

AMENDED THIS 1st DAY OF Feb A.D. 20 10
PURSUANT TO RULE 130 UNDER ORDER-CONSENT-DATIO
DAY OF A.D. 20
CLERK OF COURT

Court File No.: 1003 01655

AMENDED ORIGINATING NOTICE

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

TOVE REECE, ZOOCHECK CANADA INCORPORATED and
PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.

Applicants

and

CITY OF EDMONTON

Respondent

TO: Anne Jarman, City Solicitor
9th Floor, Chancery Hall
3 Sir Winston Churchill Square
Edmonton, Alberta T5J 2C3

TAKE NOTICE that an Application will be made on behalf of People for the Ethical Treatment of Animals, Inc., of the City of Norfolk, in the State of Virginia, United States of America (a Virginia corporation), and Zoocheck Canada Incorporated, of the City of Toronto in the Province of Ontario, (a Canadian federal corporation), and Tove Reece (Executive Director of a non-profit animal rights organization based in Edmonton), the above-named Applicants, before the presiding Justice in Chambers at the Law Courts in the City of Edmonton on March 1, 2010 at the hour of 10 o'clock in the forenoon or so soon thereafter as counsel may be heard for an Order:

Declaring that the City of Edmonton is in violation of section 2 of the *Animal Protection Act*, R.S.A. 2000, c. A-41.

AND FURTHER TAKE NOTICE THAT the grounds for this Application include, *inter alia*:

- a) Lucy the Asian elephant ("Lucy") is housed at the Edmonton Valley Zoo, which is run by the Respondent, the City of Edmonton;
- b) The City of Edmonton holds Lucy in an enclosure at the Edmonton Valley Zoo without any elephant companionship;

c) Lucy has been suffering from and continues to suffer from a number of illnesses;

d) Lucy is in distress, as that term is defined under section 1(2) of the *Animal Protection Act*;

e) Lucy's distress is caused or permitted by the City of Edmonton; and

f) The distress does not result from an activity carried on in accordance with the regulations or in accordance with reasonable and generally accepted practices of animal care, management or husbandry, as set out by section 2(2) of the *Animal Protection Act*.

AND FURTHER TAKE NOTICE that in support of the application will be read the affidavits of:

a) Lisa Wathne, Captive Exotic Animal Specialist employed by the Applicant, People for the Ethical Treatment of Animals, Inc.;

b) Julianne Woodyer, Campaigns Director of the Applicant Zoocheck Canada Incorporated;

c) Tove Reece, individual Applicant;

d) Dr. Joyce Poole, Elephant Biologist and Ethologist;

e) Dr. William Keith Lindsay, Elephant Ecologist;

f) Dr. Philip K. Ensley, Doctor of Veterinary Medicine and Diplomat of American College of Zoological Medicine;

g) Dr. Henry Melvyn Richardson, Doctor of Veterinary Medicine; and

h) such other material as the Applicants may advise.

Dated at the City of Edmonton in the Province of Alberta, the 1st day of February, 2010.



Clerk of the Court

This originating notice was taken out by Clayton Ruby of the law firm Ruby & Shiller, solicitor for the Applicants, whose address for service is 11 Prince Arthur Avenue in Toronto, Ontario M5R 1B2.

NOTICE:

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Anne Jarman, City Solicitor
9th Floor Chancery Hall
3 Sir Winston Churchill Square
Edmonton, Alberta T5J 2C3

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BETWEEN:

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AMENDED ORIGINATING NOTICE

YOU ARE HEREBY NOTIFIED that if you do not attend either in person or by counsel before the presiding Justice in Chambers at the time and place set out in the within Originating Notice, the Order asked for herein or such other Order as the Court deems appropriate may be made in your absence or such other proceedings may be taken according to the practice of the Court, without any further notice to you.

TO: The City of Edmonton
Anne Jarman, City Solicitor
9th Floor Chancery Hall
3 Sir Winston Churchill Square
Edmonton, Alberta T5J 2C3

ACKROYD LLP
Barristers & Solicitors
15th Floor, First Edmonton Place
10665 - Jasper Avenue
Edmonton, Alberta
T5J 3S9

Attention: Richard C. Secord
Telephone: (780) 423-8905
Facsimile: (780) 423-8946
File No. 146, 385

AS AGENT FOR:

RUBY & SHILLER
Barristers
11 Prince Arthur Avenue
Toronto, Ontario
M5R 1B2

Attention: Clayton Ruby
TELEPHONE: (416) 964 9664
FAX: (416) 964 8305


You are forthwith after service of this notice to return to the clerk of the Court of Queen's Bench at Edmonton the Judgment, Order and decision to which this notice references and reasons, if any, together with the process commencing the proceedings, the evidence and all exhibits filed, if any, and all things touching the matter as full and entirely as they remain in your custody, together with this notice.

This Originating Notice was taken out by Ackroyd LLP acting as Agent for Ruby & Shiller, Barristers solicitors for the Applicants whose address for service is care of the said solicitors at:

15th Floor, First Edmonton Place
10665 - Jasper Avenue
Edmonton, Alberta
T4J 3S9

The office of the Respondent, the City of Edmonton, is in Edmonton, Alberta.

ACKROYD LLP:

Per: 

Richard Secord

