and Village of Capitan and County of Dona Ana and County of Dona Ana



Sheriff's Office in an amount sufficient to punish the defendant for their intentional, wanton and malicious conduct.

**Fourth Cause of Action: Trespass against Defendant Spear, Kennedy, Village of Capitan, Dona Ana County and Dona Ana County Sheriff's Office**

307. Plaintiff incorporates the above allegations herein as if set out in full.

308. Defendants Spear, Kennedy, Village of Capitan, Dona Ana County and Dona Ana County Sheriff's Office and each of them have committed intentional trespass on Plaintiff's property as described above causing Plaintiff damages, special and compensatory.

309. Defendant Village of Capitan is responsible for the torts of its police officers under the doctrine of respondeat superior.

310. Defendant County of Dona Ana and the Dona Ana Sherriff's Office are responsible for the torts of their sheriff deputies under the doctrine of respondeat superior.

Wherefore, premises considered, Plaintiff prays for special, compensatory and actual damages against these Defendants.

**Fourth Cause of Action: Malicious Prosecution against Defendant Spear, Kennedy, and Village of Capitan**

311. Plaintiff incorporates the above allegations herein as if set out in full.

312. Defendants Spear, Kennedy and the Village of Capitan, and each of them have committed malicious prosecution of Plaintiff as described above causing Plaintiff damages, special and compensatory.

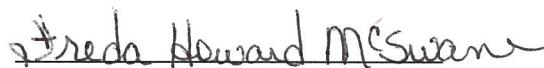
313. Defendant Village of Capitan is responsible for the torts of its police officers under the doctrine of respondeat superior.

Wherefore, premises considered, Plaintiff prays for special, compensatory and actual damages against these Defendants.

Additionally, Plaintiff prays for costs of suit and such other and further relief as the Court may grant.

Respectfully Submitted,

LAW OFFICE OF FREDA HOWARD MCSWANE



FREDA HOWARD MCSWANE

Attorney for Plaintiff

1100 Sudderth Dr.

Ruidoso, NM 88345

575-257-1515

And

STEVEN K. SANDERS & ASSOCIATES, L.L.C.



STEVEN K. SANDERS

Attorney for Plaintiff

820 Second St., N.W.

Albuquerque, New Mexico 87102

505-243-7170