

DAISHA CHILDRESS,  
*Plaintiff,*

v.

CHAD EDWARD SNYDER, JENNIFER  
SUZANNE SNYDER, AND LEGACY  
BOXER RESCUE, INC.  
*Defendant*

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IN THE COUNTY COURT OF

TARRANT COUNTY, TEXAS

COUNTY COURT AT LAW NO. 2

**BRIEF OF AMICUS CURIAE AUSTIN BOXER RESCUE IN SUPPORT OF  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE COURT:

COMES NOW, AMICUS CURIAE Austin Boxer Rescue (“ABR”), and respectfully files this its brief in support of Defendants’ Motion for Summary Judgment and would show unto the Court as follows.

**I. INTRODUCTION**

ABR respectfully argues that the Court should recognize that the Plaintiff’s ownership rights of the Boxer dog at issue were terminated in accordance to the local Glen Rose and Hood County ordinances, and that ownership of the dog transferred to Defendant Legacy Boxer Rescue and, eventually, upon adoption, to Defendants Chad and Jennifer Snyder.

A decision reversing the adoption, over a year after the dog initially ran away, would be exceedingly disruptive not only to the Snyders, but also to the entire network of animal rescue organizations and to most potential adopters. The costs and risks associated with an adoption would likely deter organizations and individuals from stepping forward to care for and save the lives of thousands of dogs (and cats) at risk. The result would be that countless lost, neglected or abused pets would not be rescued or adopted, leading to a dramatic increase in the euthanizing of these animals. ABR respectfully asks the Court to prevent this case from being the first step toward that outcome.

## II. INTEREST OF AMICUS CURIAE

Austin Boxer Rescue (“ABR”), located in Austin Texas, is a non-profit organization that is made up almost entirely of volunteers who are dedicated to removing dogs from bad situations and placing them into loving permanent homes. ABR receives dogs from shelters, owners, and dogs found as strays. In the case of strays, ABR accepts dogs that are first processed through a shelter as being unclaimed. The dogs in rescue are rehabilitated medically, socialized and are taught basic manners. ABR services Austin, San Antonio, Temple, and the surrounding areas.

ABR’s mission is “[t]o balance the health, safety, and welfare needs of canines in the Central Texas area by providing nourishment and a safe environment for unwanted, stray, abused, and impounded Boxers. Once placed in new homes they become more than just pets, they become family.”

Every Boxer that comes into ABR’s rescue receives the following: tested for heartworms, dewormed, brought up to date on vaccinations, micro-chipped and spay/neutered. Many of these animals come to ABR with more serious conditions including leg and hip problems, heartworm disease, mange, or ailments related to previous abuse and/or neglect. Through ABR’s network of veterinarians, adoption fees, and the generous donations received from the public, ABR is able to provide these animals with the care and attention they deserve. 100% of ABR’s proceeds go directly back into the dogs and ABR is run almost entirely by volunteers.

In 2018, ABR rescued 470 Boxer and Boxer-mix breed dogs. Out of those, 337 dogs were adopted. At the end of the year, 88 dogs remained available for adoption, and 46 dogs, unfortunately, died during the year (8 euthanized for severe aggression, 38 died naturally or were euthanized for terminal medical conditions). From 2010 to the present, ABR has

successfully placed at least 300 dogs in adoption every year. Some years the numbers have surpassed 400. One year, ABR adopted out 521 dogs.

For the past several years, approximately 5% of dogs that ABR rescues (or fewer) are surrendered to ABR directly by the dog's owner.

From time to time, an adoption is not successful because the dog and its family do not adapt well to each other. In those situations, the dogs return to ABR's program to be placed for adoption again. One of the terms of every ABR adoption contract is that the adopter must return the dog to ABR if the family cannot keep the dog or does not care for the dog responsibly. Defendant Legacy Boxer Rescue appears to make this a term of its own adoption contracts as well. *See* Subject to the Motion to Dismiss for Want of Jurisdiction Defendants' Motion for Summary Judgment as to Plaintiff's Claims [hereinafter "Ds' MSJ"] at Exhibit D-2 ¶¶ II, VII-VIII. In this way, ABR tries to ensure that no dog that has gone through its program will return to a situation risking loss, abandonment, neglect or abuse.

ABR will pay a fee for the preparation of this amicus brief. No part of this brief was prepared by any party to this case.

**III. THE COURT SHOULD RECOGNIZE THAT THE PLAINTIFF'S OWNERSHIP OF THE DOG WAS LAWFULLY TERMINATED, TRANSFERRED TO DEFENDANT LEGACY BOXER RESCUE AND, EVENTUALLY, TO SNYDERS**

In this brief, ABR does not address the parties' arguments relating to local and/or county ordinances and their legal effect on the ownership of the dog. Instead, ABR will focus its arguments on the policy implications at stake in the Court's decision.

ABR's understanding of the facts of the case is as follows. The Boxer dog in question escaped from the Plaintiff's home in April 2018. Plaintiff's Second Amended Petition and Written Discovery [hereinafter "P's 2d Amd Pet"] at ¶ 7. The dog was impounded by the city of Glen Rose on or about April 22, 2018. Ds' MSJ at ¶¶ 2.1-2.2 & Exhibit B ¶¶ 3-5. The dog did not have a microchip or tags. Ds' MSJ at Exhibit B ¶ 5. After 12 days, the dog was

transferred to the Hood County Animal Shelter. Ds' MSJ at ¶ 2.7. After approximately 12 more days, the dog was transferred from the Hood County Animal Shelter to Defendant Legacy Boxer Rescue. Ds' MSJ at Exhibit C-1 & D-1. Between May 16 and July 3, 2018, the dog was placed in foster homes, until Defendants Chad and Jennifer Snyder adopted him. Ds' MSJ ¶¶ 2.14-2.15. Documents filed in support of Defendant' Motion for Summary Judgment suggest that the Plaintiff was advised to contact Defendant Legacy Boxer Rescue on or about April 23, 2018. Ds' MSJ at Exhibit A & Exhibit D ¶ 10. The Plaintiff first contacted Legacy Boxer Rescue on January 17, 2019, approximately 9 months after the dog ran away and over 6 months after he was adopted by the Snyders. Ds' MSJ at Exhibit D ¶ 15.

ABR respectfully argues that, once a dog has been transferred to a shelter or animal rescue organization, and the time limits established by ordinance that specify when the shelter or rescue can destroy or transfer the dog have passed, the dog's previous owner(s) should have no recourse to force the rescue organization or the dog's new family to return the dog.

Once the dog is in the possession and ownership of an adoption organization, the focus is on returning the dog to full health (or as close to it as possible) and placing the dog with a foster and, eventually, an adoptive family. In many instances, the veterinary treatment that a dog receives is intensive and costly. In every situation, the dog is microchipped and spayed or neutered (if these precautionary measures have not been taken).

Rescued dogs may be housed in kennels or in foster homes for weeks or months prior to being adopted. This may be due to protracted veterinary treatment, or it may be because a successful adoption match has not yet occurred.

When a prospective adopter is interested in a dog, they typically must go through a rigorous screening process that includes most or all of the following: completing an

application, meeting in person with the rescue/adoption organization's staff or volunteers, attending an adoption event to meet available dogs, pass a home visit and be approved for adoption of a specific dog to which, after observation, the adopter appears best suited. *See, e.g.,* Ds' MSJ at Exhibit D ¶ 13.

In every instance, each dog that is rescued represents a significant investment of time, effort and expense by the rescue or adoption organization, its donors, its volunteers and the adopter(s). Most rescue and adoption organizations do not operate as profit-making entities. Veterinary treatment, foster care, food and other expenditures invested into rescue animals are often provided by volunteers at a *pro bono* or a steeply discounted price. Though organizations typically charge adoption fees, these do not fully compensate for the care, housing and veterinary treatment that the organization has invested in the dog. Some dogs are adopted during discounted-fee special events, meaning that a rescue organization recovers even less money on those adoptions. Some dogs are never adopted, representing an expense for the organization or a volunteer for the remaining life of the dog.

A previous owner's successful claim to set aside an adoption would represent an immense disruption to rescue/adoption organizations. Most importantly, the bonds of affection that have formed between the adopter and the dog would be shattered. Also significant would be the wasted expense and effort invested to heal and care for the dog prior to adoption (especially if the dog is to return to the circumstances that led to the dog running away, getting lost or being neglected or abused in the first place). Even *unsuccessful* attempts by previous owners to repossess the adopted dog would have significant disruptive repercussions. Ownership would always be in question. If adopters and rescue/adoption organizations have reason to fear costs of litigation, adoptions will inevitably be less likely. Why would anyone want to adopt from a rescue if there is even a remote risk that the family's new adopted member can be ripped away from them by a prior owner? *See* Francesca Ortiz,

*Looking for a Good Home: Balancing Interests in the Disposition of Impounded Animals to Owners and Rescues*, 67 SYRACUSE L. REV. 115, 165-166 (2017) [hereinafter “Ortiz”] (“One way to encourage cooperation is to assure transferees that the animals they obtain from the shelter carry good title, meaning that the transferee stands on firm legal ground if a prior owner seeks to reclaim an animal after the hold period.”).

Likewise, rescue/adoption organizations will be much less likely to rescue and care for lost or abandoned dogs for fear of incurring expenses that will not result in a successful adoption or, worse, place the organization at risk of incurring legal liability. *Id.* at 166 (“Failure to provide this assurance—such as with the situations that arose in *Graham* [*v. Notti*, 196 P.3d 1070, 1071 (Wash. Ct. App. 2008)] and *Lira* [*v. Greater Houston German Shepherd Dog Rescue, Inc.*, 488 S.W.3d 300, 303–05 (Tex. 2016) (per curiam)]—could chill future transfers if transferees refuse to work with the public shelters or seek to take only owner-surrendered animals to limit potential liability.”).

If any previous owner can recover a lost or abandoned dog weeks or months after an adoption, rescue organizations will avoid placing themselves at risk by steering clear of rescue situations that do not involve the dog’s owner surrendering the dog directly to the organization. Because owner-surrender rescues are not the norm (i.e., only 5% of dogs that ABR rescues, or fewer), rescue organizations will greatly diminish their rescue work (i.e., reduce it by 95% or more). Many rescue organizations would likely cease to operate altogether. Thousands of lost or abandoned dogs will not be adopted, inevitably leading to a dramatic increase in the number of dogs being euthanized. In such situations, everybody loses: of course, the dogs, potential adopters and previous owners like the plaintiff.

ABR is sensitive to the plaintiff’s situation. Most or all of ABR’s volunteers are dog owners themselves and know or can imagine the tragedy of losing a dog (whether to illness or other situations). However, there are basic safeguards that all dog owners can implement

to avoid (or minimize) the likelihood that a dog will escape or, once a dog escapes, that the owner cannot be found. These measures include placing a collar with a tag identifying the owner and contact information on the dog at all times and microchipping. *See Ortiz* at 167 (“Indeed, the owner is his or her own best protection against loss of an animal and the cheapest cost avoider in comparison to the shelter, adopter, or transferee, because the owner can license and tag the animal to facilitate receiving notice or avoid situations where the animal might escape from the owner’s possession.”). These preventive measures are relatively inexpensive, especially in comparison with the emotional toll of losing a dog, the monetary costs of litigation and the tragic results that, as explained above, would emanate from judicial decisions that reverse the successful rescue and adoption of a lost, neglected and/or abused dog.

#### IV. CONCLUSION AND PRAYER

For the foregoing reasons, ABR respectfully requests that the Court grant Defendants’ Motion for Summary Judgment.

Respectfully submitted,

/s/ Manuel Quinto-Pozos

Manuel Quinto-Pozos  
State Bar No. 24070459  
DEATS, DURST & OWEN, P.L.L.C.  
707 W. 34th St., Second Floor  
Austin, Texas 78705  
(512) 474-6200  
Fax No.: (512) 474-7896

Counsel for Amicus Curiae Austin Boxer Rescue

**JURAT**

My name is Liz Cahalan. I am the Applications Coordinator of Austin Boxer Rescue, my date of birth is April 30, 1954, and my address is c/o Austin Boxer Rescue, P.O. Box 14421, Austin, Texas 78761, Austin, Texas, 78761. I declare under penalty of perjury that the foregoing facts as they relate to Austin Boxer Rescue are true and correct.

Executed in Travis County, State of Texas on the 13th day of May, 2019.

Declarant

*Liz Cahalan*



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been delivered to counsel of record herein via electronic filing notification, facsimile and/or email on this the 13th day of May, 2019, to:

Randall E. Turner  
Susan Bleil  
Law Offices of Randall E. Turner,  
P.L.L.C.  
5017 El Campo Ave.  
Fort Worth, Texas 76107

Gary Lee Hach  
Hach Law Office  
312 W. Northwest Hwy, Suite B  
Grapevine, Texas 76051

April F. Robbins  
Kevin C. Smith  
BRACKETT & ELLIS, PC  
100 Main Street  
Fort Worth, Texas 76102-3090

Jennifer Nolte  
3838 Oak Lawn Suite 1100  
Dallas Texas 75219

L. Kelley Bishop  
3650 Lovell Ave.  
Fort Worth Texas 76107

/s/ Manuel Quinto-Pozos

Manuel Quinto-Pozos