

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RONALD JAMES MADERO	)	CASE NO.: <u>2:19-cv-700</u>
	)	
Plaintiff,	)	JUDGE <u>David Cercone</u>
	)	
v.	)	<i>Electronically Filed</i>
	)	
OFFICER CHRISTINE LUFFEY, in her	)	<b>JURY TRIAL DEMANDED</b>
individual capacity; MARY KAY	)	
GENTERT; TARRA PROVIDENT;	)	
HOMELESS CAT MANAGEMENT TEAM;	)	
HUMANE ANIMAL RESCUE; JAMIE	)	
WILSON; SARA ANDERSON; DONNA	)	
HUGHES; JESSICA SERBIN; HALA	)	
NEUMAH; DEVON KLINGENSMITH and	)	
SARAH SHIVELY	)	
	)	
Defendants.	)	

**COMPLAINT**

Mr. Ronald J. Madero (“Mr. Madero”), a 78-year old veteran, served our country to defend the Constitutional rights at issue in this case—Constitutional rights that were violated by overbearing police and police agents who threatened and lied to a senior citizen, resulting in an unlawful search of his property, the unlawful seizure of his personal property, and the subsequent destruction and other disposition of his property, all without his consent.

Acting in concert, Officers Christine Luffey (“Officer Luffey”) and Tracy Schweitzer (“Officer Schweitzer”) of the City of Pittsburgh Police Department, Mary Kay Gentert (“Gentert”) and Tarra Provident (“Provident”) of Homeless Cat Management Team (“HCMT”), City of Pittsburgh Bureau of Animal Care and Control (“ACC”), and various individuals then-associated with Humane Animal Rescue of Pittsburgh (“HAR”), violated

Mr. Madero's civil rights and otherwise violated Pennsylvania law by: (1) threatening violence and lying to Mr. Madero and illegally entering and conducting a search of his property without a warrant; (2) using information gained from that illegal entry and search to obtain a warrant; (3) illegally seizing 37 cats allegedly from outside of and within 5223 Lytle Street, Pittsburgh, Pennsylvania 15207 (including 5 cats returning from receiving veterinary care and surgery at Animal Friends and seized from Mr. Madero's car); (4) illegally seizing five cats from Animal Friends for which Mr. Madero had just paid for surgery and other veterinary care at that facility; (5) abusing and injuring the cats during the illegal seizure; (6) transporting all cats to HAR with the knowledge that the cats would not receive proper care and would be killed, (including those that had surgery only days before at Animal Friends); and (7) failing to provide proper veterinary care and treatment to the seized cats, allowing them to sit for weeks in small cages, with no veterinary treatment, and disposing of them, including slaughtering some, all without Mr. Madero's consent. In an effort to abate some of the consequences of the illegal activities, upon information and belief, Officer Luffey and/or her friend Gentert fabricated evidence purporting to show a "surrender" of the cats by Mr. Madero.

**I. Jurisdiction and Venue**

1. This is an action for redress of injuries suffered by Mr. Madero as the result of the violation of his rights guaranteed by the United States Constitution (including the Fourth and Fourteenth Amendments thereto), U.S. law (including 42 U.S.C. § 1983), and Pennsylvania law.

2. Jurisdiction is founded upon 28 U.S.C. §§ 1331, 1343, & 1367.

3. Venue is proper under 28 U.S.C. § 1391 because all claims set forth herein arose in the Western District of Pennsylvania.

## **II. Parties**

4. Plaintiff Mr. Madero is a 78-year old veteran who resides at 5221 ½ Lytle Street, in the Hazelwood neighborhood of Pittsburgh, Allegheny County, Pennsylvania.

5. Officer Luffey is a police officer with the City of Pittsburgh Police Department who routinely investigates alleged crimes involving animals.

6. HCMT is a non-profit group whose custom, policy, and practice is, and has been, to assist Officer Luffey with police investigations concerning animals and the execution of search warrants in animal cases. HCMT's business address is 207 Allegheny Street, Tarentum, Pennsylvania 15084

7. Gentert, an unemployed individual who formerly volunteered with HCMT, is a personal friend of Officer Luffey and routinely assists her with investigations of alleged crimes involving animals, as well as assisting with the execution of search warrants. Gentert resides at 625 Rossmore Avenue, Pittsburgh, Pennsylvania 15226.

8. Provident, a current volunteer and former board member of HCMT, is a personal friend of Officer Luffey and routinely assists Officer Luffey with the investigation of animal cases and the execution of search warrants in those cases. Provident resides at 1427 Bellaire Place, Pittsburgh, PA 15226.

9. HAR is an open-door shelter, also known as a "kill shelter," whose custom, policy, and practice is to accept and hold animals seized by Officer Luffey, participates in criminal cases brought by Officer Luffey in connection with the seized animals, and has a

contract with the City of Pittsburgh to accept and house animals brought in by Officer Luffey and/or ACC. HAR's facilities are located at 6926 Hamilton Avenue, Pittsburgh, Pennsylvania 15028 and 1101 Western Avenue, Pittsburgh Pennsylvania 15233.

10. Jamie Wilson ("Wilson") was employed by HAR as the Director of Medical Business at the time relevant to the claims raised in this complaint. Wilson, resides at 6606 Brighton Road, Pittsburgh, Pennsylvania 15202.

11. Sara Anderson ("Anderson") was employed by HAR as its Medical Director at the time relevant to the claims raised in this complaint. Anderson resides at 276 Catalpa Place, Pittsburgh, Pennsylvania 15228.

12. Donna Hughes ("Hughes") was a veterinarian employed by HAR at the time relevant to the claims raised in this complaint. Hughes resides at 714 Florence Avenue, Pittsburgh, Pennsylvania 15202.

13. Jessica Serbin ("Serbin") was a veterinarian employed by HAR at the time relevant to the claims raised in this complaint. Serbin resides at 6605 Jackson Street, Apartment #2, Pittsburgh, Pennsylvania 15206.

14. Hala Neumah ("Neumah") was employed by HAR as its Chief Operating Officer at the time relevant to the claims raised in this complaint. Neumah resides in Allegheny County.

15. Devon Klingensmith ("Klingensmith") was employed by HAR as a veterinarian at the time relevant to the claims raised in this complaint. Klingensmith resides at 198 Ranch Lane, Ellwood City, Pennsylvania 16117.

16. Sarah Shively (“Shively”) at the time relevant to the claims raised in this complaint, was employed by HAR as its Director of Admissions. Shively resides at 234 Lenore Drive, McKees Rocks, Pennsylvania 15316.

**III. 5221 ½ and 5223 Lytle Street, Hazelwood**

17. Mr. Madero has been a resident of the Hazelwood area of Pittsburgh for 74 years.

18. Mr. Madero resides at 5221 ½ Lytle Street with his son Mark Madero.

19. The homes at 5221 ½ and 5223 Lytle Street form a duplex, owned by Mark Madero.

20. 5223 Lytle Street has not been occupied for a few years, although at the time relevant to the claims raised in this complaint, Mr. Madero used one of its rooms to store personal belongings.

21. Mr. Madero and his son Mark kept, and keep, the doors to 5221 ½ and 5223 Lytle Street locked.

22. Mr. Madero and his son Mark have an expectation of privacy in their residence at 5221 ½ Lytle Street and in 5223 Lytle Street, which is a private home where Mr. Madero stored personal property.

23. The duplex sits on a dead-end street, surrounded on three sides by an auto-salvage yard, a junkyard, and multiple abandoned and dilapidated residential structures.

24. The area is used frequently by people as a dumping ground for unwanted cats and kittens, many of which are abandoned in an unhealthy condition.

25. For the past ten years, Mr. Madero, who is on a fixed income, has done his best to help the cats and kittens abandoned in his neighborhood.

26. That help includes, but is not limited to, working with volunteers from Animal Friends to conduct a mass spay and neuter in the neighborhood.

27. Mr. Madero also spent thousands of dollars to provide private veterinary care for sick and injured cats and kittens abandoned in his neighborhood.

28. In addition, Mr. Madero spent hundreds of dollars per month on cat food and provided winter shelter for the cats and kittens abandoned in his neighborhood.

**IV. ACC Reports a Complaint Concerning Cats on Lytle Street**

29. On or about May 23, 2017, a neighbor of Mr. Madero contacted ACC and complained about kittens that had been abandoned in front of her residence at 5221 Lytle Street, and asked if someone could come and get them.

30. The neighbor did not mention 5221 ½ or 5223 Lytle Street on the call.

31. At the time of the call, the neighbor had never been inside 5221 ½ or 5223 Lytle Street and did not complain about cats or kittens inside either of those addresses.

32. In response to that call, on or about May 23, 2017, 1:31 p.m., David Madden (“Madden”), a supervisor with ACC, contacted Officer Luffey via email and advised her that ACC received a complaint about cats being kept inside a residence located at “5221 ½ Lytle Street.”

33. At no time did Madden identify to Officer Luffey any issues or complaints with respect to 5223 Lytle Street.

34. On or about May 23, 2017, 3:16 p.m., Officer Luffey responded to Madden's email and advised that "as soon as time permits" she will go to "5221 ½ Lytle Street" and "look into this."

35. Less than 10 minutes later, at 3:24 p.m., Madden responded to Officer Luffey's email and informed her that he had heard from the homeowner, purportedly Mr. Madero.

36. Madden advised Officer Luffey that: (i) the homeowner had "3 indoor cats and 7-10 outdoor cats;" and (ii) the homeowner's "heart is in the right place."

37. Madden further advised Officer Luffey that he gave the homeowner the number for "Janice" "to see if ARL could help him."

38. Upon information and belief, Madden was referring to Janice Barnard at HAR.

39. Two minutes later, at 3:26 p.m., Officer Luffey sent an email to Madden, on which she copied Provident, a private citizen and, at that time, board member and volunteer for HCMT.

40. Officer Luffey advised Madden that she thought "that it was a good idea for [Officer Luffey] and a member of the HCMT to pay [Mr. Madero] a visit."

41. Officer Luffey did not explain why she felt it was a "good idea" to take a private citizen to conduct a police investigation of a matter that was resolved to the satisfaction of ACC.

42. Despite lacking probable cause, Officer Luffey further advised Madden: "I want to see for myself what is going on."

43. Officer Luffey also advised Madden that she was going to reach out to her friend Gentert, an unemployed, private citizen who also volunteered with HCMT.

44. At no time was 5223 Lytle Street referenced in the correspondence between Madden and Officer Luffey described above.

**V. Officer Luffey's Relationship with Gentert, Provident, and HCMT**

45. Upon information and belief, Officer Luffey befriended Gentert and Provident in 2016.

46. Officer Luffey frequently and regularly used and uses Gentert and Provident, both private citizens, to accompany and assist Officer Luffey with police investigations concerning cats.

47. Officer Luffey testified under oath that it was her practice to take civilians to assist her with police investigations involving animals.<sup>1</sup>

48. Officer Luffey also frequently and regularly used and uses Gentert, Provident, and other members of HCMT to assist with the execution of search warrants that result from Officer Luffey and Gentert's "investigations."

49. Officer Luffey provided no training or instruction to Gentert, Provident, and other members of HCMT related to the correct manner in which to execute search warrants.

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<sup>1</sup> All references to Officer Luffey's testimony is to her testimony at the suppression hearing held in the underlying criminal case. No decision was rendered on the motion as the Commonwealth agreed to withdraw all charges of animal cruelty against Mr. Madero, which led to a plea deal.

50. By way of example only, and upon information and belief, Gentert, along with other HCMT volunteers, assisted Officer Luffey on or about the following dates with the execution of search warrants at the following locations: (i) May 2, 2016, in Brookline; (ii) February 8, 2017, in the West End; (iii) March 24, 2017, in Brookline; (iv) April 27, 2017, in Lawrenceville; (v) July 7, 2017, in Lawrenceville; and (vi) August 9, 2017, in Carrick.

51. Upon information and belief, Provident also assisted Officer Luffey with the execution of search warrants in the summer of 2017.

52. Upon information and belief, on at least one occasion, after failing to secure a proper holding facility, Officer Luffey used Gentert's back porch to warehouse cats that Officer Luffey seized pursuant to a search warrant, of which Gentert assisted in the execution.

53. Additionally, Officer Luffey publicly socializes with Gentert, Provident, and other members of HCMT.

54. By way of example only, on December 8, 2017, Officer Luffey was socializing with Gentert and Provident at Archie's Bar, located at 2328 E Carson St., Pittsburgh, Pennsylvania 15203, photographs of which were posted publicly on social media. *See* Exhibit A.

55. The close personal friendship between Officer Luffey and Gentert, her "volunteer police officer," is demonstrated by Gentert's March 15, 2019 Facebook post where she states: "I volunteer with the amazing Officer Luffey," and posts a picture of the two together arm-in-arm. *See* Exhibit B.

56. In addition, Office Luffey also directs thousands of dollars yearly from an annual fundraiser to HCMT.

57. Upon information and belief, on occasion, Officer Luffey would deliver or direct seized cats to HCMT rather than directing that the cats be transported to HAR; however, in a majority of cases, HCMT volunteers execute search warrants with the knowledge that the cats will be taken to HAR.

58. In cases where HCMT has taken the cats, Officer Luffey has used Gentert to testify against defendants on behalf of the police in order to obtain “restitution” or financial payments to HCMT.

59. By way of example only, on February 14, 2017, Provident posted on Facebook about multiple cases in which Gentert would be testifying on behalf of Officer Luffey.

60. Specifically, Provident wrote: “Tomorrow Mary Kay [Gentert] will be representing us in court for not only the Sheridan hoarder but also another court date for the bitch that left the Southside cats so she can pay more restitution.”

61. Provident, a former board member of HCMT, along with other HCMT board members, routinely contacted and coordinated HCMT volunteers and arranged for the equipment, such as carrier and traps, to assist Officer Luffey and the Pittsburgh Police with the execution of search warrants in cases involving cats.

**VI. Provident, Gentert, and HCMT Volunteers' Social Media Comments Related to Searches**

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62. Both Gentert and Provident have posted on social media concerning their active participation with Officer Luffey in investigations and execution of search warrants concerning cats, including the “investigation” at issue here.

63. By way of example, Provident publicly posted photographs of Provident and Gentert in Officer Luffey’s police car, purportedly assisting with cat investigations. *See* Exhibit C.

64. Officer Luffey testified under oath that Provident and Gentert were assisting her with investigations the day the photos were taken/posted, and she was not aware that they were taking photos, even though one depicts Provident purportedly operating Officer Luffey’s police computer.

65. Likewise, other members of HCMT used social media to post details of their involvement in the execution of search warrants on behalf of Officer Luffey.

66. By way of example only, a volunteer for HCMT posted comments on Facebook discussing her review of an individual’s personal paperwork related to “disability and Social Security” that she reviewed while executing a search warrant on behalf of Officer Luffey, where the items to be seized were cats.

67. The volunteers of HCMT further posted comments ridiculing the individuals subject to the search warrants and making fun of their homes and items within the homes.

68. HCMT has a custom, policy, and practice of engaging in behavior that violates the constitutional rights of others.

69. In addition, Provident posted comments on social media referring to the individuals subject to investigations and search warrants as “fuckers” when they retained counsel, and further referred to them as “morons” and “dicks.”

70. The morning of the execution of the search warrant at issue here, on June 30, 2017, at 8:28 a.m., Provident posted about the search on social media, acknowledging that the cats they were going to seize would be slaughtered, stating that she did not sleep and felt “sick to [her] stomach about the fate of all the cats” that they planned to remove that day. *See* Exhibit D.

71. Provident knew before arriving at 5221 ½ Lytle Street that the plan was to seize the cats and take them to HAR where they would be killed.

## **VII. Provident and Gentert Media Interviews**

72. In addition to making social media posts, Gentert and Provident frequently gave news media interviews during and immediately following their participation in the execution of search warrants, wherein they commented on the evidence obtained during the searches and used the media spotlight as an effort to obtain donations for their organization, HCMT. *See* Exhibit E.

73. By way of example only, on June 30, 2017, Provident gave two news interviews during the execution of the search warrant at issue here, in which she participated, and wherein she made false statements about evidence obtained during the search. *See* <http://www.wtae.com/article/more-than-40-cats-found-in-hazelwood-home/10246520> and <http://www.wpxi.com/news/top-stories/dozens-of-cats-rescued-from-filthy-conditions-in-hazelwood-home/545985847>.

74. When the news cameras started filming on June 30, 2017, Provident yelled “It’s showtime!”

**VIII. Officer Luffey and Gentert Conduct an Unlawful Search of 5221 ½ and 5223 Lytle Street**

75. Three weeks after the initial email from Madden, on or about June 15, 2017, Officer Luffey and Gentert traveled together in Officer Luffey’s police car to Mr. Madero’s home at 5221 ½ Lytle Street.

76. Officer Luffey was on duty.

77. Officer Luffey was wearing her police uniform and, among other things, a sidearm.

78. Gentert’s presence at 5221 ½ Lytle Street was at the request of, direction of, and under the control of Officer Luffey.

79. Together, Officer Luffey and Gentert approached 5221 ½ Lytle Street.

80. At that same time, Mr. Madero’s neighbors approached Officer Luffey and Gentert.

81. Officer Luffey knocked on the door to 5221 ½ Lytle Street.

82. Mr. Madero then came outside onto the porch, where Officer Luffey proceeded to interrogate him.

83. At all times, Mr. Madero’s neighbors were in a position to hear the conversation between Mr. Madero and Officer Luffey.

84. Officer Luffey testified under oath that she identified Gentert as a member of HCMT.

85. Officer Luffey told Mr. Madero that she and Gentert wanted to inspect the inside of 5223 Lytle Street and 5221 ½ Lytle Street.

86. Mr. Madero asked Officer Luffey if he could call a lawyer.

87. In response, Officer Luffey lied to Mr. Madero and told him that they did not need his permission to go inside because she had a search warrant and could bust his door down.

88. When Mr. Madero turned to go back into 5221 ½ Lytle Street, Officer Luffey said she guessed that Mr. Madero wanted to do things the “hard way,” stated that Mr. Madero was not cooperating, and said it was her intent to call for back up to break the door down and execute the warrant.

89. Intimidated by an armed police officer who claimed to have a search warrant and was threatening to bust his door down, Mr. Madero did not feel that he was free to leave or disengage from Officer Luffey’s interrogation or refuse her request to enter both homes.

90. Officer Luffey again told Mr. Madero that she had a search warrant and could break his door down and enter the premises.

91. Mr. Madero’s neighbors heard Officer Luffey’s statements.

92. Officer Luffey did not have a warrant and did not have probable cause to obtain a warrant for either 5221 ½ Lytle Street or 5223 Lytle Street.

93. At no time did Officer Luffey advise Mr. Madero of his constitutional rights.

94. At no time did Officer Luffey tell Mr. Madero that he could refuse her request to inspect the premises at 5221 ½ Lytle Street or 5223 Lytle Street.

95. At no time did Officer Luffey request that Mr. Madero sign a written consent authorizing her or Gentert, who was acting at the direction of and on behalf of Officer Luffey, to enter either 5221 ½ or 5223 Lytle Street, despite the fact that it is the policy of the Pittsburgh Police to obtain written consent for searches conducted on consent.

96. To the contrary, Officer Luffey led Mr. Madero to believe, and actually told him, that she had a search warrant and would enter the properties forcibly by busting the doors down if Mr. Madero did not comply.

97. Officer Luffey testified under oath that Gentert was assisting her with the police investigation of Mr. Madero's property.

98. Officer Luffey testified under oath that she did not advise Mr. Madero that Gentert was assisting the police with the investigation of Mr. Madero's property.

99. Gentert was acting as an agent for Officer Luffey and the Pittsburgh Police.

100. Gentert was acting under the color of state law when she assisted Officer Luffey and the Pittsburgh Police with the investigation of Mr. Madero's property.

101. Gentert previously had acted as an informant for Officer Luffey in animal cases.

102. Gentert previously had assisted Officer Luffey in her "investigations."

103. Yet at no time did Officer Luffey advise Mr. Madero that Gentert was assisting the police with the investigation, that Gentert was acting at the direction of the police, or that Gentert previously had acted as an informant for and assisted Officer Luffey.

104. Instead, Officer Luffey testified under oath that she concealed Gentert's true purpose and advised Mr. Madero that Gentert was there to "help" him with "spay and neuter" services for his cats.

105. Believing that Officer Luffey had a warrant and unaware of Gentert's true purpose at his home, Mr. Madero unlocked the door to 5223 Lytle Street.

106. Officer Luffey testified under oath that Mr. Madero "decided to cooperate with Mary Kay Gentert."

107. Mr. Madero did not voluntarily consent to the search of 5223 Lytle Street.

108. Mr. Madero did not consent to the search of 5223 Lytle Street by Gentert as a matter of law because Officer Luffey: (1) misrepresented that she had a search warrant; (2) misrepresented Gentert's purpose at his home; and (3) concealed the fact that Gentert was assisting with conducting a police investigation.

109. Probable cause did not exist for Officer Luffey or Gentert to search 5223 Lytle Street without a warrant.

110. Officer Luffey and Gentert did not have a warrant to search 5223 Lytle Street.

111. No exigent circumstances existed that would have allowed Officer Luffey or Gentert to search 5223 Lytle Street without a warrant.

112. Officer Luffey sent Gentert into 5223 Lytle Street with Mr. Madero to search the property while Officer Luffey waited outside.

113. Acting as an agent of Officer Luffey, and at the direction of Officer Luffey, Gentert conducted an illegal search of 5223 Lytle Street, at which time Gentert was acting under the color of state law.

114. While inside 5223 Lytle Street, Gentert took photographs of the inside of 5223 Lytle Street behind Mr. Madero's back, without his consent, and in violation of his Constitutional rights and common law right of privacy.

115. While inside 5223 Lytle Street, Mr. Madero advised Gentert that a large number of cats recently had been dumped in front of the house in poor condition.

116. While Gentert was inside 5223 Lytle Street, Officer Luffey unbuttoned her uniform shirt to show Mr. Madero's neighbor the shirt she was wearing underneath, which matched the shirt worn by Gentert.

117. The neighbor was surprised by the odd conduct of Officer Luffey, which further demonstrated the close relationship between Officer Luffey and Gentert.

118. After Gentert exited 5223 Lytle Street, Officer Luffey advised Mr. Madero that she and Gentert wanted to see the inside of 5221 ½ Lytle Street.

119. Again fearing Officer Luffey would bust down his door if he refused and believing that Officer Luffey had a search warrant and unaware of Gentert's true purpose at his home, Mr. Madero allowed Gentert to enter 5221 ½ Lytle Street.

120. Officer Luffey sent Gentert into 5221 ½ Lytle Street while Officer Luffey waited outside.

121. Mr. Madero did not voluntarily consent to the search of 5221 ½ Lytle Street.

122. Mr. Madero did not consent to the search of 5221 ½ Lytle Street by Gentert as a matter of law because Officer Luffey: (1) misrepresented that she had a search warrant; (2) misrepresented Gentert's purpose at his home; (3) and concealed the fact that Gentert was assisting with conducting a police investigation.

123. Probable cause did not exist for Officer Luffey or Gentert to search 5221 ½ Lytle Street without a warrant.

124. Officer Luffey and Gentert did not have a warrant to search 5221 ½ Lytle Street.

125. No exigent circumstances existed that would have allowed Officer Luffey or Gentert to search 5221 ½ Lytle Street without a warrant.

126. Prior to leaving the premises, Gentert gave Mr. Madero her phone number and lied to him, promising to help him with the veterinary care, including the spay and neuter for any cats inside and outside of 5223 Lytle Street.

**IX. June 29 and 30, 2017, Mr. Madero Takes 10 Cats to Animal Friends for Vetting**

127. The following day, Mr. Madero made numerous attempts to contact Gentert for assistance with veterinary care for the additional cats that had been abandoned in and around his residence.

128. Despite her purported promises to “help” him, Gentert refused to return his calls.

129. Unable to reach Gentert, Mr. Madero contacted Animal Friends, on the mistaken belief that Gentert worked there and would help him get cats spayed and neutered as promised.

130. Although nobody at Animal Friends knew Gentert, they advised Mr. Madero that he could bring cats to them for spay or neuter surgery and other veterinary care.

131. Thus, on June 29, 2017, Mr. Madero took 5 cats to Animal Friends for spay or neuter and other veterinary care. *See Exhibit F.*

132. The 5 cats taken by Mr. Madero to Animal Friends for surgery on June 29, 2017, were healthy enough for, and did have, surgery, for which Mr. Madero paid.

133. The following morning, on June 30, 2019, Mr. Madero took 5 additional cats to Animal Friends for spay or neuter surgery and other veterinary care. *See Exhibit F.*

134. The 5 cats taken by Mr. Madero to Animal Friends for surgery on the morning of June 30, 2017, were healthy enough for, and did have, surgery.

135. When Mr. Madero dropped off the 5 cats at Animal Friends on June 30, 2017, he picked up and returned home with the cats that had received surgery the day prior.

**X. Officer Luffey Uses Information Obtained During Illegal Search to Obtain Search Warrant and Conduct Subsequent Illegal Search and Seizure of 5223 Lytle Street**

136. Immediately after Officer Luffey and Gentert left the property on June 15, 2017, Gentert showed Officer Luffey the photographs she secretly and illegally took while inside 5223 Lytle Street.

137. Allegedly as a result of the information and photographs illegally gathered by Gentert during the unlawful search of 5223 Lytle Street, and despite no personal knowledge of the conditions inside 5223 Lytle Street, Officer Luffey obtained a search warrant for 5223 Lytle Street. *See* Exhibit G.

138. Officer Luffey failed to instruct Gentert to preserve the photographs upon which Officer Luffey based the warrant.

139. Gentert failed to preserve the photographs she took while inside 5223 Lytle Street.

140. Despite her representations in the search warrant application that cats inside 5223 Lytle Street were “the victims of severe neglect” and needed to be “removed for their own safety and protection,” representations made without personal knowledge, Officer Luffey waited two weeks after the initial illegal search to apply for the search and seizure warrant, which she obtained on June 29, 2017.

141. Officer Luffey testified under oath that she waited two weeks before seeking the warrant because she was trying to find someplace “safe” to take the cats where they would receive “good care” rather than take them to HAR.

142. Officer Luffey knew that the cats would not be “safe” and would not receive “good care” at HAR.

143. On June 30, 2017, Officer Luffey, Officer Schweitzer and others of the City of Pittsburgh Police Department, Gentert Provident, other members of HCMT and ACC employees arrived, along with several news outlets in tow, at 5223 Lytle Street to execute the unlawfully obtained search and seizure warrant.

144. The illegal search and seizure warrant only identified 5223 Lytle Street as the location to be searched, not 5221 ½ Lytle Street, Mr. Madero’s car, or any other location.

145. At that time, Provident, Gentert, and HCMT were acting at the direction of Officer Luffey and as agents of the Pittsburgh Police in the execution of the warrant.

146. At that time, Provident, Gentert, and HCMT were acting under the color of state law as they assisted with the execution of the warrant at the direction of Officer Luffey.

**XI. The Brutal, Inhumane Treatment of the Cats Following Their Seizure by Officer Luffey**

147. Just after the arrival of Officer Luffey, Officer Schweitzer and others of the City of Pittsburgh Police Department, Gentert, Provident, other members of HCMT, and ACC employees, Mr. Madero arrived at the property.

148. The temperature at that time was approximately 80 degrees with bright sun.

149. From Mr. Madero's car, which was not identified in the warrant, Officer Luffey seized five cats, which Mr. Madero had just picked up from Animal Friends' spay and neuter clinic, where he had taken them the day before for veterinary care and treatment.

150. Notes taken by Officer Schweitzer, indicate that only two cats appeared to be sick and identify 5 cats as just coming "from [the] vet". See Exhibit H.

151. At that time, Mr. Madero provided Officer Luffey with the medications prescribed for those cats by the veterinarian at Animal Friends, and for which Mr. Madero had paid.

152. Despite the fact that the five cats had just had surgery and were on medications, Officer Luffey placed the cats, which were inside temporary cardboard carriers, out in the hot, direct sunlight, on hot concrete, where they remained for three hours. See Exhibit I; Exhibit J. See also <http://www.wpxi.com/news/top-stories/dozens-of-cats-rescued-from-filthy-conditions-in-hazelwood-home/545985847> and <http://www.wtae.com/article/more-than-40-cats-found-in-hazelwood-home/10246520>.

153. At no time did Officer Luffey, Officer Schweitzer, Provident, or Gentert (or any other person) provide water to the cats.

154. Officer Luffey photographed two cats on the porch 5221 ½ Lytle Street and then instructed Gentert and Provident to seize those cats, which they did.

155. Gentert and Provident trespassed onto 5221 ½ to collect the cats.

156. The search warrant did not authorize Officer Luffey to seize Mr. Madero's property from 5221 ½ Lytle Street.

157. As additional cats were collected, they too were placed in the direct sun, lined up on hot concrete, many in wire traps with no protection for their paws against the scorching concrete. *See Exhibit J.*

158. Serbin noted these injuries on two of the cats she slaughtered at HAR.

159. The news videos from that day also demonstrate the inhumane and horrific manner in which the cats were treated during the execution of the illegal warrant.

160. Luffey, Provident, Gentert, and other HCMT volunteers were aware of proper trapping techniques but did not utilize them here, causing harm to the cats.

161. The videos show that proper trapping techniques to prevent harm to the cats were not followed.

162. By way of example only, material was not placed in the bottom of the traps to prevent injury to the cats' feet and, as a result, many cats' paws were exposed for extended duration to scorching hot concrete. *See Exhibit J.*

163. Cats were left in traps, terrified and uncovered (for media consumption) where they thrashed and beat their faces and bodies on the metal, causing bloody injuries.

164. Cats were left for hours on the hot concrete, in the direct sunlight, in 80 degree weather, with no water. *See Exhibits I and J.*

165. At one point, someone placed a plastic tarp over the cats, thereby creating an oven-like effect for the cats. *See Exhibit I.*

166. None of the cats were provided with water while they baked in the direct sun.

167. Mr. Madero requested that he be permitted to help place the cats in carriers or traps because the cats were afraid of strangers but felt safe with him.

168. Rather than allow Mr. Madero to assist with placing the cats in carriers, Gentert, Provident, and the ACC used snare catch poles to strangle the cats and force them into carriers or traps, thereby terrorizing and injuring the cats unnecessarily.

169. As a result of the harsh and inhumane treatment, one of the cats bit Gentert out of sheer terror.

170. At the direction of Officer Luffey, 37 cats (including five from Mr. Madero's car and 2 from 5221 ½ Lytle Street) allegedly were seized from within and outside of 5223 Lytle Street.

171. After Mr. Madero advised Officer Luffey that he had just dropped off 5 cats that morning for spay and neuter surgery at Animal Friends, Officer Luffey contacted Animal Friends and, without even seeing the condition of the cats or knowing from where they originated, directed Animal Friends to transport them to HAR.

172. The warrant did not authorize Officer Luffey to seize Mr. Madero's property from Animal Friends.

173. Officer Luffey had a duty to ensure that the cats seized received adequate veterinary care pending the outcome of any criminal case.

174. Despite the duty to ensure the care of the cats, Officer Luffey directed that the cats be taken to HAR, even though, as she testified under oath, she knew the cats would not be safe and would not receive proper care at the shelter.

**XII. The Cats Seized by Officer Luffey Were Transported to HAR, a “Kill-Shelter,” at the Direction of Officer Luffey**

175. Mr. Madero did not surrender any of the cats to anyone, including Officer Luffey, ACC, Provident, Gentert, HCMT, or HAR.

176. Officer Luffey had a duty to ensure the care of the cats until the end of any criminal proceedings against Mr. Madero.

177. At the direction of Officer Luffey, on June 30, 2017, all of the cats she seized were transported by ACC to HAR, an open-door “kill shelter” in Pittsburgh, whose practices and policies include summarily killing “surrendered” animals that do not meet HAR’s purported “medical guidelines of adoptability.”

178. Thus, if an owner surrendered to HAR a cat that lacked socialization, or was terrified of strangers, or suffered any number of treatable medical conditions, HAR would deem the cat “unadoptable” and kill the cat.

179. By way of example only, if an owner surrendered a cat with diabetes, which is treatable with medication, that cat would not be made available for adoption to the public but would be killed if no HAR employee or volunteer stepped up to take it.

180. Officer Luffey did not advise HAR that 5 of the cats had just had surgery at Animal Friends, nor did she provide HAR with the medication Mr. Madero gave her for the cats.

181. Additionally, Officer Luffey failed to advise HAR that the seized cats sat for 3 hours, in the direct sun, on hot concrete in 80° weather with no water.

182. In violation of her duty to ensure the proper veterinary care and treatment of the cats that she seized, Officer Luffey had the cats transported to HAR knowing that the cats would not receive proper care and would be slaughtered.

183. Officer Luffey testified under oath that she knew prior to directing the cats be taken to HAR that the cats would not be safe there.

184. At the direction of Officer Luffey, HAR took in and processed a total of 42 cats, including the 5 that were transported to HAR by Animal Friends at Officer Luffey's direction.

185. HAR's custom, policy, and practice is to assist Officer Luffey and the Pittsburgh Police in animal cases by: (1) accepting and housing seized animals; and (2) providing veterinary testimony and other evidence in Officer Luffey's cases.

186. HAR was acting under the color of state law when it accepted the cats and proceeded to act as an evidence holding facility for Officer Luffey.

187. Upon information and belief, HAR had and has a contract with the City of Pittsburgh to perform the municipal function of housing and caring for animals brought in by ACC.

188. It is HAR's custom, policy, and practice to accept and house animals brought in by ACC.

189. HAR received money from the City of Pittsburgh to accept and house animals brought in by ACC.

190. Upon information and belief, HAR also received money from the City of Pittsburgh to provide for the care of each cat delivered by ACC, including those seized by Officer Luffey.

191. At least 10 of the cats at issue here were not seized from within or outside of 5223 Lytle Street, but rather were taken from Mr. Madero's car or from Animal Friends, where all 10 had just received veterinary care and treatment, including surgery.

192. On June 30, 2017, HAR accepted for admission and acknowledged receipt of 37 cats from Officer Luffey that purportedly were seized from Mr. Madero pursuant to a warrant. *See* Exhibit K.

193. Animal Friends later transported 5 more of Mr. Madero's cats to HAR at the direction of Officer Luffey.

194. Upon information and belief, HAR was paid for each cat pursuant to its contract with the City of Pittsburgh.

195. Upon information and belief, Shively, the Director of Admissions and Neumah, the Chief Operating Officer, authorized HAR to accept all of the illegally seized cats and agreed that HAR would hold the cats on behalf of Officer Luffey and the Pittsburgh Police.

196. It is HAR's custom, policy, and practice to hold cats and/or other animals that are seized pursuant to search warrants on behalf of Officer Luffey and the Pittsburgh Police.

197. Upon information and belief, Shively, Neumah and HAR were responsible to know the requirements for admitting and holding animals seized pursuant to search and seizure warrants.

198. Shively, Neumah, and HAR were acting under the color of state law when they agreed to hold the cats that had been seized pursuant to a search warrant on behalf of Officer Luffey and the Pittsburgh Police.

199. Upon information and belief, Shively, Neumah, and HAR failed to provide instruction for the proper housing and care for animals seized pursuant to search warrants on behalf of Officer Luffey and the Pittsburgh Police.

200. None of the 42 cats accepted by HAR were returned to Mr. Madero.

**XIII. The Horrific, Inhumane Treatment and Slaughter of the Cats After Their Arrival at HAR**

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201. From June 30 to July 3, 2017, only 3 cats received even a cursory exam by a technician and none were examined by a veterinarian, despite the horrific, detrimental treatment they received during the seizure by Officer Luffey, Gentert, Provident, and HCMT.

202. The remaining cats sat in small cages in a windowless room, and received no veterinary treatment.

203. Upon information and belief, on or about July 3, 2017, Hughes began to examine a few of the cats, at which time she began to kill them.

204. Hughes killed them for such minor things as an upper respiratory infection, which is treated easily with antibiotics.

205. More specifically, on July 3, 2017, Hughes ordered the slaughter of a three year old female cat with an upper respiratory infection, despite the fact that the cat had a normal oral exam and normal chest exam. *See Exhibit L.*

206. Upon information and belief, it is HAR's policy and procedure, without providing notice to the owners, to kill cats seized pursuant to warrants and/or surrendered that present with such minor illnesses as upper respiratory infections.

207. Upon information and belief, Hughes drafted these policies, which were implemented by Shively, Neumah, Wilson, Anderson, Klingensmith, and Serbin.

208. The 4 cats ordered to be killed by Hughes and subsequently killed by HAR were killed prior to HAR checking to determine the status of the ownership of the cats and were killed without prior notice to Mr. Madero.

209. After HAR had begun to kill the cats, and 4 days after the cats had been taken to HAR, on July 3, 2017, Janice Barnard, HAR's former Program Manager, emailed Officer Luffey at 2:08 p.m. and finally inquired as to whether HAR needed to hold on to Mr. Madero's cats "as evidence" or if they could dispose of them. *See Exhibit M.*

210. Thus, HAR recognized and knew it had certain obligations and duties with regard to cats seized pursuant to warrants.

211. On July 3, 2017, at 2:17 p.m., Officer Luffey responded via email and stated that "Ronald Madero surrendered all of the cats.' 'He is going to be criminally charged.' I will need the veterinary records asap so I can get this case filed.'" *See Exhibit M.*

212. At that point, as of July 3, 2017, four days after Officer Luffey directed that the cats be transported, HAR had received no prior notification concerning the ownership status of the cats.

213. Officer Luffey did not indicate to whom Mr. Madero surrendered the cats.

214. Officer Luffey did not indicate whether the surrender was in writing.

215. Upon information and belief, Officer Luffey did not forward any written surrender to HAR.

216. Officer Luffey did not indicate when the alleged “surrender” occurred.

217. The foregoing failures by Officer Luffey were sufficient to put HAR, Hughes, Shively, Neumah, Wilson, Anderson, Klingensmith, and Serbin on notice that an actual surrender had not occurred.

218. Yet HAR, Huighes, Shively, Neumah, Wilson, Anderson, Klingensmith, and Serbin affirmatively ignored those failings so they could slaughter and otherwise mistreat and dispose of Mr. Madero’s property in violation of his rights.

219. Officer Luffey also did not inquire into the status or general well-being of the seized cats.

220. Officer Luffey did not inquire because she already knew that HAR was going to slaughter the cats.

221. On July 4, 2017, at 7:34 a.m. Sarah Anderson, HAR’s then-Medical Director, inquired to HAR employees as to the status of the cats, stating that she wanted to know if

there was “written documentation” and to “make sure [HAR is] protected legally.” *See* Exhibit N.

222. Thus, Anderson and HAR understood they had certain legal duties to provide care for the cats depending on the ownership status.

223. On July 4, 2017, at 7:49 a.m., Janice Barnard replied to Anderson by email and copied Serbin and Wilson, forwarding the July 3, 2017 email that she received from Officer Luffey, which simply stated “Ronald Madero surrendered all of the cats.” *See* Exhibit M.

224. Other than the July 3, 2017 email from Officer Luffey, HAR did not receive any documentation purporting to evidence a “surrender” by Mr. Madero of the cats to anyone.

225. In Barnard’s July 4, 2017 email, Barnard stated that Wilson told her that the email from Officer Luffey “will protect [HAR] but not necessarily [Officer Luffey]”, thereby demonstrating knowledge that they did not have a proper written surrender for the cats. *See* Exhibit N.

226. Upon information and belief, Wilson, HAR’s then-Director of Medical Business, Neumah, Anderson, and Shively determined that no further documentation was needed and that HAR could begin to kill Mr. Madero’s cats, despite the knowledge that the cats were evidence allegedly seized pursuant to a warrant, despite not knowing to whom Mr. Madero purportedly surrendered the cats, and despite their knowledge that the purported “surrender” was not in writing and was questionable.

227. Upon information and belief, at that time, HAR's custom, policy, and practice was that the surrender of animals by owners had to be documented in writing for legal purposes.

228. Upon information and belief, Neumah, Anderson, Wilson, Hughes, Klingensmith, Serbin, and Shively all were aware of HAR's policy related to owner surrenders.

229. Upon information and belief, HAR failed to implement the same policy in connection with animals seized pursuant to search warrants and systematically violated the constitutional rights of individuals whose animals were seized pursuant to search warrants.

230. Upon information and belief, HAR's custom, policies, and practices disregard the legal rights of owners whose animals have been seized pursuant to search warrants.

231. Upon information and belief, Wilson, Hughes, Serbin, Anderson, Klingensmith, Neumah, and Shively determined that any cat showing any sign of illness or injury would be killed, regardless of whether the illness or injury was treatable, despite not having a valid, written surrender.

232. Wilson then entered, or authorized the entry, of the following note into "Shelter Buddy," HAR's documentation system: "We have a release for all of the 'hoarding' cats in the Cat Surgery Ward 2. Okay to proceed with processing as normal. All cats that are showing signs of illness or injury are okayed to be [killed]. Because a majority of the cats are showing signs of contagious illness we will not be keeping any or putting any in general population ... . Jamie Wilson" See Exhibit O.

233. HAR's "Cat Surgery Ward 2" is a small, windowless room, with a bank of small cages designed to restrict the movement of animals following surgery.

234. Housing cats for extended periods of time in cages like those in the "Cat Surgery Ward 2" violates the Guidelines for Standards of Care in Animal Shelters, issued by the Association of Shelter Veterinarians.

235. As of July 4, 2017, HAR's veterinary staff was documenting that allegedly, "a majority of the cats are showing signs of contagious illness" and that they intended to kill them all, rather than treat and make the cats available for adoption. *See* Exhibit O.

236. Relying solely on Officer Luffey's representation that Mr. Madero allegedly surrendered the cats to some unknown person or entity, and failing to obtain a copy of a written surrender signed by the owner, HAR began summarily slaughtering Mr. Madero's cats without notice to him, which violated industry standards and practices and Mr. Madero's federal and state due process rights.

237. On July 4, 2017, Serbin began to examine and order the killing of the remainder of Mr. Madero's cats, despite not having received a signed, written surrender.

238. On July 4, 2017, Serbin examined and ordered the killing of 10 cats, including cats that Mr. Madero had just taken to Animal Friends, and which were healthy enough for surgery at Animal Friends only days prior.

239. "[T]he provisions of Pennsylvania's animal cruelty statute which allow the police or humane society to destroy animals without offering the owner the opportunity to be heard offend the basic standards of procedural due process articulated by the United States and Pennsylvania Supreme Courts." *Commonwealth v. Gonzalez*, 588 A.2d 528, 536

(Pa.Super. 1991) (noting the “tremendous” “potential for abuse on the part of the police or humane society” given the statute’s failure to provide animal owners with the opportunity to ensure that the animals receive proper care pending the outcome of the criminal trial).

240. Following the slaughter of 12 of Mr. Madero’s cats by July 4, 2017, HAR’s documents show that the remainder of the cats sat in small cages in a windowless room, for **three additional weeks** without receiving any veterinary treatment whatsoever by HAR, despite the fact that (i) Officer Luffey claimed that the cats were sick and needed to be seized from Mr. Madero for their “safety and protection” and (ii) HAR’s veterinary staff, including Anderson, Hughes, Serbin, and Klingensmith, determined that “a majority of the cats are showing signs of contagious illness.”

241. Although HAR provided zero veterinary treatment to the allegedly sick cats, HAR did provide a basic exam note for 21 of the remaining 28 cats.

242. On July 11, 2017, Klingensmith took over examining the cats.

243. She conducted the exams of 21 cats.

244. During the exams, she documented illnesses and/or medical conditions that required inexpensive and relatively minor treatment.

245. By way of example only, at least 12 days after their seizure by Officer Luffey, Gentert, Provident, and HCMT, Klingensmith identified the following conditions in multiple cats that required treatment: (i) suspected bilateral ear infections, (ii) upper respiratory infection, (iii) suspected parasites, (iv) suspected glaucoma, and (v) moderate gingivitis, all of which may have developed during their time at HAR. *See Exhibit P.*

246. Despite the fact that she noted the above-referenced conditions that required treatment, Klingensmith did not order or even bother to recommend any veterinary treatment for any of the cats.

247. Despite noting “suspected parasites” on several cats, Klingensmith failed to even order basic veterinary care, such as parasite treatment, which is standard for cats on intake to a shelter.

248. Despite noting “suspected bilateral ear infections” on several cats, Klingensmith failed to order any confirmation tests or even prescribe basic antibiotics for the cats.

249. Instead, Klingensmith and HAR allowed the 21 cats Klingensmith examined – with suspected conditions such as glaucoma, upper respiratory infections, and parasites and bilateral ear infections – to sit for **another 2 weeks** in small cages with no veterinary treatment whatsoever.

250. Klingensmith also failed to do any follow up exams or even check on any of the cats following her initial cursory exam.

251. Klingensmith and HAR deprived the cats of any veterinary treatment because they intended all along to kill the cats.

252. In perhaps her most egregious act of cruelty and neglect, Klingensmith examined a cat, Animal ID 10364, on July 11, 2017, diagnosed the cat with “severe [Upper Respiratory Infection] and dehydration,” noted that the cat was “thin overall very sick and unkempt,” and recommended that the cat be medically euthanized. *See Exhibit Q.*

253. Despite her diagnosis and recommendation that the cat be euthanized, Klingensmith and HAR let cat Animal ID 10364, that allegedly was severely dehydrated, suffering from a severe upper respiratory infection, very sick and unkempt, sit in a small cage, for an additional two weeks, ***without providing any veterinary care or treatment whatsoever***. See Exhibit Q.

254. Thus, based on HAR's medical records, cat Animal ID 10364 sat in a small cage from June 30 to July 11, 2017, without so much as an exam until Klingensmith's diagnosis of severe infection and dehydration, and then sat for an additional two weeks with absolutely no medical care and treatment in violation of the Guidelines for Standards of Care in Animal Shelters, issued by the Association of Shelter Veterinarians.

255. Klingensmith's and HAR's conduct of depriving the cats veterinary care also violated 18 P.S. § 5532(a)(3), Pennsylvania's animal cruelty statute.

256. Klingensmith, Hughes, Serbin, Wilson, Nuemah, Anderson, and Shively allowed the majority of cats to sit from June 30, 2017, to July 24, 2017, with **no veterinary treatment** whatsoever, in violation of the Guidelines for Standards of Care in Animal Shelters, issued by the Association of Shelter Veterinarians, and in violation of 18 P.S. § 5532(a)(3).

257. HAR provided no exam, nor any veterinary treatment, for 7 of the cats.

258. Those 7 cats sat from June 30 to July 24, 2017, without a base exam or any veterinary treatment, in violation of the Guidelines for Standards of Care in Animal Shelters, issued by the Association of Shelter Veterinarians, and in violation of 18 P.S. § 5532(a)(3).

259. In sum, HAR allowed at least 28 of Mr. Madero's cats, which allegedly were sick and showing signs of contagious illness, to sit in small cages, in a windowless room, from June 30, 2017, to July 24, 2017, **with no veterinary treatment whatsoever** in violation of the Guidelines for Standards of Care in Animal Shelters, issued by the Association of Shelter Veterinarians, and in violation of 18 P.S. § 5532(a)(3)

260. The suffering and inhumane treatment the cats received after being seized illegally by Officer Luffey, Gentert, Provident, and HCMT and housed by HAR at Officer Luffey's direction is highlighted in a July 23, 2017 email from Anderson to Wilson, Neumah, and others, wherein Anderson stated:

[The Madero cats] are not receiving treatment or adequate care precisely because they are not adoptable and were never supposed to be here this long. This is the situation [Wilson] and I warned about in our meeting. These cats need [killed]. We as an organization are responsible for animals in our care. It is inhumane to keep them like this.

See Exhibit R.

**XIV. Officer Luffey Filed a Criminal Complaint Based on Information Obtained from the Initial Illegal Search and the Subsequent Unlawful Search and Seizure Warrant**

261. On August 7, 2017, as a result of the information gathered from the initial illegal search and subsequent unlawful search and seizure, and business records containing veterinary notes from HAR, Officer Luffey filed a Police Criminal Complaint ("Criminal Complaint" or "Cr. Compl") against Mr. Madero. See Exhibit S.

262. In the Criminal Complaint, Officer Luffey accused Mr. Madero of five counts of misdemeanor cruelty to animals (18 Pa.C.S. §5511(a)(2.1)(i)(A)) and 37 summary counts of cruelty to animals (18 Pa.C.S. §5511(c)).

263. Pursuant to 18 Pa.C.S. §5511(a)(2.1)(i)(A), Officer Luffey alleged that Mr. Madero “willfully and maliciously killed, maimed, mutilated, tortured or disfigured a dog or cat, whether belonging to the actor or otherwise,” based on the fact that she interpreted HAR records as HAR having euthanized 5 cats as of the date of the Criminal Complaint. *See* Exhibit S, Cr. Compl., p. 3.

264. All of the cats were alive when seized from Mr. Madero and none had illnesses or injuries that would have required euthanasia.

265. Ten of the cats had just received spay/neuter surgery and other veterinary care at Animal Friends days prior to their seizure.

266. Officer Luffey had no evidence to support any claims that Mr. Madero “willfully and maliciously killed, maimed, mutilated, tortured or disfigured a dog or cat.”

267. All of the cats killed by HAR were killed in violation of Mr. Madero’s federal and state due process rights.

268. Officer Luffey charged Mr. Madero with one count of killing an animal based on Klingensmith’s recommendation to medically euthanize Cat Animal ID 10364, as Officer Luffey was unaware that Klingensmith did not kill the cat, but instead allowed it to sit for 2 additional weeks with no care.

269. On or about July 24, 2017, Cat Animal ID 10364 was removed from the horrific conditions at HAR by a rescue group from Indiana County, who named him Ceasar, and provided him with appropriate medical care.

270. Thus, at the time Officer Luffey charged Mr. Madero on August 7, 2017, with killing him, Ceasar actually was alive, well, and thriving in Indiana County.

271. Even more ironic, Officer Luffey charged Mr. Madero with 37 summary offense counts for cruelty to animals for failing to provide veterinary care to the cats, yet she placed the seized cats at HAR, where she knew they would not be safe, and where HAR personnel *for weeks* deliberately and knowingly deprived the cats of veterinary care and subjected the cats to treatment that HAR's then-Medical Director admitted was inhumane.

272. Thus, Officer Luffey charged Mr. Madero for crimes which she, HAR and HAR employees were guilty.

273. Yet Officer Luffey did not bring criminal charges against herself, HAR, Hughes, Shively, Neuham, Wilson, Anderson, Klingensmith, and Serbin for their admitted inhumane treatment of the cats.

274. With complete disregard for Mr. Madero's rights, HAR slaughtered Mr. Madero's cats, with no notice to Mr. Madero, starting on July 3, 2017, because the cats did not meet HAR's "open door" shelter-derived criteria for adoptability, not because the cats were beyond hope of medical recovery.

275. The Criminal Complaint was based solely on information obtained during the illegal initial search as well as information obtained as a result of the invalid search and seizure warrant, and the incompetent and incomplete HAR records.

**XV. Mr. Madero's Arrest and Mistreatment Following His Arrest**

276. Upon learning that an arrest warrant had been issued for him, Mr. Madero turned himself in to the Pittsburgh Police.

277. Then 76 years old, he was handcuffed at the station, stripped of his belt and shoelaces, and placed in a holding cell with hardened criminals.

278. As a result, Mr. Madero suffered extreme physical and emotional distress.

279. As a condition of his release and based on Officer Luffey's unfounded allegations that Mr. Madero killed and/or tortured animals, the hearing judge ordered that Mr. Madero was not permitted to be near any animals.

280. Because he lived with his son, a dog, and 4 cats, the hearing judge advised Mr. Madero that he was not permitted to return to his home, not even to collect any clothes or personal items.

281. As a result, Mr. Madero was homeless and at 76 years old, was forced to sleep on the couches of friends until his first preliminary hearing, at which time his counsel obtained permission for him to return home.

282. Mr. Madero suffered extreme physical and emotional distress as a result of being homeless.

**XVI. Officer Luffey's Conflicting, Inaccurate Statements Concerning Mr. Madero's Alleged "Surrender" of Cats**

283. In the Criminal Complaint, Officer Luffey verified "that the facts set forth in this complaint are true and correct to the best of my knowledge or information or belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa. C.S. § 4904) relating to unsworn falsification to authorities."

284. Thus, Officer Luffey understood the importance of making truthful, accurate statements in the Criminal Complaint.

285. In the Criminal Complaint, dated August 7, 2017, Officer Luffey stated that during the execution of the search warrant, "Ron Madero **told** [Officer Luffey] that he is

surrendering all of the animals seized from 5223 Lytle Street to the care and custody of Humane Animal Rescue.” *See* Exhibit S, Cr. Compl., p. 6 (emphasis added).

286. As of August 7, 2017, Officer Luffey had not obtained a written surrender from Mr. Madero, and at best, had an oral statement, made during an extremely stressful situation, that Mr. Madero intended to surrender the cats to HAR at some point in the future.

287. Mr. Madero did not make the alleged oral surrender.

288. Moreover, as of June 30, 2017, Mr. Madero did not know of “Humane Area Rescue.”

289. Given that, there is no way Mr. Madero could have made the alleged oral surrender.

290. Even if Mr. Madero had made such a statement during the seizure, which he did not, such statement would have been made under extreme duress and would not constitute a valid surrender as a matter of law.

291. Officer Luffey’s statement in the August 7, 2017 Criminal Complaint concerning some alleged oral statement of a surrender to HAR is at odds, however, with statements Officer Luffey made a month earlier, on July 3, 2017, to HAR in response to HAR’s question to Officer Luffey as to the status of the cats.

292. Specifically, on July 3, 2017, after having the seized cats transported to HAR, Officer Luffey advised Janice Barnard, an employee of HAR, that Mr. Madero “surrendered” the cats. *See* Exhibit M.

293. In her July 3, 2017 email to Janice Barnard, Officer Luffey did not identify to whom Mr. Madero allegedly surrendered the cats. *See* Exhibit M.

294. Nor did Officer Luffey explain to HAR why she failed to inform them earlier of the surrender if Mr. Madero really had surrendered the cats on June 30, 2017. *See* Exhibit M.

**XVII. A Fabricated Written “Surrender” Purportedly Signed by Mr. Madero**

295. During discovery in the underlying criminal case, after repeated requests from Mr. Madero’s counsel, wherein they raised federal and state due process violations, the Commonwealth eventually produced a written document purportedly signed by Mr. Madero surrendering the cats. *See* Exhibit T.

296. The purportedly-signed “surrender” is fabricated evidence.

297. Officer Luffey never noted in the Criminal Complaint (or anywhere else for that matter) that she obtained a written surrender of the cats.

298. Officer Luffey did not provide a written surrender to HAR when HAR inquired as to the status of the ownership of the cats.

299. Upon information and belief, the so-called “surrender” produced by the Commonwealth was fabricated in an attempt to conceal that Mr. Madero’s federal and state due process rights were violated as a result of the illegal slaughter and other disposition of his cats.

300. The signature that appears on the purported “surrender” was not made by or authorized by Mr. Madero.

301. According to Janice Barnard, the Program Manager at the time the seized cats were taken to HAR, the “Special Incident Form” is not a HAR form.

302. The “surrender” actually is an Animal Control Special Incident Form, typically used by ACC in cases where owners desire to surrender a dog to the ACC for things such as a dog bite.

303. According to Ms. Barnard, Officer Luffey never used an ACC Special Incident Form in connection with cats or other animals seized pursuant to search warrants.

304. According to Ms. Barnard, HAR files did not contain a copy of the purported “surrender” produced by the Commonwealth.

305. Upon information and belief, in instances when ACC is called out to assist Officer Luffey with the execution of search warrants, the ACC’s role is limited to assisting with trapping and transport; the ACC does not get involved with obtaining “surrenders” from owners.

306. Upon information and belief, in instances where the ACC does use its Special Incident Form, ACC policy requires the ACC officers to initial the form and include the Shelter Sheet number on the form.

307. The Special Incident Form produced by the Commonwealth does not contain a shelter sheet number; nor does it contain the initials of the ACC employees who purportedly obtained the form.

308. Moreover, despite the ACC form noting 42 cats, the ACC was not involved in the seizure or transport of 42 cats.

309. The ACC files did not contain a copy of the Special Incident Form produced by the Commonwealth.

310. Although no ACC employee signature or initials are noted on the Special Incident Form, Gentert's apparent signature appears on the form next to the fraudulent, alleged signature of Mr. Madero.

311. Gentert is not an employee of ACC nor is she an employee of HAR.

312. Upon information and belief, Gentert, who conducted an illegal search of 5223 Lytle Street and participated in the execution of the illegal search warrant, participated in the fabrication of the purported "surrender" with Officer Luffey in an effort to abate the violations of Mr. Madero's federal and state due process rights.

**COUNT I – §1983 Claim – 4<sup>th</sup> Amendment – Illegal Search  
Against Officer Luffey, Gentert, HCMT**

313. All forgoing paragraphs are incorporated herein by reference.

314. Officer Luffey was acting under color of state law on June 15, 2017, when she interacted with Mr. Madero at 5221 ½ and 5223 Lytle Street.

315. Gentert was acting under color of state law on June 15, 2017, when she interacted with Mr. Madero at 5221 ½ and 5223 Lytle Street.

316. HCMT, acting through Gentert, was acting under color of state law on June 15, 2017, when Gentert interacted with Mr. Madero at 5221 ½ and 5223 Lytle Street as it is HCMT's custom and practice to utilize its volunteers in connection with investigations by Officer Luffey and the Pittsburgh Police.

317. Officer Luffey, Gentert, and HCMT deprived Mr. Madero of his federal rights on June 15, 2017, when Officer Luffey lied and told him that she had a search warrant for 5223 Lytle Street and/or 5221 ½ Lytle Street.

318. Officer Luffey, Gentert, and HCMT deprived Mr. Madero of his federal rights on June 15, 2017, when, at Officer Luffey's direction, after Officer Luffey lied about having a search warrant, Gentert conducted an illegal search of 5223 Lytle Street and 5221 ½ Lytle Street.

319. Officer Luffey, Gentert, and HCMT deprived Mr. Madero of his federal rights on June 15, 2017, when, at Officer Luffey's direction, after Officer Luffey lied about having a search warrant, Gentert took photographs inside 5223 Lytle Street without Mr. Madero's consent.

320. Officer Luffey, Gentert, and HCMT deprived Mr. Madero of his federal rights on June 15, 2017, when Officer Luffey and Gentert, failed to advise Mr. Madero that Gentert was acting at the direction of, and on the behalf of, Officer Luffey and the Pittsburgh Police.

321. Mr. Madero's privacy rights in 5223 Lytle Street and 5221 ½ Lytle Street were clearly established as of June 15, 2017.

322. As of June 15, 2017, it also was clearly established that consent to a search, obtained only after the law enforcement officer lied and said she had a search warrant when she did not, and going so far as to threaten to break down the door if Mr. Madero did not cooperate, was ineffective and invalid consent.

323. Neither federal nor Pennsylvania law as of June 15, 2017, allowed Officer Luffey, Gentert, or HCMT to rely on Mr. Madero's "consent" to the search of 5223 Lytle

Street or 5221 ½ Lytle Street when that “consent” was obtained through Officer Luffey’s lies and threats of force.

324. Officer Luffey knew as of June 15, 2017, that neither federal nor Pennsylvania law allowed her to rely on Mr. Madero’s “consent” to the search of 5223 Lytle Street or 5221 ½ Lytle Street when that “consent” was obtained through Officer Luffey’s lies and threats of force.

325. Gentert and HCMT, who were operating at the direction of Officer Luffey, knew that neither federal nor Pennsylvania law allowed them to rely on Mr. Madero’s “consent” to the search of 5223 Lytle Street or 5221 ½ Lytle Street when that “consent” was obtained through Officer Luffey’s lies and threats of force.

326. As a result of Officer Luffey’s lies and threats of force, Officer Luffey, Gentert, and HCMT deprived Mr. Madero of his 4<sup>th</sup> Amendment rights of privacy and against unreasonable search.

327. It was established as of June 15, 2017, that neither federal nor Pennsylvania law allowed the police to enter someone’s property without a warrant by way of misrepresentation.

328. Officer Luffey was aware, as of June 15, 2017, that neither federal nor Pennsylvania law allowed the police to enter someone’s property without a warrant by way of misrepresentation.

329. Gentert and HCMT were aware, or should have been aware as of June 15, 2017, that neither federal nor Pennsylvania law allowed the police to enter someone’s property without a warrant by way of misrepresentation.

330. As a result of Officer Luffey's and Gentert's failure to disclose that Gentert was acting at the direction of and on behalf of Officer Luffey and the Pittsburgh Police, Officer Luffey, Gentert, and HCMT deprived Mr. Madero of his 4<sup>th</sup> Amendment rights of privacy and against unreasonable search

331. Mr. Madero suffered damages as a result of Officer Luffey, Gentert, and HCMT's conduct.

**COUNT II – §1983 Claim – 4<sup>th</sup> Amendment – Illegal Search  
Against Officer Luffey, Gentert, Provident, HCMT**

332. All forgoing paragraphs are incorporated herein by reference.

333. Officer Luffey was acting under color of state law on June 30, 2017, when she executed on the search and seizure warrant at 5223 Lytle Street.

334. Gentert and Provident were acting under color of state law on June 30, 2017, when they assisted, at the direction and under the control of Officer Luffey, with the execution of the search and seizure warrant at 5223 Lytle Street.

335. HCMT, acting through Gentert and Provident, was acting under color of state law on June 30, 2017, when Gentert and Provident assisted with the execution of the search and seizure warrant at 5223 Lytle Street, as it was HCMT's custom and practice to utilize its volunteers in connection with the execution of search and seizure warrants on behalf of Officer Luffey and the Pittsburgh Police.

336. Officer Luffey, Gentert, Provident, and HCMT ("the Execution Team") deprived Mr. Madero of his federal rights on June 30, 2017, when the Execution Team executed upon an illegally-obtained search and seizure warrant at 5223 Lytle Street.

337. Officer Luffey, Gentert, and HCMT knew the search and seizure warrant was procured using illegally-obtained information from the June 15, 2017, illegal entry.

338. Upon information and belief, Provident knew the search and seizure warrant was procured using illegally-obtained information from the June 15, 2017, illegal entry.

339. As of June 30, 2017, it was clearly established that law enforcement could not rely upon illegally obtained evidence to support a search and seizure warrant.

340. Neither federal nor Pennsylvania law as of June 30, 2017, allowed the Execution Team to rely upon or execute upon a search and seizure warrant, based upon illegally-obtained evidence.

341. Officer Luffey knew as of June 30, 2017, that neither federal nor Pennsylvania law allowed her to rely upon or execute upon a search and seizure warrant, based upon illegally-obtained evidence.

342. Gentert, Provident, and HCMT, who were operating at the direction of Officer Luffey, knew as of June 30, 2017, that neither federal nor Pennsylvania law allowed them to rely upon or execute upon a search and seizure warrant, based upon illegally-obtained evidence.

343. The Execution Team deprived Mr. Madero of his 4<sup>th</sup> Amendment rights of privacy and against unreasonable search.

344. Mr. Madero suffered damages as a result of the Execution Team's conduct.

**COUNT III – §1983 Claim – 4<sup>th</sup> Amendment – Illegal Search  
Against Officer Luffey, Gentert, Provident, HCMT**

345. All forgoing paragraphs are incorporated herein by reference.

346. Officer Luffey was acting under color of state law on June 30, 2017, when she executed on the search and seizure warrant at issue in this case.

347. Gentert and Provident were acting under color of state law on June 30, 2017, when they assisted, at the direction and under the control of Officer Luffey, with the execution of the search and seizure warrant at issue in this case.

348. HCMT, acting through Gentert and Provident, was acting under color of state law on June 30, 2017, when Gentert and Provident assisted with the execution of the search and seizure warrant at issue in this case, as it was HCMT's custom and practice to utilize its volunteers in connection with the execution of search and seizure warrants on behalf of Officer Luffey and the Pittsburgh Police.

349. The Execution Team deprived Mr. Madero of his federal rights on June 30, 2017, when the Execution Team exceeded the scope of the search and seizure warrant at issue in this case.

350. The search warrant at issue in this case was limited to 5223 Lytle Street.

351. The Execution Team knew the search warrant at issue in this case was limited to 5223 Lytle Street.

352. Officer Luffey directed Gentert and Provident to seize two cats that were on the porch of 5221 ½ Lytle Street.

353. Gentert and Provident followed Officer Luffey's direction and seized two cats from the porch of 5221 ½ Lytle Street.

354. 5221 ½ was not covered by the search and seizure warrant at issue in this case.

355. Officer Luffey seized from Mr. Madero's car 5 cats that just had received veterinary care and spay or neuter surgery, paid for by Mr. Madero.

356. Mr. Madero's car was not covered by the search and seizure warrant at issue in this case.

357. Officer Luffey also contacted Animal Friends and directed that Animal Friends not return 5 cats to Mr. Madero but transport them to HAR, even though Mr. Madero had taken those cats into Animal Friends for veterinary care and spay or neuter surgery, for which Mr. Madero paid.

358. Animal Friends was not covered by the search and seizure warrant at issue in this case.

359. As of June 30, 2017, it was clearly established that law enforcement could not exceed the scope of a search and seizure warrant.

360. Neither federal nor Pennsylvania law as of June 30, 2017, allowed the Execution Team to exceed the scope of a search and seizure warrant.

361. Officer Luffey knew as of June 30, 2017, that neither federal nor Pennsylvania law allowed her to exceed the scope of a search and seizure warrant.

362. Gentert, Provident, and HCMT, who were operating at the direction of Officer Luffey, knew as of June 30, 2017, that neither federal nor Pennsylvania law allowed them to exceed the scope of a search and seizure warrant.

363. By exceeding the scope of the search and seizure warrant at issue here, even if it were valid, the Execution Team deprived Mr. Madero of his 4<sup>th</sup> Amendment rights of privacy and against unreasonable search.

364. Mr. Madero suffered damages as a result of the Execution Team's conduct.

**COUNT IV – §1983 Claim – 14<sup>th</sup> Amendment – Seizure of Cats  
Against Officer Luffey, Gentert, Provident, HCMT**

365. All forgoing paragraphs are incorporated herein by reference.

366. The Execution Team deprived Mr. Madero of his property interests without due process of law on June 30, 2017.

367. Mr. Madero had a property interest in the cats seized by the Execution Team and ACC on June 30, 2017.

368. Mr. Madero had a property interest in the 5 cats seized by Officer Luffey that were at Animal Friends on June 30, 2017.

369. The Execution Team deprived Mr. Madero of his property interest in the cats seized on June 30, 2017.

370. None of the cats were returned to Mr. Madero.

371. Prior to the search, the Execution Team knew that none of the cats they seized on June 30, 2017, would be returned to Mr. Madero.

372. Prior to the search, the Execution Team knew that the cats they seized on June 30, 2017, would be killed and would not receive proper care at HAR.

373. The Execution Team deprived Mr. Madero of his federal rights on June 30, 2017, when they violated the scope of the illegally-obtained search and seizure warrant, which was limited to 5223 Lytle Street, by seizing cats from 5221 ½ Lytle Street.

374. The Execution Team deprived Mr. Madero of his federal rights on June 30, 2017, when they violated the scope of the illegally-obtained search and seizure warrant, which was limited to 5223 Lytle Street, by seizing 5 cats from Mr. Madero's car.

375. Officer Luffey deprived Mr. Madero of his federal rights on June 30, 2017, when she violated the scope of the illegally-obtained search and seizure warrant, which was limited to 5223 Lytle Street, by contacting Animal Friends and directing that Animal Friends transport 5 cats directly to HAR and not return them to Mr. Madero.

376. The Execution Team deprived Mr. Madero of his 14<sup>th</sup> Amendment rights.

377. Mr. Madero suffered damages as a result of the Execution Team's conduct.

**COUNT V – §1983 Claim – 14<sup>th</sup> Amendment – Slaughter of Cats/  
Failure to Provide Care  
Against Officer Luffey, Gentert, Provident, HCMT, HAR, Hughes, Wilson, Neumah,  
Anderson, Serbin, Klingensmith, and Shively**

378. All forgoing paragraphs are incorporated herein by reference.

379. Mr. Madero had a property interest in the 42 cats transported to HAR on June 30, 2017, and July 1, 2017.

380. Mr. Madero did not surrender any of the 42 cats at issue.

381. None of the 42 cats were returned to Mr. Madero.

382. The Execution Team knew that Mr. Madero did not surrender the cats.

383. Prior to the search, the Execution Team knew that the 42 cats seized would not be returned to Mr. Madero.

384. Prior to the search, the Execution Team knew that some or all of the 42 cats seized would be killed and would not receive proper care at HAR.

385. The Execution Team failed to provide water, proper shelter, or basic trapping care on June 30, 2017, when they seized 37 of the cats at issue.

386. HAR, Hughes, Wilson, Neumah, Anderson, Serbin, Klingensmith, and Shively (“the Kill Team”) knew that Mr. Madero did not surrender the 42 cats at issue.

387. The Kill Team ignored facts that demonstrated Mr. Madero did not surrender the 42 cats at issue.

388. The Kill Team failed to provide veterinary care to the 42 cats at issue.

389. The Kill Team failed to ensure that the 42 cats at issue received veterinary care.

390. The Kill Team authorized, or participated in, the killing of several of the 42 cats at issue, without notice to Mr. Madero, despite the fact that Mr. Madero did not surrender those cats and despite the fact that the cats were not suffering from a condition from which recovery was impossible and despite the fact the cats were evidence in an on-going criminal matter.

391. In fact, all of the cats killed by the Kill Team were suffering from veterinary issues (if any) that were treatable, and most from minor illnesses such as upper respiratory infections, that could be treated easily.

392. The Kill Team failed to provide veterinary treatment to 28 of the cats they housed in small cages in a windowless room, despite the fact that Klingensmith documented the need for veterinary treatment in her July 11, 2017 exam notes.

393. The Execution Team and the Kill Team violated Mr. Madero's rights under the 14<sup>th</sup> Amendment by slaughtering many of the cats seized from Mr. Madero.

394. Mr. Madero has suffered damages as a result of the forgoing conduct.

**COUNT VI – §1983 Claim – 14<sup>th</sup> Amendment – Disposal of Cats  
Against Officer Luffey, HAR, Wilson, Nuemah, Shively**

395. All forgoing paragraphs are incorporated herein by reference.

396. Mr. Madero had a property interest in the 42 cats transported to HAR on June 30, 2017, and July 1, 2017.

397. Mr. Madero did not surrender any of the 42 cats at issue.

398. None of the 42 cats were returned to Mr. Madero.

399. Officer Luffey knew that Mr. Madero did not surrender the cats.

400. Prior to the search, Officer Luffey knew that the 42 cats seized would not be returned to Mr. Madero.

401. HAR, Wilson, Neumah, and Shively knew that Mr. Madero did not surrender the 42 cats at issue.

402. HAR, Wilson, Neumah, and Shively ignored facts that demonstrated Mr. Madero did not surrender the 42 cats at issue.

403. Officer Luffey, HAR, Wilson, Neumah, and Shively violated Mr. Madero's rights under the 14<sup>th</sup> Amendment by failing to return any of the 42 cats to him.

404. Mr. Madero has suffered damages as a result of the forgoing actions.

**COUNT VII – Fraudulent Inducement/Misrepresentation  
Against Officer Luffey, Gentert, HAR**

405. All forgoing paragraphs are incorporated herein by reference.

406. Officer Luffey, Gentert, and HCMT (acting through Gentert) fraudulently induced Mr. Madero into allowing Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

407. Officer Luffey represented to Mr. Madero that she had a search warrant to enter 5223 Lytle Street and 5221 ½ Lytle Street.

408. Gentert did not tell Mr. Madero that Officer Luffey did not have a search warrant.

409. Officer Luffey represented to Mr. Madero that she had the right to break down his door if Mr. Madero did not allow Officer Luffey or Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

410. Gentert did not tell Mr. Madero that Officer Luffey did not have the right to break down his door.

411. Each of the forgoing representations or failure to provide information was material to Mr. Madero allowing Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

412. When Officer Luffey said she had a search warrant to enter, she knew that statement was false.

413. When Officer Luffey said she had a search warrant to enter, Gentert knew that statement was false or was reckless in not knowing of it was false.

414. When Officer Luffey said she could break down the door to enter, she knew it to be a false statement or was reckless in not knowing if it was false.

415. When Officer Luffey said she could break down the door to enter, Gentert knew that statement was false or was reckless in not knowing of it was false.

416. Officer Luffey made each representation with the intent of misleading Mr. Madero into relying on those representations and allowing entry to 5223 Lytle Street and 5221 ½ Lytle Street.

417. Officer Luffey failed to advise Mr. Madero that Gentert, and ultimately HCMT, were acting at Officer Luffey's direction and control and, thus, was acting as Officer Luffey's agent under color of law while at 5223 Lytle Street and 5221 ½ Lytle Street.

418. Officer Luffey knew or should have known that by failing to advise Mr. Madero of Gentert's status, she was misrepresenting facts material to Mr. Madero's decision to allow entry to 5223 Lytle Street and 5221 ½ Lytle Street.

419. Officer Luffey had a duty to advise Mr. Madero of Gentert's true status.

420. Gentert and HCMT failed to advise Mr. Madero that Gentert, and ultimately HCMT, were acting at Officer Luffey's direction and control and, thus, was acting as Officer Luffey's agent under color of law while at 5223 Lytle Street, and 5221 ½ Lytle Street.

421. Gentert and HCMT knew or should have known that by failing to advise Mr. Madero (i) of Gentert's status, (ii) that Officer Luffey did not have a search warrant, and (iii) that Officer Luffey could not break down his door, they were misrepresenting facts material to Mr. Madero's decision to allow entry to 5223 Lytle Street and 5221 ½ Lytle Street.

422. Gentert had a duty to advise Mr. Madero of those items.

423. The failure to advise as to those items was material to Mr. Madero's decision to allow her entry to 5223 Lytle Street and 5221 ½ Lytle Street.

424. Mr. Madero justifiably relied upon Officer Luffey's foregoing representations and Officer Luffey and Gentert's foregoing failures to advise in deciding to allow Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

425. Mr. Madero suffered injuries as a result of his reliance on Officer Luffey, Gentert, and HCMT's misrepresentations.

**COUNT VIII - Negligent Inducement/Misrepresentation  
Against Officer Luffey, Gentert, HAR**

426. All forgoing paragraphs are incorporated herein by reference.

427. Officer Luffey, Gentert, and HCMT (acting through Gentert) negligently induced Mr. Madero into allowing Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

428. Officer Luffey represented to Mr. Madero that she had a search warrant to enter 5223 Lytle Street and 5221 ½ Lytle Street.

429. Gentert did not tell Mr. Madero that Officer Luffey did not have a search warrant.

430. Officer Luffey represented to Mr. Madero that she had the right to break down his door if Mr. Madero did not allow Officer Luffey or Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

431. Gentert did not tell Mr. Madero that Officer Luffey did not have the right to break down his door.

432. Each of the forgoing representations or failures to provide information was material to Mr. Madero allowing Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

433. When Officer Luffey said she had a search warrant to enter, she knew that statement was false.

434. Alternatively, when Officer Luffey said she had a search warrant to enter, she made the misrepresentation under circumstances in which she should have known that statement was false.

435. Officer Luffey told Mr. Madero that she had a search warrant, Gentert knew or should have known that statement was false.

436. When Officer Luffey said she could break down the door to enter, she knew it to be a false statement.

437. Alternatively, when Officer Luffey said she could break down the door to enter, she made the misrepresentation without knowledge of the truth or falsity of the misrepresentation and failed to make a reasonable investigation of the truth of her misrepresentation.

438. Also in the alternative, when Officer Luffey said she could break down the door to enter, she made the misrepresentation under circumstances in which she should have known that statement was false but failed to make a reasonable investigation of the truth of her misrepresentation.

439. When Officer Luffey told Mr. Madero she could break down the door to enter, Gentert knew or should have known that statement was false.

440. Officer Luffey made each representation with the intent of inducing Mr. Madero into relying on them so that he would allow entry to 5223 Lytle Street and 5221 ½ Lytle Street.

441. Officer Luffey, Gentert, and HCMT negligently induced Mr. Madero into allowing Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017, by failing to disclose to Mr. Madero that Gentert was acting at the direction of Officer Luffey and the Pittsburgh Police.

442. Officer Luffey failed to advise Mr. Madero that Gentert, and ultimately HCMT, were acting at Officer Luffey's direction and control and, thus, was acting as Officer Luffey's agent under color of law while at 5223 Lytle Street and 5221 ½ Lytle Street.

443. Officer Luffey knew or should have known that by failing to advise Mr. Madero of Gentert's true status, she was misrepresenting facts material to Mr. Madero's decision to allow Gentert to enter 55223 Lytle Street and 5221 ½ Lytle Street.

444. Gentert and HCMT failed to advise Mr. Madero that Gentert, and ultimately HCMT, were acting at Officer Luffey's direction and control and, thus, was acting as Officer Luffey's agent under color of law while at 5223 Lytle Street and 5221 ½ Lytle Street.

445. Alternatively, when Officer Luffey failed to advise Mr. Madero that Gentert, and ultimately HCMT, were acting at Officer Luffey's direction and control, and, thus, was acting as Officer Luffey's agent under color of law, she failed to make a reasonable investigation as to whether that failure would be considered to be material to Mr. Madero's decision to allow Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

446. Gentert and HCMT knew or should have known that by failing to advise Mr. Madero (i) of Gentert's true status, (ii) that Officer Luffey did not have a search warrant, and (iii) that Officer Luffey could not break down his door, they were misrepresenting facts material to Mr. Madero's decision to allow Gentert to enter 55223 Lytle Street and 5221 ½ Lytle Street.

447. When Gentert and HCMT failed to advise Mr. Madero (i) of Gentert's true status, (ii) that Officer Luffey did not have a search warrant, and (iii) that Officer Luffey could not break down his door, and they failed to make a reasonable investigation as to whether those failures would be considered to be material to Mr. Madero's decision to allow Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

448. Officer Luffey had a duty to advise Mr. Madero of Gentert's true status.

449. Gentert and HCMT had a duty to advise Mr. Madero (i) of Gentert's true status, (ii) that Officer Luffey did not have a search warrant, and (iii) that Officer Luffey could not break down his door.

450. Mr. Madero justifiably relied upon Officer Luffey's representations and failure to advise as to Gentert's true status in deciding to allow Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

451. Mr. Madero justifiably relied upon Gentert and HCMT's failure to advise (i) of Gentert's true status, (ii) that Officer Luffey did not have a search warrant, and (iii) that Officer Luffey did not have a right to break down his door, in deciding to allow Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

452. Mr. Madero suffered injuries as a result of his reliance on Officer Luffey's, Gentert's, and HCMT's misrepresentations.

**COUNT IX – Concerted Tortious Conduct – Illegal Search  
Against Officer Luffey, Gentert, and HCMT**

453. All forgoing paragraphs are incorporated herein by reference.

454. Gentert accompanied Officer Luffey to 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

455. Gentert was acting at Officer Luffey's direction at 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

456. Gentert also was acting on behalf of HCMT at 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

457. Officer Luffey and Gentert, acting in concert, went to 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017, with a common design.

458. Officer Luffey and Gentert went to 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017, with an agreement to cooperate in a line of conduct to accomplish a particular result.

459. Officer Luffey and Gentert went to 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017, agreeing to do whatever it took, including lying to Mr. Madero, to convince Mr. Madero to allow Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

460. Officer Luffey made numerous misrepresentations to Mr. Madero. *See, e.g.*, ¶¶ 84-90, 97-104, *supra*.

461. When Officer Luffey made those misrepresentations to Mr. Madero, Gentert knew those representations were lies.

462. Gentert did not contradict Officer Luffey on the lies.

463. Gentert did not advise Mr. Madero that Officer Luffey's representations were untrue.

464. Gentert knew Officer Luffey's conduct breached Officer Luffey's duty to Mr. Madero.

465. Gentert gave substantial assistance to Officer Luffey relative to the misrepresentations to Mr. Madero.

466. Gentert's conduct also constitutes a breach of her duty to Mr. Madero given that she misrepresented to him she was there to help him with veterinary care for the cats.

467. Instead, Gentert was there with the purpose of gathering evidence to bring criminal charges against Mr. Madero.

468. Officer Luffey did not contradict Gentert's lie as to Gentert's purpose in being there on June 15, 2017.

469. Officer Luffey did not advise Mr. Madero that Gentert's representations as to her purpose in being there on June 15, 2017, were untrue.

470. Officer Luffey knew Gentert's conduct breached Gentert's duty to Mr. Madero.

471. Officer Luffey gave substantial assistance to Gentert relative to the misrepresentation to Mr. Madero.

472. As noted above, Gentert and HCMT were not interested in helping Mr. Madero with veterinary care for the cats as demonstrated by, among other things, the fact that Gentert refused to return any of Mr. Maderos's numerous calls. *See, e.g.*, ¶¶ 126-128, *supra*.

473. Officer Luffey's own conduct in lying to Mr. Madero and threatening Mr. Madero, considered separately, constituted a breach of a duty to Mr. Madero.

474. Gentert's own conduct in lying to Mr. Madero, considered separately, constituted a breach of a duty to Mr. Madero.

475. HCMT's own conduct, acting through Gentert, in lying to Mr. Madero, constituted a breach of a duty to Mr. Madero.

476. Officer Luffey, Gentert, and HCMT each committed wrongful acts in lying to Mr. Madero, threatening Mr. Madero, and allowing misrepresentations to be made, which caused a single, indivisible harm to Mr. Madero – a violation of his 4<sup>th</sup> and 14<sup>th</sup> Amendment rights, violation of other rights secured by Pennsylvania law, and other damages, including emotional harm.

477. Mr. Madero suffered damages as a result of Officer Luffey, Gentert, and HCMT's concerted tortious conduct.

**COUNT X – Conspiracy – Illegal Search  
Against Officer Luffey, Gentert, HCMT**

478. All forgoing paragraphs are incorporated herein by reference.

479. Officer Luffey, Gentert, and HCMT (acting through Gentert) conspired to conduct an illegal search of 5223 Lytle Street and 5221 ½ Lytle Street, with an intent to cause damages to Mr. Madero.

480. Gentert accompanied Officer Luffey to 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

481. Gentert was acting at Officer Luffey's direction at 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

482. Gentert also was acting on behalf of HCMT at 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017.

483. Officer Luffey and Gentert went to 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017, with an agreement to cooperate in a line of conduct to accomplish a particular result.

484. Officer Luffey and Gentert went to 5223 Lytle Street and 5221 ½ Lytle Street on June 15, 2017, agreeing to do whatever it took, including lying to Mr. Madero, to convince Mr. Madero to allow Gentert to enter 5223 Lytle Street and 5221 ½ Lytle Street.

485. Officer Luffey and Gentert knew that lying to Mr. Madero might allow them to enter 5223 Lytle Street and 5221 ½ Lytle Street, which might be a lawful activity with actual consent (or a search warrant or exigent circumstances).

486. Officer Luffey and Gentert knew that, when they did not have a search warrant, they would be lying and/or threatening to Mr. Madero to get him to allow entry, which was not lawful.

487. Officer Luffey, Gentert, and HCMT committed the forgoing actions with the intent to injure Mr. Madero.

488. Mr. Madero suffered damages as a result of Officer Luffey, Gentert, and HAR's actions.

**COUNT XI – Conversion – Cats  
Against Officer Luffey, Gentert, Provident, HCMT, HAR, Wilson, Anderson, Hughes,  
Serbin, Neumah, Klingensmith, and Shively**

489. All forgoing paragraphs are incorporated herein by reference.

490. The 42 cats at issue were property of Mr. Madero.

491. Mr. Madero did not relinquish his property interest in any of the 42 cats.

492. None of the 42 cats at issue were returned to Mr. Madero.

493. Many of the 42 cats were slaughtered.

494. The Execution Team exercised control over Mr. Madero's property, without his consent, when they seized the 42 cats at issue.

495. The Kill Team exercised control over Mr. Madero's property, without his consent, when they, among other things, slaughtered many of the cats, failed to provide

veterinary treatment to any of the cats, kept many of the cats in small cages in windowless rooms for weeks without veterinary treatment, and failed to return any of the cats to Mr. Madero.

496. Even if the Kill Team or any of them believed Mr. Madero had surrendered the cats, he did not.

497. Therefore, the fact that the Kill Team or any of them exercised control of Mr. Madero's property, they converted his property. *See, e.g., Underhill Coal Min. Co. v. Hixon*, 652 A.2d 343, 345 (Pa.Super. 1994); *Bank of Landisburg v. Burruss*, 524 A.2d 896, 899 (Pa.Super. 1987).

498. Mr. Madero has suffered damages as a result of the actions of Officer Luffey, Gentert, Provident, HCMT, HAR, Wilson, Anderson, Hughes, Serbin, Neumah, Klingensmith, and Shively.

**COUNT XII – Trespass to Chattel – Cats  
Against Officer Luffey, Gentert, Provident, HCMT, HAR, Wilson, Anderson, Hughes,  
Serbin, Neumah, Klingensmith, and Shively**

499. All forgoing paragraphs are incorporated herein by reference.

500. The 42 cats at issue were property of Mr. Madero.

501. Mr. Madero did not relinquish his property interest in any of the 42 cats.

502. None of the 42 cats at issue were returned to Mr. Madero.

503. Many of the 42 cats were slaughtered.

504. The Execution Team without his consent, dispossessed Mr. Madero of his 42 cats when they seized the cats pursuant to a warrant they knew or should have known was obtained by illegal means.

505. The Kill Team without his consent, dispossessed Mr. Madero of his 42 cats when they killed and/or failed to return the 42 cats at issue in this case.

506. The Kill Team used or intermeddled with Mr. Madero's cats, without his consent, when they, among other things, slaughtered many of the cats, failed to provide veterinary care to any of the cats, kept many of the cats in small cages in windowless rooms for weeks without veterinary treatment, and failed to return any of the cats to Mr. Madero.

507. Mr. Madero has suffered damages as a result of the actions of Officer Luffey, Gentert, Provident, HCMT, HAR, Wilson, Anderson, Hughes, Serbin, Neumah, Klingensmith, and Shively.

**COUNT XIII – Conspiracy – “Surrender”  
Against Officer Luffey, Gentert, HCMT**

508. All forgoing paragraphs are incorporated herein by reference.

509. Officer Luffey, Gentert, and HCMT (acting through Gentert) conspired to create the impression that Mr. Madero surrendered his rights to the cats taken from near 5223 Lytle Street and his car on June 30, 2017, and from Animal Friends shortly thereafter.

510. Mr. Madero did not surrender the cats.

511. Telling HAR that Mr. Madero surrendered the cats, and thereby forgoing his rights in those cats, when he did not surrender the cats is an unlawful act.

512. Including false statements, such as a statement that Mr. Madero surrendered his rights in the cat illegally seized when he did not, in a criminal complaint is an unlawful act.

513. Forging Mr. Madero's signature on a written document is an unlawful act.

514. Forging Mr. Madero's signature on a written document purporting to surrender his rights in the illegally seized cats, to support a prior statement to HAR and a claim in a criminal complaint, is an unlawful act.

515. Officer Luffey, Gentert, and HCMT engaged in this conduct with an intent to injure Mr. Madero.

516. As a result of the conspiracy between Officer Luffey, Gentert, and HCMT to create a surrender by Mr. Madero, many of Mr. Madero's cats were slaughtered by HAR and the rest were deprived veterinary treatment and then disposed of and not returned to Mr. Madero.

517. Also as a result of the conspiracy between Officer Luffey, Gentert, and HCMT to create a surrender by Mr. Madero, an arrest warrant was issued that results in significant harm, including emotional harm, to Mr. Madero.

518. The existence of a forged document in the official police or other governmental files, *e.g.*, those of the District Attorney, has resulted in harm to Mr. Madero.

519. Mr. Madero has suffered significant harm as a result of the conspiracy.

**COUNT XIV – Concerted Tortious Conduct – “Surrender”  
Against Officer Luffey, Gentert, HCMT**

520. All forgoing paragraphs are incorporated herein by reference.

521. Mr. Madero suffered harm that resulted from the tortious conduct of Officer Luffey, Gentert, and HCMT as detailed above.

522. Officer Luffey, Gentert, and HCMT acted in concert to perpetuate the belief that Mr. Madero surrendered his rights in the cats illegally seized.

523. Officer Luffey, Gentert, and HCMT acted with a common purpose or design to perpetuate the belief that Mr. Madero surrendered his rights in the cats illegally seized.

524. Officer Luffey knew that Gentert and HCMT's actions in creating a forged surrender was wrongful and breached a duty owed to Mr. Madero but she encouraged and gave substantial assistance to Gentert and HCMT to create the forgery.

525. Officer Luffey's encouragement and assistance included the fact that she referenced the forged document in her Criminal Complaint.

526. Gentert and HCMT knew that Mr. Madero did not surrender his rights in the cats illegally seized but they encouraged and gave substantial assistance to perpetuating the belief that he had done so.

527. Alternatively, Gentert and HCMT gave substantial assistance to Officer Luffey by creating a forged surrender document that Officer Luffey could rely upon in drafting her Criminal Complaint.

528. It is irrelevant if Officer Luffey, Gentert, or HCMT did not know their specific conduct was tortious or wrongful.

529. Officer Luffey's own conduct in perpetuating the belief that Mr. Madero surrendered his rights in the cats illegally seized, considered separately, constituted a breach of a duty to Mr. Madero.

530. Gentert's own conduct in perpetuating the belief that Mr. Madero surrendered his rights in the cats illegally seized, considered separately, constituted a breach of a duty to Mr. Madero.

531. HCMT's own conduct, acting through Gentert, in perpetuating the belief that Mr. Madero surrendered his rights in the cats illegally seized, constituted a breach of a duty to Mr. Madero.

532. Officer Luffey, Gentert, and HCMT each committed wrongful acts in perpetuating the belief that Mr. Madero surrendered his rights in the cats illegally seized, which caused a single, indivisible harm to Mr. Madero – a violation of his 4<sup>th</sup> and 14<sup>th</sup> Amendment rights, violation of other rights secured by Pennsylvania law, and other damages, including emotional harm.

533. Mr. Madero suffered damages as a result of Officer Luffey, Genert, and HCMT's conduct.

WHEREFORE, Mr. Madero has suffered significant harm at the hands of Officer Luffey, Gentert, Provident, HCMT, HAR, Wilson, Anderson, Hughes, Serbin, Neumah, Klingensmith, and Shively when they each committed the forgoing wrongful, illegal, tortious, and outrageous conduct. Each of the defendants acted with malice toward Mr. Madero, necessitating the award of punitive damages. Accordingly, Mr. Madero requests that this Honorable Court enter judgment in his favor, award him compensatory damages

sufficient to address and remedy the multitude of wrongs he has suffered, award attorneys fees and costs, award punitive damages, and award any other relief that this Court believes is necessary and proper to make Mr. Madero whole and/or to prevent these defendants and others from engaging in similar wrongful conduct in the future.

Respectfully submitted,

Dated: June 14, 2019

s/Jeremy A. Mercer

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