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**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
NINTH DIVISION**

DARRYL LUNON

PLAINTIFF

v.

Case No. 60CV-17-3097

**CHRISTOPHER VANCE; DELORIS LOVELL;
PULASKI COUNTY; PULASKI COUNTY
SANITATION & ANIMAL SERVICES; KATHY
BOTSFORD, in her official capacity as Director of
PULASKI COUNTY SANITATION & ANIMAL
SERVICES; JONATHAN DUPREE, in his official
capacity as an employee of PULASKI COUNTY
SANITATION & ANIMAL SERVICES; JANE
DOES 1-10, in his or her official capacity as
employees of PULASKI COUNTY SANITATION &
ANIMAL SERVICES; NORTH LITTLE ROCK,
NORTH LITTLE ROCK ANIMAL CONTROL;
DAVID N. MILES, III, in his official capacity as
Director of NORTH LITTLE ROCK ANIMAL
CONTROL; JOHN DOES 1-10, in his or her official
capacity as employees of NORTH LITTLE ROCK
ANIMAL CONTROL.**

DEFENDANTS

AMENDED COMPLAINT

Comes now, Darryl Lunon, Plaintiff, by and through his attorney of record, Kenya G. Davenport, Esq., and for his Complaint against Christopher Vance; Deloris Lovell for replevin, and Pulaski County; Pulaski County Sanitation & Animal Services; Kathy Botsford, in her official capacity as Director of Pulaski County Sanitation & Animal Services; Jonathan Dupree, in his official capacity as an employee of Pulaski County Sanitation & Animal Services; Jane Does 1-10, in his or her official capacity as employees of Pulaski County Sanitation & Animal Services; North Little Rock, North Little Rock Animal Control; David N. Miles, III, in his official capacity as Director of North Little Rock Animal Control; John Does 1-10, in his or her official capacity as

employees of North Little Rock Animal Control (collectively referred to herein after as the "Government Defendants") for damages does here by state as follows.

JURISDICTION

1. Plaintiff Darryl Lunonis a resident of Pulaski County, Arkansas.
2. Defendant Christopher Vance is a resident of Pulaski County, Arkansas.
3. Defendant Deloris Lovell is a resident of Pulaski County, Arkansas
4. Defendant Pulaski County is a county existing under the laws of the state of Arkansas.
5. Defendant Pulaski County Sanitation & Animal Services is a political subdivision of Pulaski County, Arkansas.
6. Defendant Kathy Botsford is the Director of Pulaski County Sanitation & Animal Services, and is sued herein in her official capacity only.
7. Defendant Jonathan Dupree, is an animal control officer employed by Pulaski County Sanitation & Animal Services and is sued herein in his official capacity only.
8. Jane Does 1-10, are employees of the Pulaski County Sanitation & Animal Services, and are sued herein in his or her official capacity only.
9. Defendant North Little Rock is a municipal corporation existing under the laws of the state of Arkansas.
10. Defendant North Little Rock Animal Control is a political subdivision of the municipal corporation of North Little Rock, Pulaski County, Arkansas.
11. Defendant David N. Miles, III is the Director of the North Little Rock Animal Control and is sued herein in his official capacity only.

12. John Does 1-10, are employees of the North Little Rock Animal Control, and are sued herein in his or her official capacity only.

13. The events, transactions, and occurrences that are the subject matter of this action took place in Pulaski County, Arkansas and the personal property subject to Plaintiff's claim for replevin is, upon information and belief, in Pulaski County, Arkansas.

14. This Court has personal and subject matter jurisdiction pursuant to Ark.Code Ann. § 16-4-101, and § 16-13-201, respectively.

FACTS

15. On April 11, 2016, Bibi Von Sonnenberg (hereinafter, "Bibi") was born to sire EnxoVomSpitzenhund and dam Alexis Von Nordstern Hof. *See*, Exhibit 1 (AKC Registration Certificate). Bibi is a bi-color, purebred, female, German Shepard Dog with certified pedigree. Bibi is registered with the American Kennel Club under number DN45569504. *See*, Exhibit 1.

16. Plaintiff is a dog breeder and is the sole proprietor of LunonHaus Kennels. With the intent to breed German Shepherd Dogs, Plaintiff purchased Bibi from her breeder, KaronMelilloDevega for the sum of \$2,300.00 on May 24, 2016. *See*, Exhibit 2 (Sales & Warranty Contract). Since said date, Plaintiff has been the record owner of Bibi, and remains so to this date.

17. Bibi has been outfitted with three (3) identification mechanisms. First, Bibi has been tattooed in her right ear with an identifying number that can be searched through the American Kennel Club. *See*, Exhibit 2. Second, Bibi was microchipped via HomeAgain Scans and assigned a permanent ID number 985112007347173at or

approximately after birth by her then breeder, KaronMelilloDevag. *See*, Exhibit 3. Third, consistent with Pulaski County Municipal Code, Ark. 3, § 6-23-81(b), Bibi has a red dog collar with a securely fastened metal plate that is legibly inscribed with her name and Plaintiff's phone number.

18. Plaintiff maintained possession of Bibi on his property, which includes a sprawling backyard. On February 14, 2017, Bibi escaped Plaintiff's backyard. Plaintiff immediately began to search for Bibi, but was unsuccessful on that date.

19. On February 15, 2017, Bibi was discovered in the garage of Will Quinn. Quinn's property is located at 13 Mason Ridge Road, Little Rock, Arkansas 72206. On that date at approximately 12:33 p.m., Quinn contacted Pulaski County Sheriff's Department and reported Bibi on his property. *See*, Exhibit 4 (Pulaski Co. Sheriff's Office Report). As a result, Defendant Jonathan Dupree of Pulaski County Sanitation & Animal Services was dispatched to Quinn's property at approximately 12:36 p.m. *Id.*

20. On February 15, 2017 at approximately 1:07 p.m., Defendant Dupree apprehended Bibi for impoundment at North Little Rock Animal Control. *Id.* Before leaving the scene at approximately 1:19 p.m., Defendant Dupree told Quinn that Bibi was a valuable dog and that he wanted to adopt the dog. At all times, Bibi was wearing his collar clearly identifying that Bibi had an owner and clearly stating contact information for Bibi's owner. Defendant Dupree, without justification, failed to adhere to Pulaski County Municipal Code, Art. 4, § 6-23-81, which states in relevant part that all animal control officers must within at least forty-eight (48) hours of apprehension notify the owner that the animal has been impounded.

21. When Bibi arrived at North Little Rock Animal Control she was wearing her red collar with her name and Plaintiff's phone number clearly printed on the metal tag. *See*, Exhibit 5 (North Little Rock Kennel Card). Defendant Dupree has never contacted Plaintiff about the apprehension of his German Shepherd Dog, Bibi.

22. Though required by Pulaski County Ordinance, to date, Directors Kathy Botsford and David N. Miles, III have made no attempts to contact Plaintiff notifying him that Bibi had been impounded. To date, no agent or animal control office under the direction of Kathy Botsford and/or David N. Miles, III have made any attempt to contact Plaintiff notifying him that Bibi had been impounded.

23. Despite the fact that Bibi was at all times easily identifiable (he was wearing a collar, was tattoo in his right ear, and was microchipped) as being the property of Plaintiff; despite the fact that Pulaski County Sanitation & Animal Control and North Little Rock Animal Control utterly failed to comply with Pulaski County Ordinances; and despite the fact that Pulaski County Sanitation & Animal Control and North Little Rock Animal Control utterly failed to contact the rightful owner of Bibi, North Little Rock Animal Control allowed Defendant Christopher Vance to "adopt" Bibi on February 24, 2017. *See*, Exhibit 6 (Pet Adoption Contract).

24. To the great detriment of Plaintiff, on February 28, 2017, at the direction of the North Little Rock Animal Control, Dr. Mikki Travis, DVM spayed Bibi. *See*, Exhibit 7 (Proof of Sterilization). In effect, any economic value of Bibi was destroyed by this sterilization.

25. Since her escape, Plaintiff has diligently searched for Bibi. When an immediate search did not recover Bibi, Plaintiff posted signs offering a reward for the

return of Bibi. *See*, Exhibit 8(Lost Dog Sign). Plaintiff knocked door to door asking for any information on Bibi. It was not until March 18, 2017 that Plaintiff got a clue as to the whereabouts of Bibi. Finding his contact number on the Lost Dog Sign, Will Quinn called Plaintiff and told him that Pulaski County Sanitation & Animal Service had taken Bibi. Immediately, Plaintiff traveled to Pulaski County Sanitation & Animal Service and spoke to Fred Gooley. Fred Goodley called North Little Rock Animal Control to locate Bibi, but was informed that Bibi had been adopted.*See*, Exhibit 9 (Pulaski County Animal Services Incident Report).

26. After requesting information from North Little Rock Animal Service, Plaintiff learned that Defendant Christopher Vance had taken Bibi. Through undersigned counsel, Plaintiff contacted Defendant Christopher Vance and notified him that Bibi was his dog and demanded his return. *See*, Exhibit 10 (Letter to Vance).

27. Defendant Christopher Vance has refused to return Bibi to Plaintiff.

28. Recently, Defendant Christopher Vance informed Plaintiff that Defendant Christopher Vance transferred possession of Bibi to Defendant Delores Lovell. Upon information and belief, Defendant Delores Lovell currently has possession of Bibi.

COUNT I – RESPONDEAT SUPERIOR

29. Plaintiff realleges and reasserts each and every allegation and assertion in Paragraphs 1 to 28 as if state here word for word.

30. Defendant David N. Miles, III is the director of the North Little Rock Animal Shelter and is responsible for the training on and the ensuring of implementation of all rules, laws, regulations, and ordinances for all animal control officers or other employees of the North Little Rock Animal Control.

31. John Does 1-10 were at all relevant times to this action acting within the scope of his or her employment and were subject to the control of Director David N. Miles, III, North Little Rock Animal Control, and North Little Rock. Therefore, Director David N. Miles, III, North Little Rock Animal Control, and North Little Rock are liable for the negligent actions of John Does 1-10.

32. John Does 1-10 failed to execute his or her duty under Pulaski County Municipal Code Art. 4, § 6-23-81 and, pursuant to Pulaski County Municipal Code Art. 10, § 6-23-81, are guilty of a petty offense.

33. Defendant Kathy Botsford is the director of the Pulaski County Sanitation & Animal Services and is responsible for the training on and the ensuring of implementation of all rules, laws, regulations, and ordinances for all animal control officers or other employees of the Pulaski County Sanitation & Animal Services.

34. Defendant Jonathan Dupree is an animal control officer employed by the Pulaski County Sanitation & Animal Service. Defendant Dupree was at all time relevant to this action acting within the scope of his employment and was subject to the control of Director Kathy Botsford, Pulaski County Sanitation & Animal Service, and Pulaski County. Therefore, Director Kathy Botsford, Pulaski County Sanitation & Animal Services, and Pulaski County are liable for the negligent actions of Jonathan Dupree.

35. Defendant Dupree failed to execute his duty under Pulaski County Municipal Code Art. 4, § 6-23-81 and, pursuant to Pulaski County Municipal Code Art. 10, § 6-23-81, is guilty of a petty offense.

36. Jane Does 1-10 were at all relevant times to this action acting within the scope of his or her employment and were subject to the control of Director Kathy

Botsford, Pulaski County Sanitation & Animal Service, and Pulaski County. Therefore, Director Kathy Botsford, Pulaski County Sanitation & Animal Services, and Pulaski County are liable for the negligent actions of Jane Does 1-10.

37. Jane Does 1-10 failed to execute his or her duty under Pulaski County Municipal Code Art. 4, § 6-23-81 and, pursuant to Pulaski County Municipal Code Art. 10, § 6-23-81, are guilty of a petty offense.

COUNT II – NEGLIGENCE

38. Plaintiff realleges and reasserts each and every allegation and assertion in Paragraphs 1 to 37 as if state here word for word.

39. Each of the Government Defendants had a duty to notify Plaintiff that Bibi was apprehended and impounded within at least 48 hours of apprehension. Each of the Government Defendants breached this duty by utterly failing to contact or attempt to contact Plaintiff to inform Plaintiff that Bibi had been impounded.

40. The duty to notify Plaintiff was first upon Defendant Dupree. Defendant Dupree saw that Bibi was wearing a collar with a metal tag identifying Bibi. Defendant Dupree failed to call the number clearly printed on the metal tag.

41. In addition to failing to properly train Defendant Dupree to execute his duty to comply with Pulaski County Municipal Code, Defendants Kathy Botsford and John Does 1-10 failed to execute his or her independent duty to inform Plaintiff that Defendant Dupree apprehended Bibi and transported Bibi to North Little Rock Animal Control.

42. Even if Defendant Dupree did not see the metal tag, when Bibi was transported to North Little Rock Animal Control, Bibi was, upon information and belief,

evaluated. A cursory evaluation of Bibi would reveal that Bibi was tattooed in her right ear. A medical evaluation of Bibi would reveal that Bibi was microchipped. Defendants David N. Miles, III and Jane Does 1-10 had every opportunity to identify Bibi and find contact information for Plaintiff. Nonetheless, without justification, Defendants David N. Miles, III and Jane Does 1-10 failed to notify Plaintiff within 48 hours of apprehension or at any other time.

43. On February 24, 2017, Director Miles and Jane Does 1-10 negligently permitted Defendant Christopher Vance to adopt Bibi.

44. On February 28, 2017, Director Miles and Jane Does 1-10 negligently ordered the sterilization of Bibi by Dr. Travis.

45. As a direct and proximate result of each of the Government Defendants' failure to notify Plaintiff, Plaintiff was unable to rescue Bibi from the terrible fate of sterilization and adoption by Defendant Christopher Vance.

46. As a direct and proximate cause of the negligent execution of his and her duties, Director Miles' and Jane Does 1-10 caused the destruction of the economic value of Bibi and deprived Plaintiff from any and all foreseeable income from the breeding of Bibi.

47. As a direct and proximate cause of the negligent execution of his and her duties, the Government Defendants caused Plaintiff to suffer the loss of a beloved friend and companion.

48. As a direct and proximate result of the negligent execution of his and her duties, the Government Defendants caused Plaintiff to suffer loss of sleep and debilitating anxiety with the worry and fret about the care and custody of his beloved Bibi.

49. Plaintiff has been damaged by the negligence of the Government Defendants in an amount to be proved at trial, but not in excess of any and all liability insurance policies held by any and/or all Government Defendants.

COUNT III – VIOLATION OF THE DUE PROCESS CLAUSE OF
THE FOURTEENTH AMENDMENT

50. Plaintiff realleges and reasserts each and every allegation and assertion in Paragraphs 1 to 49 as if state here word for word.

51. Pulaski County Municipal Code, Ark. 4, § 6-23-8I provides the procedure to be followed by each animal control officer in protecting the rights of citizens whose animals have been impounded pursuant to the Code. This process is plain on its face.

52. On February 15, 2017, acting under color of law, Defendant Jonathan Dupree deprived Plaintiff of due process of law by failing to notify Plaintiff that he had impounded Bibi.

53. On or about February 17, 2017, the 48-hour notice window for Defendants Pulaski County, Pulaski County Sanitation & Animal Control, Kathy Bostford, North Little Rock, North Little Rock Animal Control, and David N. Miles, III to notify Plaintiff that Bibi had been impounded expired. Upon expiration, said Defendants, acting under color of law, deprived Plaintiff of due process of law by failing to notify Plaintiff that Bibi had been impounded.

54. On February 24, 2017, acting under color of law, Defendant North Little Rock Animal Control deprived Plaintiff of his property by authorizing Defendant Christopher Vance to take possession, custody, and control of Bibi without due process of law.

55. On February 28, 2017, acting under color of law, Defendants North Little Rock Animal Control deprived Plaintiff of his property and all economic benefit contained therein by spaying Bibi without due process of law.

56. Defendants Pulaski County, Pulaski County Sanitation & Animal Control, Kathy Bostsford, North Little Rock, North Little Rock Animal Control, and David N. Miles, III have deprived and continue to deprive Plaintiff of his right to due process secured by the Fourteenth Amendment to the United States Constitution in violation of 42 U.S.C. § 1983.

57. As a direct and proximate cause of these Defendants' deprivation of due process of law, all economic value of Bibi was destroyed.

58. As a direct and proximate cause of these Defendants' deprivation of due process of law, Defendant Chris Vance has possession, custody, and control of Bibi.

59. These Defendants are liable for said violation in an amount to be proven at trial.

COUNT IV – REPLEVIN

60. Plaintiff realleges and reasserts each and every allegation and assertion in Paragraphs 1 to 59 as if state here word for word.

61. Plaintiff purchased Bibi on May 24, 2016 and to date is the rightful owner of Bibi.

62. Defendants Director Miles and Jane Does 1-10, without right, transferred possession of Bibi to Defendant Christopher Vance on February 24, 2017.

63. Defendant Christopher Vance, without right, took possession of Bibi on February 24, 2017 and, despite demand by Plaintiff, refuses to return Bibi to Plaintiff.

64. Defendant Christopher Vance, without right, transferred possession of Bibi to Defendant Delores Lovell.

65. Defendant Delores Lovell, without right, currently has possession of Bibi and should be ordered to deliver possession of Bibi to Plaintiff forthwith.

66. Plaintiff has a valid right to petition a court of competent jurisdiction for an order of delivery of Bibi; yet, Defendants Director Miles and Jane Does 1-10 willfully and knowingly damaged Bibi by sterilizing her.

67. Plaintiff is without knowledge of whether Defendant Christopher Vance and/or Defendant Delores Lovell willfully and knowingly damaged Bibi, but reserves the right to amend this pleading to include damage caused by them.

WHEREFORE, Plaintiff, Darryl Lunon prays

- a. for judgment against Pulaski County; Pulaski County Sanitation & Animal Services; Kathy Botsford, in her official capacity as Director of Pulaski County Sanitation & Animal Services; Jonathan Dupree, in his official capacity as an employee of Pulaski County Sanitation & Animal Services; Jane Does 1-10, in his or her official capacity as employees of Pulaski County Sanitation & Animal Services; North Little Rock, North Little Rock Animal Control; David N. Miles, III, in his official capacity as Director of North Little Rock Animal Control; John Does 1-10, in his or her official capacity as employees of North Little Rock Animal Control for money damages for which each shall be liable jointly and severally; and

- b. for judgment against Christopher Vance and Deloris Lovell for damages to Bibi Von Sonnenberg caused while in his or her possession, for which each shall be liable jointly and severally; and
- c. for an order of delivery ordering Christopher Vance and/or Deloris Lovell to forthwith deliver possession of Bibi Von Sonnenberg, a bi-color, purebred, female, German Shepard Dog with certified pedigree to Plaintiff Darryl Lunon; and
- d. for an order directing the Clerk of the Court to issue notice to the Defendants that an order of delivery of Bibi Von Sonnenberg, a bi-color, purebred, female, German Shepard Dog with certified pedigree is sought; and
- e. for all other just and proper relief to which Plaintiff may be entitled.

Respectfully submitted,

Darryl Lunon, Plaintiff

By: /s/ Kenya G. Davenport, Esq.
Kenya G. Davenport, Esq. (ABN2011226)

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CERTIFICATE OF SERVICE

I, Kenya G. Davenport, Esq., do hereby certify, pursuant to Ark. Sup. Ct. Admin Order No. 21(7), that on August 22, 2017, a true and accurate copy of the forgoing pleading was served by electronic filing to the following eFlex registered users and by depositing a copy of the same in the United States Postal Service, postage pre-paid to following unregistered parties.

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