

STATE OF NORTH CAROLINA

COUNTY OF WAKE

ANIMAL LEGAL DEFENSE FUND,  
WAKE COUNTY, A NORTH  
CAROLINA BODY POLITIC, and  
KELLI FERRIS, D.V.M,

Plaintiffs,

v.

JANIE CONYERS,

Defendant.

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

NO. 07 CVD 17739

2007 OCT 31 P 3:29

WAKE COUNTY, CSC

**PETITION FOR COSTS OF CARE  
PURSUANT TO N.C. GEN. STAT. § 19A-70**

Plaintiff Wake County (the “County”) respectfully petitions the Court, pursuant to N.C. Gen. Stat. § 19A-70, to recoup the costs necessary to provide veterinary care and maintenance for the 106 dogs and nine birds (the “Animals”) seized from the residence of Defendant Janie Conyers ( “Defendant”) for the reasons stated below.

**INTRODUCTION**

North Carolina General Statutes § 19A-70 empowers courts to order defendants in animal cruelty cases to deposit bonds sufficient to pay for animals’ medical care and maintenance during the course of the litigation. In this case, the Animals were seized pursuant to Chapter 19A, which includes a number of North Carolina’s animal cruelty statutes. Defendant severely neglected the Animals and maintained them in circumstances so abominable that they resulted in extended suffering from chronic and painful medical conditions – including broken and disintegrating jaws, eye damage, and systemic bacterial infections. Because of Defendant’s

abuse, the Animals need urgent and expensive medical treatment above and beyond provision for their ordinary daily needs, which Defendant has also wholly ignored.

This Court can and should require Defendant to deposit immediately funds sufficient to enable the County to provide for the Animals' extensive health and welfare needs for the first thirty days of this litigation, under Section 19A-70(c). Otherwise, the County and its taxpayers will have to foot the bill for Defendant's neglect and cruelty. Section 19A-70 was enacted specifically to avoid this result.

### **STATEMENT OF FACTS**

#### **A. The County Seized The Animals From Defendant Because of Egregious Cruelty.**

Acting on reliable information of extensive animal cruelty, Dr. Kelli Ferris, a veterinarian, professor of veterinary medicine at North Carolina State University, and an Animal Cruelty Investigator for Wake County, obtained a warrant from a magistrate judge to search Defendant's residence and seize evidence of animal cruelty, including abused or neglected animals. Kelli Ferris Aff. ¶¶ 3, 7. On Friday, October 19, 2007, Dr. Ferris, along with Wake County Animal Control Officers and other law enforcement, went to the house to execute the warrant. *Id.* There, they found and seized 106 dogs and 9 birds suffering from a range of preventable and progressive severe medical conditions and living in abject squalor, in an environment toxic with ammonia fumes from accumulated urine and feces. *Id.* ¶¶ 11-12, 16-18.

#### **B. The Animals Suffer From A Multitude Of Problems As A Result Of Defendant's Cruelty.**

Veterinarians have now fully evaluated each of the dogs seized from Defendant's residence and have concluded that the dogs were subjected to painful and potentially life-threatening conditions, both because of the toxic nature of their environment and Defendant's knowing neglect and cruelty. The County incorporates herein by reference the facts regarding those conditions set forth in the Affidavits and Verified Complaint filed contemporaneously with

this Petition. Summarizing those facts, most of the dogs' coats were caked with feces and dried urine, and many dogs were soaked with wet urine. Betsy Sigmon Aff. ¶ 6(h). Many of the dogs suffered from urine scalding, which causes physical burns on the skin when animals are forced to live in waste-filled cages for extended periods of time. Kelli Ferris Aff. ¶ 12(g); Kacie Schmitt Aff. ¶ 9. Male dogs had matted hair around their penises, which prevented them from urinating properly, channeled their urine back onto their skin, and could cause systemic diseases of the urinary tract, bladder and kidneys. Kelli Ferris Aff. ¶ 12(f). Many dogs had significant eye problems including painful corneal ulcerations, or scratches on the eye balls, caused by matted hair around their eyes. *Id.* ¶ 12(d); Betsy Sigmon Aff. ¶¶ 6(k), 6(l), 6(m).

Most of the dogs had severe, ongoing, and progressive dental disease. Kelli Ferris Aff. ¶ 12(a); Kacie Schmitt Aff. ¶ 10. The dogs were missing teeth, and some dogs' jaws had become so brittle from bacterial infections that the jawbones were not only broken but actually disintegrating. Kelli Ferris Aff. ¶ 12(a). Some dogs' hair had become so entangled in their teeth and melded to their tooth decay that it limited their ability to use their mouths and caused great pain. Kelli Ferris Aff. ¶ 12(a). The dogs were infested with fleas and other parasites. *Id.* ¶ 12(h). There were also nine parrots, and they lived in cages with eight-inch-tall stalagmites of feces, covered in layers of feed, feces, feathers and cockroaches, and without clean water. Kacie Schmitt Aff. ¶ 20; Michael Williams Aff. ¶ 9. The Animals had not received any veterinary care in years, and had rarely, if ever, been allowed outside. Kacie Schmitt Aff. ¶ 13; Kelli Ferris Aff. ¶ 11.

Defendant's house was filled with what seemed to be "too many [animals] to count." Michael Williams Aff. ¶ 7. The house "reeked of ammonia and feces" (*id.*), and the floors, walls, and even furniture inside the cluttered home were covered with feces and urine stains.

Kelli Ferris Aff. ¶ 11; Michael Williams Aff. ¶¶ 7-12. Indeed, the ammonia odor was so strong that the investigation team became physically ill. Kelli Ferris Aff. ¶ 10; Kacie Schmitt Aff. ¶¶ 5, 15; Adrienne Hergen Aff. ¶ 5.

C. Significant Expenses Must Be Incurred To Care For And Cure The Animals.

The County has estimated the total cost of “reasonable expenses” of caring for the Animals by calculating both daily maintenance costs and medical care costs. N.C. Gen. Stat. § 19A-70(a) (defining “reasonable expenses”). The maintenance costs, \$8.00 per dog per day, include food, water, and shelter. The medical care costs, which vary from animal to animal, include those minimum veterinary services needed to alleviate the Animals’ pain and suffering. The medical expenses were calculated by independent veterinarians based on each individual animal’s unique needs and are documented by the spreadsheets and medical records attached hereto as **Exhibit A**.

The Affidavit of Michael Williams in Support of Petition for Costs of Care (“Michael Williams Aff. 2”), filed contemporaneously herewith, sets out each line item of costs incurred to date for basic care and health needs of the animals. The total amount of reasonable expenses as of October 30 is **\$56,288.39**, with additional costs being incurred daily. The magnitude of this conservatively estimated number is testament to the level of cruelty and neglect involved especially considering that many of the charges are provided to the County by local veterinarians and the North Carolina State University Veterinary College at a reduced rate.

**STATUTORY FRAMEWORK**

Under Section 19A-70(a), the operator of the county shelter involved in this case may petition this Court to require the defendant “to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal[s] pending the disposition of the litigation.” *Id.* Reasonable

expenses include “food, water, shelter, and care, including medical care”. *Id.* Upon the petition’s filing, the Court must set a hearing on the petition, to be held within fifteen business days. N.C. Gen. Stat. § 19A-70(b).

Following the hearing, the Court “shall set the amount of funds necessary for 30 days’ care after taking into consideration all of the facts and circumstances of the case.” N.C. Gen. Stat. § 19A-70(c) (emphasis added). The statute requires the Court to consider “the need to care for and provide for the animal pending the disposition of the litigation, the recommendation of the operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant’s ability to pay.” *Id.*

Only the first three factors of Section 19A-70(c) relate to the Court’s determination of the actual bond amount, which must be the “amount of funds necessary” to care for the Animals. *Id.* The final factor, “the defendant’s ability to pay,” has no bearing on the costs of caring for the Animals, because it cannot charge the baseline costs for food, shelter or medical care. Indeed, especially in cases of mass cruelty like this one, the necessary and reasonable expenses to treat abused animals may very likely exceed a given defendant’s resources. Rather, Defendant’s ability to pay is relevant only insofar as “[i]f the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.” N.C. Gen. Stat. § 19A-70(c). Section 19A-70(f) permits the Court to return the Animals to the Defendant pending resolution of the litigation. Notably, though, the Court is required to consider “all of the facts and circumstances of the case;” and if the Court concludes that returning the Animals is inappropriate under the facts and circumstances – as it certainly is here – it must order the Defendant to provide a deposit in the calculated amount, regardless of her ability to pay. N.C. Gen. Stat. §§ 19A-70(c), 19A-70(f).

## ARGUMENT

### I. SECTION 19A-70 ENTITLES THE COUNTY TO THE REASONABLE EXPENSES IT HAS INCURRED, AND WILL CONTINUE TO INCUR, IN PROVIDING FOR DEFENDANT'S ANIMALS.

#### A. Defendant Must Post A Bond For The Animals' Care.

Defendant kept the over 100 Animals in inhumane and filthy conditions that caused them severe pain and distress, both physical and psychological. Verified Compl. ¶ 20; Betsy Sigmon Aff. ¶¶ 6(c), 6(d). The Animals' conditions were almost entirely avoidable through basic animal care. Verified Compl. ¶ 18. As set out in the summary at pages 2-4 *supra*, and in the affidavits and Verified Complaint filed concurrently with this Petition, Defendant's conduct caused chronic, terrible pain to the Animals. Corneal ulcers and other eye damage was caused by feces-matted hair that scratched their eyeballs. Extreme dental disease included missing and disintegrating jawbones. For years, Defendant failed to take the Animals to the veterinarian. Kacie Schmitt Aff. ¶ 13; Betsy Sigmon Aff. ¶ 6(c). Nor did Defendant provide the most basic daily care – which costs little or no money and would have eliminated not only the financial burden now placed on the County and its taxpayers, but also the Animals' agony. *See, e.g.*, Kelli Ferris Aff. ¶ 12(b), 12(d).

This type of neglect is a violation of both N.C. Gen. Stat. §§ 19A-1(2), 19A-2, and the criminal anti-cruelty statute, N.C. Gen. Stat. § 14-360. The North Carolina legislature, by enacting Section 19A-70, mandated that the burden of correcting such neglect should rightly fall on Defendant, who caused this tragedy, rather than on the County and its taxpayers.

#### B. Section 19A-70 Requires A Bond For The Amount Of The County's Anticipated Expenditures.

Section 19A-70(c) directs the Court to consider “the need to care for and provide for the animal[s] pending the disposition of the litigation” in determining the amount of money the

Defendant must deposit for the Animals' care. Because of the Animals' serious medical needs, the County must now expend tens of thousands of dollars simply to meet the immediate veterinary needs of the Animals. The Petition seeks only costs for those treatments and medications required to lessen the Animals' pain and suffering and avert threats to the Animals' – and the public's – safety. That care is urgent and cannot wait until the conclusion of this litigation.

As a first line of defense, upon admission to the Wake County shelter, all dogs were given basic vaccinations and tests for the most common, most dangerous and most preventable diseases. They were given flea treatments, deworming medication, rabies vaccines, distemper vaccines and other medications depending on their particular needs. *See generally* Verified Compl. These particular costs – which are significant given the number of dogs – were necessitated by the fact that Defendant, *inter alia*, had not met the State's or the County' legal requirements for minimal care for one's animals. *Adrienne Hergen Aff.* ¶¶ 10-11; *see also generally* *Kelli Ferris Aff.* and *Betsy Sigmon Aff.* This preventative and diagnostic care provided by the County protects not only the Animals but also the public from deadly diseases like rabies. Defendant, just as all other Wake County animal guardians, should bear those costs. N.C. Gen. Stat. § 19A-70(c).

Because the Animals are in dire straits, they also need ongoing treatment, observation, and care. Some need emergency care and may die. Others may need extensive surgery or may need to be euthanized, both to halt their agony and to prevent further consequences from the problems causing the pain. *See, e.g.,* Verified Compl. ¶¶ 16-17, 31. For example, the severe dental problems, including broken jaws, will require hours of specialized veterinary care. First, veterinarians will need to reduce the amount of decay and disease within the dogs' mouths.

Then many of the dogs will need to have some or all of their unsalvageable teeth extracted. And many of these dogs will also require surgery to remove infected bone, set broken jaws, and attempt to provide the dogs with sufficient ability to eat. “[T]he need to care for . . . the animal[s] pending the disposition of the litigation” is great and urgent in this case, and this Court should order Defendant to deposit sufficient funds to provide the Animals with this necessary care. N.C. Gen. Stat. § 19A-70(c).

C. The Operator Of The Animal Shelter Recommends A Bond For The Anticipated Expenses For The Animals’ Care.

Section 19A-70(c) directs the Court, in determining the amount of the bond, to consider “the recommendation of the operator of the animal shelter [and] the estimated cost of caring for and providing for the animal[s].” In this case, the shelter operator, the County, through Michael Williams, the Director of the Wake County Animal Care, Control, and Adoption Center, urges the Court to order Defendant to pay for the reasonable expenses the County expects to incur. *See generally* Michael Williams Aff. 2. Mr. Williams recommends full reimbursement for the expended costs of medications, necessary medical treatments and surgeries, vaccines, microchips, employee overtime, and boarding for Defendant’s Animals. And he estimates that those costs will total **\$56,288.39**. Michael Williams Aff. 2 ¶ 8.

The County has already devoted a large amount of its limited resources in caring for the afflictions from which the Animals suffer because of Defendant’s cruelty. The County has and continues to provide the Animals with basic preventative and diagnostic work and needed urgent care. Section 19A-70 requires Defendant to pay these costs. To require otherwise would allow Defendant’s cruelty to deplete the limited resources the County has available for animal services and tell other animal abusers that they can get away with animal cruelty with impunity and on the taxpayers’ dime.



D. Defendant's Ability To Pay Is Relevant Only To the Issue Of Whether To Send The Animals Back To Defendant Under Section 19A-70(f), Which Would Be Wholly Inappropriate Here.

Section 19A-70(c) states that the Court should consider “the defendant’s ability to pay.” N.C. Gen. Stat. § 19A-70(c). The inquiry into Defendant’s means is relevant only insofar as an animal shelter’s costs for providing care to animals that are the subject of animal protection litigation may be higher (due, *e.g.*, to labor, rent, and other costs) than the individual defendant’s costs. If a court determines that a defendant is unable to deposit the funds required for the shelter to provide the requisite care, the court may consider returning the animals to a defendant pending adjudication of the animal protection litigation. N.C. Gen. Stat. § 19A-70(f).

Here, Defendant may have the means to pay for the Animals’ care, and Wake County taxpayers should not have to bear the costs attributable to Defendant’s neglect and cruelty. Defendant has bred purebred toy poodles for profit (Verified Compl. ¶ 14), sold her dogs for profit, entered her dogs in competitions that charge entry fees and award cash prizes, and owns Fairview Kennels.

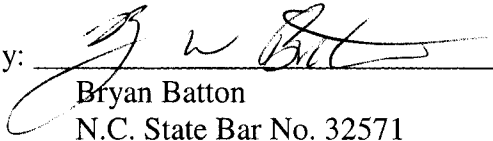
Even if Defendant lacked the means to pay for the Animals’ care, the extensive affidavit testimony of Defendant’s neglect and cruelty and the Verified Complaint’s description of Defendant’s severe mistreatment of the Animals makes plain that returning the Animals to Defendant under Section 19A-70(f) is not an option, and would directly conflict with the policy behind the animal protection laws. Veterinary experts – including Dr. Ferris, who is a sworn Animal Cruelty Investigator and has experience with many similar situations – estimate that the Animals have been neglected for years, and that returning the Animals to Defendant’s care would subject the Animals to only more suffering. Kelli Ferris Aff. ¶ 16-17; Kacie Schmitt Aff. ¶¶ 13-14, 16; Betsy Sigmon Aff. ¶¶ 6(b), 6(c); Adrienne Hergen Aff. ¶¶ 6-7.

Defendant displays the classic symptoms of animal hoarding disorder, *i.e.*, Defendant compulsively has collected a large number of Animals while failing to provide minimal standards of nutrition, sanitation, and veterinary care and failing to act on the Animals' deteriorating conditions (including disease and even death) or environment (including severely overcrowded and unsanitary conditions), or even the negative impact of the collection on Defendant's own health and well-being. *See generally* GJ Patronek, *Hoarding of Animals: An Under-Recognized Public Health Problem in a Difficult-To-Study Population*, PUBLIC HEALTH REP 114(1): 81-87 (1999). Animal hoarders have an essentially 100% rate of recidivism. Lisa Avery, *From Helping to Hoarding*, 39 VAL. U.L. REV. 815, 833 (2005) (attached as **Exhibit B**). Therefore, even if hoarders are allowed to have just a few animals, hoarders, like alcoholics, revert to their old behaviors. *Id.* at 837. In this way, the hoarding disorder is analogous to alcoholism, for which the recommended treatment is total abstinence. The literature is clear that if Defendant obtains more animals, she will abuse them – and this the Court should not allow.

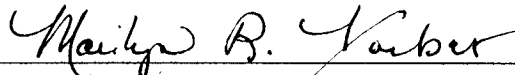
### **CONCLUSION**

The County respectfully requests that the Court order Defendant to post a bond in the amount of \$56,288.39 for the costs incurred by the County's shelter in providing for Defendant's Animals pending resolution of this animal protection litigation under to N.C. Gen. Stat. § 19A-70(c) and that this Petition be heard within fifteen business days of its filing under N.C. Gen. Stat. § 19A-70(b).

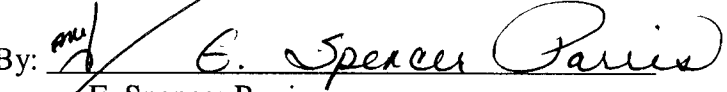
This the 31<sup>st</sup> day of October, 2007.

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**CERTIFICATE OF SERVICE**

This is to certify that the undersigned counsel for Wake County, a North Carolina Body Politic, has this date served the foregoing **PETITION FOR COSTS OF CARE** in the above-captioned action upon all other parties to this cause by:

US MAIL, POSTAGE PREPAID:

Janie Conyers  
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**Defendant**

This the 31<sup>st</sup> day of October, 2007.

  
\_\_\_\_\_  
Sarah L. Buthe