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November 3, 2009

James R. Smith
Claims Commissioner of the State of Connecticut
999 Asylum Avenue
Suite 204
Hartford, CT 06105

Re: **CLAIM FOR DAMAGES AND REQUEST FOR PERMISSION TO SUE
THE STATE OF CONNECTICUT AND THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION BY MICHAEL NASH,
CONSERVATOR OF THE ESTATE OF CHARLA NASH
DATE OF INJURIES: FEBRUARY 16, 2009**

Pursuant to Connecticut General Statutes Sec. 4-147, the undersigned respectfully submits, in duplicate, and accompanied with a check in the amount of \$50.00 and copies of appearances by Charles J. Willinger, Jr. and Matthew Newman, a claim upon the State of Connecticut acting through the Department of Environmental Protection and its agents or employees on behalf of Michael Nash, Conservator of the Estate of Charla Nash, for its negligent and otherwise tortious actions and failures to act which resulted in the grievous injuries suffered by the claimant. The parameters of the claim are set forth as dictated by statute below:

1. Name and Address of Claimant Michael J. Nash, Conservator of the Estate of Charla Nash:

Name and Address of Principal: Michael J. Nash
P.O. Box 254
284 Lakeshore Drive
Pleasant Valley, New York 12569

Name and Address of Charla Nash: Charla Nash
Cleveland Clinic
9500 Euclid Avenue
Cleveland, OH 44195

Name and Address of Attorney: Charles J. Willinger, Jr.
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2. On February 16, 2009, Charla Nash ("Charla") was requested to come to Sandra Herold's ("Herold") home located at 241 Rock Rimmon Road in Stamford, Connecticut to assist Herold in sheparding a chimpanzee ("Travis") back into Herold's home. Travis, which had lived with Herold for fourteen years and weighed approximately two hundred pounds, viciously attacked Charla, rendering her blind, faceless, and without hands. Additional injuries to Charla include traumatic brain injury, broken bones, psychological trauma and significant and life altering injuries. Charla remains hospitalized.

The Department of Environmental Protection ("DEP") is the agency of the State of Connecticut which is charged with oversight of and the permitting of chimpanzees and other primates. The DEP was instrumental in the promulgation of legislation [Connecticut General Statutes Sec. 26-55] concerning the regulating and permitting of primates and the grandfathering of a limited number of primates within the confines of that legislation. The DEP was knowledgeable about Travis, its weight, and of its potential danger to anyone who came in contact with the animal. Despite having actual knowledge of Travis' dangerous propensities and Herold's failure to meet the statutory criteria that would have permitted Herold to have legally retained possession of the animal, the DEP took no action to restrain Travis, to remove Travis from its residence or to vouchsafe Charla or any other resident of the State of Connecticut from harm.

In particular, the DEP, through its agents and employees, was aware:

- A. As early as October 21, 2003, that Travis was involved in an incident in the City of Stamford, having been contacted by a Stamford resident who expressed concern about the safety of the general public because, "...[a]s ... your department is aware, wild animals pose a greater threat to the public than those which have been domesticated." The correspondence, copy attached, further requested that a thorough investigation be conducted by the DEP or that the DEP forward the concerned citizen's missive to the appropriate department. Exhibit A.
- B. At a meeting held prior to the amendment of Connecticut General Statutes Sec. 26-55 in 2004, one attended by the then Deputy Commissioner Leff and other agents of the DEP, the attendees were specifically told that Travis was a dangerous primate, and agreed that the 'grandfather provision' of the statute should be couched in such language that excluded the ability of Travis to receive a permit. Additionally at the meeting, it was the consensus of the attendees that the state (DEP) would handle/take care of the Travis issue. Exhibit B.
- C. In March of 2004, Elaine Hinsch, a biologist and a decades-long employee of the DEP, had a discussion with Linda Howard, a third party, which discussion was confirmed by email, in which correspondence Linda Howard offered her assistance in "...maintaining the integrity of CT's ban" through assistance with placement of Travis or another named primate at an appropriate animal facility. Exhibit C.

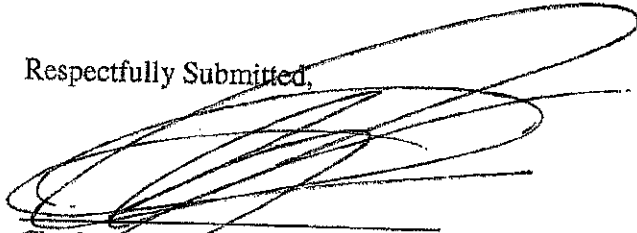
- D. By memorandum sent October 4, 2005, Elaine Hinsch addressed to DEP department officials the situation involving non-human primates in Connecticut. The memorandum indicated that the commissioner could totally prohibit the possession of certain species of wild animals and discussed the existence of several non-human primates in Connecticut, including reference to Travis (The owner is noted as Tammy Santelli, a probable relative of Sandra Herold.) In particular, the memorandum noted that Travis was not grandfathered under the law and memorialized the above-recited concern of local citizens for their safety. Of particular note, the memo recited the concerns of both the Department of Agriculture and the Department of Health and urged that the departments join together to "...alleviate the problem of these animals in private ownership." Exhibit D.
- E. On May 30, 2007, Elaine Hinsch, in response to an inquiry from an acquaintance who worked for the state of New Hampshire about the legality of the possession of chimpanzees in Connecticut, indicated that an owner would only be allowed to keep a primate if owned prior to October 2003, and if the primate weighed less than fifty pounds, unless the owner was a zoo or nature center. Exhibit E.
- F. In July of 2008, Elaine Hinsch was contacted by Mary Krogh of the Simian Society. The email referenced a television program to air that night about the pet monkey situation and private owners of monkeys. It also confirmed that as far as the author was concerned, the public was not at risk from most of the monkeys located in the state "... (the only exception is Travis and I believe your department keeps an eye on that situation.)". Exhibit F.
- G. In a memorandum dated October 28, 2008, with an importance rating of "high", Elaine Hinsch alerted DEP agency employees Dale May, Director of the Wildlife Division and Edward Parker, Chief, Bureau of Natural Resources, of the Travis situation. The memorandum states the following: "...The animal has reached adult maturity, is very large and tremendously strong. I am concerned that if he feels threatened or if someone enters his territory, he could seriously hurt someone.....CGS 26-55 prohibits the possession of a primate weighing more than fifty pounds.....This exemption was supported by those persons who own primates but recognized that a primate over 50 lbs. has the size and strength to potentially inflict (sic.) harm and damage.....Every day the animal stays on site, [there is] (sic.) the likelihood of a problem occurring....I would like to address the urgency of this issue. It is an accident waiting to happen." Exhibit G.
- H. While the DEP was taking no action to remove the chimpanzee from the Herold home, in November of 2008, it was investigating and prosecuting a separate action for "illegal possession of a primate" in violation of Connecticut General Statutes Sec. 26-55 against the owner of another primate, a gibbon (the "Onthank Matter"). This gibbon was less than one sixth the weight of Travis, was of no danger to others and was no longer in the physical possession of its owner. The

complaining witness in the Onthank Matter was Elaine Hinsch of the DEP, the same individual who was familiar with the factual situation surrounding Travis, familiar with his size and, in fact, indicated (as set forth above) that Travis was an accident waiting to happen. Despite full knowledge by the DEP in general, and by the DEP employee who was the complainant in the Onthank matter, no similar police action was taken against the owner of Travis to remove the animal from her care. Exhibit H.

- I. On March 23, 2009, after the incident involving the claimant, the permit requested by Onthank, the owner of the gibbon, was denied by the DEP. The denial was based upon the fact that the gibbon failed to meet the criteria set forth in Connecticut General Statutes Sec. 26-55, specifically, that the gibbon was brought into the state after October of 2003, and that the permit applicant was not an exempt institution. Drafts of the referenced letter also referenced that the gibbon would exceed fifty pounds at maturity. This latter point was removed from the final draft of the letter based upon additional research by the DEP, which developed information that the gibbon would not, in fact, exceed fifty pounds in weight at maturity. Ex. I.
3. The DEP is the Connecticut agency that has jurisdiction over the possession and importation of chimpanzees and other exotic animals in this state. The DEP had a duty to Charla Nash to have maintained oversight of Travis and to have removed the chimpanzee from its owner. Since at least 2003, the DEP was aware that Travis was dangerous. Since at least 2004, it was illegal to possess a chimpanzee without a permit. The only chimpanzees that could legally be possessed in Connecticut were those animals that had been in the state since prior to 2003 and weighed less than fifty pounds. The DEP was warned by third parties and by its own agents or employees that the Travis situation had to be addressed and that the safety of the general public required that the chimpanzee situation be addressed immediately. The DEP had information for at least five years that would have permitted that agency to have removed Travis from its residence. The DEP did prosecute another owner of a primate for illegal possession of a primate without a permit prior in time to the claimant's incident. The DEP employee most knowledgeable and aware of Travis and his potential for harm to others actively participated in the prosecution of the other primate owner and, in fact, identified this course of action as a possible solution to the Travis situation several years prior to the claimant's incident. Despite this knowledge and the numerous warnings, the DEP negligently failed to take any action to protect Charla Nash. If the DEP had acted prudently, Charla Nash would not have been devastatingly injured on February 16, 2009. Charla's injuries were proximately caused by the stated failure of the DEP to take any action to restrain or remove Travis from its residence despite the knowledge of its employees/agents of the danger that the chimpanzee posed to the general public and to the claimant.
 4. The claimant seeks One Hundred Fifty Million (\$150,000,000.00) Dollars in compensation for the injuries caused to Charla.

5. The claimant seeks permission to sue the State of Connecticut for its actions and its failure to act with respect to Travis. If granted permission to sue the state, the lawsuit will sound in claims of negligence and such other causes of action, tortious in nature, as are available under law.

Respectfully Submitted,



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