

DAISHA CHILDRRESS	§	IN THE COUNTY COURT AT LAW
	§	
v.	§	
	§	COURT NO. TWO
CHAD EDWARD SNYDER, JENNIFER	§	
SUZANNE SNYDER AND LEGACY	§	
BOXER RESCUE, INC.	§	TARRANT COUNTY, TEXAS

PLAINTIFF'S SECOND AMENDED PETITION AND WRITTEN DISCOVERY

TO THE HONORABLE COURT:

Daisha Childress, Plaintiff, files this second amended petition complaining of Chad Edward Snyder and Jennifer Suzanne Snyder (hereinafter called "the Snyders") and Legacy Boxer Rescue, Inc. (hereinafter called "LBR") and in support of this petition will show the following:

Discovery Control Plan

1. Plaintiff intends for discovery to be conducted under a Level 3 Discovery Control Plan pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

Parties

2. Plaintiff is an individual residing in Hood County, Texas. The last three digits of her Texas driver's license number are 219 and the last three digits of her Social Security Number are 650.

3. Defendant, Chad Edward Snyder, is an individual residing in Collin County, Texas and may be served with process at 3012 Quail Hollow, McKinney, Texas.

4. Defendant, Jennifer Suzanne Snyder is an individual residing in Collin County, Texas and may be served with process at 3012 Quail Hollow, McKinney, Texas.

5. Defendant, Legacy Boxer Rescue, Inc. is a non-profit corporation in Texas and may be served with process by serving its registered agent, Sharon Sleighter, at 424 Plainview Drive Hurst, Texas 76054.

Jurisdiction and Venue

6. Pursuant to TEX. CIV. PRAC. & REM. CODE § 15.001(a)(3) venue is proper in Tarrant County, Texas because Legacy Boxer Rescue, Inc.'s principal office is in Tarrant County. The relief sought in this case is within the jurisdiction of this Court.

Facts of the case

7. Daisha Childress and her family own a boxer dog named “Tig.” Tig has been a loved and pampered four-legged member of the Childress family since the day he was brought home. In April of 2018 while Plaintiff and her family were packing up their belongings to move to another residence, Tig escaped from their back yard. The Childress family spent the next several weeks desperately searching for Tig. Their efforts included posting lost-dog notices on the internet and social media, calling veterinarians and animal shelters in the area, and recruiting friends to help them in their search.

8. Unbeknownst to the Childress family, the City of Glen Rose animal shelter had taken possession of Tig not long after he went missing. The animal shelter then transferred possession of Tig to Friends for Animals which transferred possession to the Hood County Animal Shelter. The Hood County Animal Shelter then transferred possession of Tig to Legacy Boxer Rescue which sold him to the Snyders.

9. The Childress family recently learned that the Snyders have Tig.¹ Daisha Childress pleaded with them to return Tig or to at least allow the Childress family to, “love on him one more time.” The Snyders refused to respond to her pleas. The Childress family is devastated and heartbroken that Tig is gone from their lives and that the Snyders will not return him or even allow them to see him one last time. Daisha Childress brings this lawsuit to get him back.

Request for Declaratory Judgment

10. The Supreme Court of Texas has held that pet dogs are “property in the eyes of the law” and a “special form of property.” *Strickland v. Medlen*, 397 S.W.3d 184, 185, 192 (Tex.2013). “A forfeiture of rights of property is not favored by the courts, and laws will be construed to prevent rather than to cause such a forfeiture.” *Id.* citing *Kirby Lake Dev., Ltd. v. Clear Lake City Water Auth.*, 320 S.W.3d 829, 842 (Tex.2010). The Supreme Court has held that “[t]his rule is surely applicable (to a pet dog impounded by a shelter) as ‘a beloved companion dog is not a fungible, inanimate object like, say, a toaster.’” *Lira v. Greater Houston German Shepard Dog Rescue, Inc.*, 488 S.W.3d 300, 304 (Tex. 2016), citing *Strickland*, 397 S.W.3d at 185-86.

11. Citing these cases, the Texas Supreme Court has held that the owner of a dog that is impounded by an animal shelter does not forfeit ownership unless an there is an ordinance that expressly provides for the owner to be divested of ownership. *Id.* An ordinance that simply allows the shelter to euthanize or adopt out an animal does not divest the dog owner of ownership. *Id.*

¹ The Snyders call him “Bowen.”

12. The applicable City of Glen Rose ordinance does not expressly provide that an owner is divested of ownership of an impounded animal. *See* Glen Rose, Texas Code of Ordinances Art. 2.03. Instead, it is nearly identical to the ordinance in the *Lira* case and simply states that an impounded animal may be euthanized or adopted. *Id.* Thus, according to the holding in *Lira*, Tig was still owned by Plaintiff when he was released from the Glen Rose Animal Shelter to Friends for Animals.

13. Hood County's ordinance provides that "an animal that has been impounded for running at large" becomes the property of the Hood County Animal Control and may be adopted out. *See* Hood County Animal Restraint and Rabies Control Order §5 (2006.) According to the clear and unambiguous language of the ordinance, the only animals that the city acquires ownership of are those that are *impounded for running at large*. The ordinance does not address or apply to animals that are delivered or surrendered to the shelter or, for that matter, any other animals that come into the shelter's possession.² The Hood County shelter did not impound Tig for running at large. Rather, he was delivered to the shelter by Friends for Animals. Thus, according to the holding in *Lira*, the Hood County ordinance did not divest Daisha Childress of ownership of her beloved Tig. He was still owned by her when Hood County transferred him to Legacy Boxer Rescue and when that organization sold him to the Snyders. According to the holdings of Texas Supreme Court, he is still owned by Daisha Childress today.

14. Daisha Childress brings this action under the Uniform Declaratory Judgments Act asking the Court to declare that she is the lawful owner of Tig, aka Bowen, and that she is entitled to immediately and permanently possess him.

Request for Injunction

15. Daisha Childress says that she will suffer imminent and irreparable harm or injury if a temporary injunction is not issued in this case and that she has no adequate remedy at law. Daisha Childress requests that, after notice and hearing, this Court issue a temporary injunction enjoining and ordering Defendants not to transfer possession of Tig to another person or remove him from the Court's jurisdiction during the pendency of this suit. Upon final trial, Daisha Childress requests that the Court issue a permanent injunction enjoining and ordering Defendants to deliver Tig to her.

² There can be no other interpretation of the ordinance given the Supreme Court's pronouncement that the law "abhors a forfeiture of property" and an ordinance pertaining to impounded dogs "will be construed to prevent rather than to cause such a forfeiture." *Lira*, 488 S.W3d 303; *Tex. Rice Land Partner, Ltd v. Denbury Green Pipeline-Texas, LLC*, 363 S.W.3d 192, 204 n. 34 (Tex. 2012).

Request for disclosure

16. Defendants are requested to produce within fifty (50) days after service of this petition and citation the information and documents described in Rule 194.2 of the Texas Rules of Civil Procedure.

Request for admissions

17. Pursuant to Pursuant to Rule 198.1 of the Texas Rules of Civil Procedure, Defendants are requested to admit or deny the truth of the statements in the Plaintiff's Request for Admissions attached to this petition within fifty (50) days after service of this petition and citation.

Relief requested

18. Pursuant to Rule 47 Plaintiff seeks monetary relief of \$100,000 or less and non-monetary relief. The only monetary relief Plaintiff seeks is attorney's fees. Plaintiff does not seek any damages.

Prayer

19. Daisha Childress prays for a judgment declaring that she owns Tig (aka Bowen) and is entitled to immediately and permanently possess him. Plaintiff further prays that this matter be set for hearing at the earliest possible date and that, after such hearing, the Court grant a temporary injunction as described herein and that, upon final trial of this cause, the Court enter a permanent injunction as requested herein. Daisha Childress prays that she be awarded reasonable and necessary attorney's fees, court costs and such other relief, at law or in equity, to which she may be justly entitled.

Respectfully submitted,

/s/ Randall E. Turner

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ATTORNEYS FOR PLAINTIFF

PLAINTIFF'S REQUEST FOR ADMISSIONS

Pursuant to Rule 198.1 Plaintiff, Daisha Childress, requests Defendants, Chad Edward Snyder, Jennifer Suzanne Snyder, and Legacy Boxer Rescue, Inc. to each admit or deny the truth of the following statements. (The Snyders may file a joint response.) For purposes of this request, "Tig" means the dog that is the basis of this lawsuit that the Snyders call "Bowen."

Please admit or deny the following statements:

1. Friends for Animals took possession of Tig from the Glen Rose Animal Shelter.
2. The Glen Rose Animal Shelter is owned and operated by the City of Glen Rose.
3. Friends for Animals delivered Tig to the Hood County Animal Shelter.
4. Legacy Boxer Rescue took possession of Tig from the Hood County Animal Shelter.
5. Plaintiff was never divested of ownership of Tig under the ordinances of the City of Glen Rose.
6. Friends for Animals never acquired title to or ownership of Tig.
7. Plaintiff was never divested of ownership of Tig under the ordinances of Hood County.
8. Legacy Boxer Rescue, Inc. never acquired title to or ownership of Tig.
9. At all times that Friends for Animals possessed Tig he was owned by Plaintiff.
10. At all times that Legacy Boxer Rescue, Inc. possessed Tig he was owned by Plaintiff.
11. The Snyders took possession of Tig from Legacy Boxer Rescue, Inc.
12. At the time the Snyders took possession of Tig, he was not owned by Legacy Boxer Rescue, Inc.

13. At the time the Snyders took possession of Tig, he was owned by Plaintiff.
14. The Snyders currently possess Tig.
15. Legacy Boxer Rescue, Inc. is not a merchant as that term is defined in the Texas Business and Commerce Code.
16. Legacy Boxer Rescue, Inc. is a merchant as that term is defined in the Texas Business and Commerce Code but does not collect sales taxes or remit sales taxes to the Texas Comptroller.
17. Legacy Boxer Rescue, Inc. does not sell goods as that term is defined in the Texas Business and Commerce Code.
18. Legacy Boxer Rescue, Inc. sells goods as that term is defined in the Texas Business and Commerce Code but does not collect taxes on those sales or remit sales taxes to the Texas Comptroller.
19. Legacy Boxer Rescue, Inc. sold Tig to the Snyders but did not collect any sales tax from them.
20. Legacy Boxer Rescue did not remit any sales tax to the Texas Comptroller for the sale of Tig to the Snyders.

