



# County of Santa Cruz

## OFFICE OF THE COUNTY COUNSEL

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DWIGHT L. HERR, COUNTY COUNSEL

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Deborah Steen

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Ellen Aldridge

Kim Baskett

Lee Gulliver

Dana McRae

## GOVERNMENT TORT CLAIM

### RECOMMENDED ACTION

Agenda JANUARY 25, 2000

To: Board of Supervisors

Re: Claim of LEO LESLIE BEUS & FAMILY, NO. 900-077

Original document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

- X 1. Deny the claim of LEO LESLIE BEUS & FAMILY, NO. 900-077 and refer to County Counsel.
2. Deny the application to file a late claim on behalf of \_\_\_\_\_ and refer to County Counsel.
3. Grant the application to file a late claim on behalf of \_\_\_\_\_ and refer to County Counsel.
4. Approve the claim of \_\_\_\_\_ in the amount of \_\_\_\_\_ and reject the balance, if any, and refer to County Counsel.
5. Reject the claim of \_\_\_\_\_ as insufficiently filed and refer to County Counsel.

CC : COUNTY ADMINISTRATIVE  
OFFICE

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Samuel Torres, Jr.



900-077  
"APOLLO" Beus

(9/22/92-9/22/99)

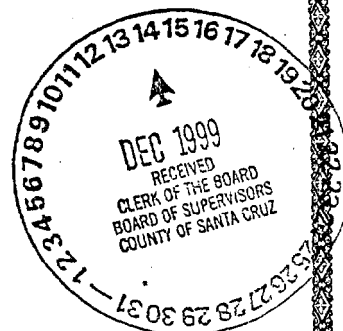
Unfairly Taken From The Beus Family  
And Put To Death By The Santa Cruz  
SPCA In A Cruel, Inhumane, Illegal  
And Unconstitutional Manner

*May He Rest In Peace*



**CLAIM AGAINST THE COUNTY OF SANTA CRUZ**  
(Pursuant to Government Code § 910 et seq.)

**TO: BOARD OF SUPERVISORS  
COUNTY OF SANTA CRUZ  
ATTN: Clerk of the Board  
Government Center, Fifth Floor  
701 Ocean Street  
Santa Cruz, California 95060**



1.. **Claimant's Name:** LEO LESLIE BEUS & FAMILY  
**Address:** 10876 Westwood Road, Felton, CA 95018  
**Phone No.:** ( 8 3 1 ) 335-5547

**Address To Which Notices Are To Be Sent:**

C/O William Rupert, Independent Paralegal  
P.O. Box 66403, Scotts Valley, CA 95067-6403  
(831) 335-7144

2.. **Occurrence(s):** This Claim concerns a course of conduct that commenced on May 29, 1999, and continued through September 22, 1999, when the Santa Cruz SPCA's misconduct and inadequate care caused the death of the Claimant's dog named Apollo. This Claim is based on the following 5 related events or occurrences:

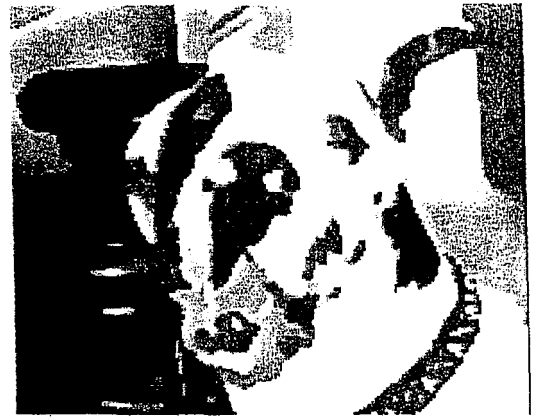
Occurrence #1: Illegal, unauthorized, incomplete and improper ANIMAL CONTROL ORDER for CONFINEMENT and NOTICE OF IMPOUND served on the Claimant, illegally imposing conditions on the Claimant that forced him, among other things, to: (1) construct an escape-proof, chain-link enclosure for his Harlequin Great Dane named Apollo; (2) have a micro-chip implanted in Apollo; and (3) to enclose his property with an escape proof 6 foot fence, complete with self-closing gates. These improvements were quite expensive and very inconvenient.



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Occurrence #2: Illegal, unauthorized and improper SPCA Quarantine Order, instead of the mandatory Home Quarantine, on the Claimant's own property, that was required under the known circumstances of this matter (current rabies shot and adequate facilities for a home quarantine), pursuant to Title 6, § 6.04.100(A) of the Santa Cruz County Code;

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Occurrence #3: Illegal, unauthorized, fraudulent and improper SPCA refusal to release Apollo to the Claimant when the unauthorized and illegal SPCA Quarantine expired, contrary to the SPCA Quarantine Order issued to the Claimant;

Occurrence #4: Illegal, unauthorized, fraudulent and improper SPCA refusal to release Apollo to the Claimant, when he and an independent paralegal assistant went to the SPCA Offices and demanded Apollo be released, 12 days after the illegal SPCA Quarantine had expired - and in the absence of any type of written order having being issued and served on the Claimant, pursuant to Title 6, that could have established independent authority to further detain Apollo;

Occurrence #5: The deplorable death of Apollo, who was in great health, strong and robust at a weight of approximately 180 pounds when the illegal SPCA Quarantine began on August 24, 1999. A mere 29 days later, after a continuous pattern of too little exercise, inadequate care and too little food for this large, magnificent specimen of a dog (plus confinement to small, unheated quarters, in complete isolation from the Claimant and the Claimant's family), Apollo died while still in the custody of the Santa Cruz SPCA. Apollo only weighed 141 pounds when he died. The SPCA cared for Apollo in such an outrageous way that he lost 39 pounds in 29 days, and then he died, on his 7th birthday, not having seen his people for nearly a month, due to the SPCA's needlessly cruel policies and procedures that are contrary to what is supposed to be required under Title 6 of the Santa Cruz County Code, before the SPCA takes actions that adversely affect constitutionally protected property rights, such as the



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Claimant's right to own, keep and enjoy his dog Apollo,  
without unreasonable governmental interference and the  
improper taking and destruction of the Claimant's property in an  
unconstitutional and unconscionable manner.

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**Date(s):**      Occurrence #1:      June 4, 1999  
Occurrence #2:      August 24, 1999  
Occurrence #3:      September 2, 1999  
Occurrence #4:      September 14, 1999  
Occurrence #5:      September 22, 1999

**Place(s):**      Occurrence #1:      Claimant's residence and Santa Cruz SPCA  
Occurrence #2:      Claimant's residence and Santa Cruz SPCA  
Occurrence #3:      Santa Cruz SPCA  
Occurrence #4:      Santa Cruz SPCA  
Occurrence #5:      Santa Cruz SPCA

### **Circumstances Of Occurrence Or Transaction Giving Rise To Claim:**

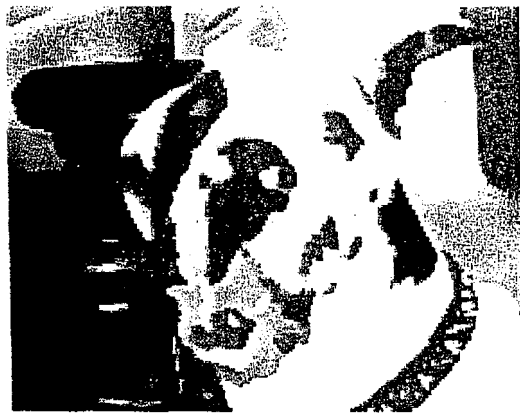
Occurrence #1:      After an inadequate investigation into a dog  
fight between Apollo and a neighbor's Akita, conditions and  
restrictions were imposed on Mr. Beus through an ANIMAL  
CONTROL ORDER for-CONFINEMENT that purported to be  
pursuant to Title 6, § 6.12.140, but that section of the Santa Cruz  
County Code does not authorize the SPCA to impose conditions



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and restrictions like the ones imposed on the Claimant in this matter. [For the record, Claimant contends the investigation was inadequate because the SPCA investigators ignored at least one report from another neighbor who said the Akita had also had problems with his dog - where the Akita was the aggressor and exhibited violent tendencies -which seemed to indicate the Akita was at least as much of a problem as Apollo (if not more of a problem, because Apollo's only problems were with the Akita, not with other neighborhood dogs), yet no conditions or restrictions were imposed on the Akita - who still continues to run loose and cause problems in the neighborhood on occasions.] For the SPCA to lawfully impose the type of conditions that were imposed upon the Claimant, pursuant to Title 6, § 6.24.070(B), Apollo needed to be impounded before the conditions were imposed, and before any lawful impoundment could take place the SPCA was required to fully disclose all evidence, such as complainant's statements, that were being used against Apollo. Instead of full disclosure, the SPCA has practiced full concealment and suppression of all evidence used and considered against Apollo. Furthermore, the NOTICE OF IMPOUND was not authorized by the Santa Cruz County Code and it was not issued or served in compliance with the provisions of the Santa Cruz County Code, Title 6, § 6.20.020(B), which required the Claimant to be served with "a copy of the victim or citizen's statement and notice of the owner's right to request an administrative hearing prior to the impoundment." In summary, with regards to Occurrence #1, the SPCA exceeded their lawful authority in imposing expensive, unnecessary and oppressive conditions and restrictions upon the Claimant; while simultaneously neglecting to fulfill their obligations to disclose all adverse evidence used against Apollo and to fully inform the Claimant of his rights to a hearing before any impoundment took place. When these two components of misconduct are taken together, it is clear the SPCA was acting outside the proper scope of their employment and outside of the provisions of Title 6 of the Santa Cruz County Code.

Occurrence #2: On August 23, 1999, Apollo and the Akita got into a brief scuffle, in the road in front of Claimant's



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residence. When the owner of the Akita grabbed his dog's leash and gave it a yank, the Akita instinctively turned around and bit his owner on the arm. The owner of the Akita falsely reported that Apollo had bit him and the SPCA conducted another inadequate investigation. [The investigation was inadequate this time because the SPCA investigators ignored eyewitness reports that confirmed the Akita had inadvertently bitten his owner, and Apollo was innocent of biting a human being. It appears the SPCA investigator corruptly agreed to ignore the exculpatory evidence and to falsely accuse Apollo of the biting incident, so the Akita's owner could make good on his threat to sue the Claimant (for the injuries caused by his own dog)]. Ultimately, although there were reasonable grounds to order the quarantine of both Apollo and the Akita, the SPCA only took action against Apollo. The SPCA issued a SPCA Quarantine Order, contrary to the clear provisions of Title 6, § 6.04.100(A) which state, “the owner of that animal shall quarantine the animal for a period of ten days.” Furthermore, Title 6, § 6.04.100(B) only authorizes an immediate SPCA Quarantine when an owner lacks evidence of a current rabies shot or when the owner lacks “the proper facilities in which to confine the animal adequately” - neither one of which was an applicable factor in this case. The SPCA Quarantine Order shows on its face the SPCA knew Apollo had a current rabies vaccination, and the earlier ANIMAL CONTROL ORDER for CONFINEMENT forced the Claimant to construct and acquire “the proper facilities in which to confine the animal adequately”, at considerable expense to the Claimant. According to Title 6, § 6.04.020-M, “‘Impounded’ means having been received into the custody of the animal shelter,” so the unauthorized immediate SPCA Quarantine also represented yet another unlawful, invalid and unauthorized impoundment of Apollo by the SPCA. Once again the SPCA exceeded their lawful authority, acted outside the provisions of Title 6 of the Santa Cruz County Code, ignored their obligations to disclose all adverse evidence and to fully inform the Claimant of his right to a hearing before Apollo could be lawfully impounded by the SPCA. Once again, the SPCA acted outside the proper scope of its employment and outside the provisions of Title 6 of the Santa Cruz County Code, which it is supposed to enforce and obey.

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Occurrence #3: The illegal and unauthorized immediate SPCA Quarantine Order stated on its face that Apollo would be released on September 2, 1999. However, on September 1, 1999, the Claimant received a phone call from the SPCA wherein he was informed that the SPCA was going to renege on its promise to release Apollo the next day. Instead, the Claimant was informed, the SPCA was considering ordering the destruction of Apollo, as a vicious animal who posed a threat to the general public. However, the Claimant was further informed, if he agreed to give up Apollo for adoption, it might not be necessary to have him destroyed. This phone message, and subsequent SPCA phone calls, represented outrageous misconduct by the SPCA, as it was a form of cruel, destructive, emotional blackmail. The Claimant was told the only way to keep Apollo from being destroyed was to give him up for possible adoption - with no guarantees that even if he gave Apollo up for adoption, he would not still be destroyed by the SPCA, eventually (if their adoption efforts failed). Nothing in Title 6 of the Santa Cruz County Code authorizes the type of coercive phone calls and emotional blackmail messages the Claimant was subjected to in this case. It flies in the face of all reason that the SPCA would want to place an animal for adoption that they truly believed to be so vicious that his destruction was warranted and justified under Title 6 of the Santa Cruz County Code. Once again, in keeping with their pattern of misconduct, the SPCA acted outside the proper scope of its employment and outside the provisions of Title 6 of the Santa Cruz County Code.

Occurrence #4: The Claimant and a paralegal assistant he retained to review the SPCA's conduct in this matter, went to the SPCA to hand deliver a written demand for the immediate release of Apollo, which consisted of a detailed 5 page demand letter, dated September 14, 1999 (plus 6 pages of attached Exhibits). A true and correct copy of this Demand Letter is attached hereto as Exhibit 1. The Claimant and his paralegal assistant, William Rupert, met with Dan Soszynski, SPCA Field Services Manager, and tried in vain to discuss the contents of the letter and the fact that the SPCA had illegally quarantined (impounded) Apollo, the SPCA had unlawfully and fraudulently refused to release

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Apollo when the quarantine expired, and the SPCA had no lawful authority to continue to detain Apollo. Furthermore, the Claimant and his paralegal assistant pointed out that the provisions of Title 6, § 6.20.090 gave the Claimant an absolute right to reclaim Apollo, as that section states, in pertinent part, “The owner of any impounded animal shall have the right to reclaim the same at any time prior to the lawful disposition thereof,”. Mr. Soszynski acknowledged that many of his actions seemed to be at odds with the portions of Title 6 the Claimant and Mr. Rupert pointed out and discussed in the Demand Letter, but he said he was performing as he had been trained, and he said the SPCA was doing the best they could. He refused to admit any type of wrongdoing and he refused to release Apollo, although he could point to no legal justification, under Title 6, for Apollo's continued detention, 12 days after the illegal SPCA Quarantine expired. During this conversation, Mr. Soszynski added that the decision had already been made to destroy Apollo, but they hadn't gotten around to doing the paperwork yet. In response to this oral notification that the decision had been made by the SPCA to destroy Apollo, the Claimant and Mr. Rupert demanded that the SPCA issue the written notice that is required by Title 6, § 6.24.070(C) (along with the required disclosure of adverse evidence, such as a complainant's statement), so they could immediately file an appeal and obtain a hearing before the animal nuisance abatement appeals commission, who would be required to reverse the destruction order pursuant to the pertinent provisions of Title 6, § 6.24.070(c) that state the following procedure, “If the commission determines that the animal was not lawfully impounded, the animal shall be returned to its owner and no impound charges of any kind shall be imposed.” Under the circumstances of this case, where Apollo had never been lawfully impounded by the SPCA (not in June, not in August, and certainly not in September), the animal nuisance abatement appeals commission would have been required to return Apollo to the Claimant, without any conditions or charges being imposed. Following the futile meeting with Dan Soszynski, the Claimant's paralegal assistant distributed copies of the September 14, 1999 Demand Letter to the SPCA's Acting Director Kat Brown, to the

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SPCA's Co-Directors Jo Storsburg and Brian Taylor, to Susan Pearlman in the County Administrative Office, and to Jeff Almquist, County Supervisor for the Felton/Zayante area where the Claimant resides. None of the individuals mentioned above responded to the Demand Letter or to the other letters that beseeched someone to intervene and stop the SPCA's egregious misconduct and constitutional violations against the Claimant, before it was too late. A tragedy could have been avoided if someone would have looked into this matter when outside County intervention was requested by the Claimant and by Mr. Rupert, in letters dated September 14, 1999 and September 17, 1999 to the above named individuals (true and correct copies of which are attached hereto as Exhibits 2 & 3).

Occurrence #5: The avoidable, inexcusable and unforgivable death of Apollo, after 29 days of illegal SPCA detention and inadequate SPCA care that caused Apollo to lose 39 pounds. Because the handwriting was on the wall and it was clear that the issuance of a written destruction order would not be upheld by the animal nuisance abatement appeals commission, the SPCA embarked on their own de facto execution scheme. They simply extended Apollo's detention and continued their course of conduct (inadequate care) that ultimately caused the death and destruction of Apollo without affording the Claimant any of the constitutional protections that are written into Title 6 of the Santa Cruz County Code. The stomach problems that allegedly contributed to Apollo's death surely would not have caused his death if he had been released to the Claimant before he lost 39 pounds and allowed to return home where he would have been given adequate exercise and adequate food, and the warm human companionship he had been used to before the SPCA began their reign of terror and the reckless, arbitrary and capricious actions that caused his death. Shame on the Santa Cruz SPCA and on the County of Santa Cruz for letting this blatant misconduct continue after it was brought to their attention that the Santa Cruz SPCA was acting outside the law, in a fraudulent, reckless, harmful and unfair manner.



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**3. Date Claim Presented To Clerk Of The Board:**

December 14, 1999

**4. General Description Of Indebtedness, Obligation, Injury, Damage Or Loss Incurred So Far As Is Now Known:**

Occurrence #1:

Veterinary bills and related expenses  
for micro-chip implant \$ 200.00

Construction and installation of escape  
proof, chain link kennel enclosure, on deck  
in rear of residence (See Exhibit 5) \$ 600.00

Construction and installation of solid wood  
fence, 6 feet tall, with self-closing gates, to  
enclose the Beus property (See Exhibit 4) \$ 1,600.00

Occurrence #2:

Emotional distress caused by the improper  
illegal, and unfair quarantine (impoundment)  
of Apollo at the Santa Cruz SPCA \$ 2,000.00

Occurrence #3:

Emotional distress caused by the improper  
and fraudulent refusal to release Apollo to  
the claimant after the SPCA quarantine ended \$ 2,000.00



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Legal expenses for a consultation with  
an attorney to see what could be done  
to protest the Santa Cruz SPCA's actions \$ 150.00

### Occurrence #4:

Emotional distress caused by the improper,  
illegal and unfair refusal to release Apollo on  
September 14, 1999, after it was brought to  
the Santa Cruz SPCA's attention that the  
continued detention of Apollo was illegal and  
contrary to the Santa Cruz County Code \$ 5,000.00

Legal expenses for an independent paralegal  
to review the Santa Cruz County Code and  
the performance of the Santa Cruz SPCA \$ 200.00

### Occurrence #5:

Emotional distress caused by the death of  
Apollo - when the Santa Cruz SPCA never  
bothered to issue a written notice of their  
intention to destroy Apollo - which deprived  
the claimant of the opportunity to appeal the  
decision to destroy Apollo (which would have  
resulted in Apollo's unconditional release) \$ 50,000.00

Veterinary bills and expenses for necropsy  
of Apollo on September 23, 1999 \$ 307.43

Veterinary bills and expenses for  
cremation and disposal of Apollo \$ 312.19

Costs and paralegal expenses involving the  
preparation and submission of this claim \$ 158.74



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Fair market value of Apollo	\$ 1,200.00
Expenses for grief therapy necessitated by this traumatic experience	\$ 2,000.00
Derivation of constitutional rights under color of state law	\$1 00,000.00

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5. **Name(s) Of Public Employee(s) Causing injury,  
Damage Or Loss, If Known:**

Occurrence #1:

Lt. Dan Soszynski, Animal Control Officer & Santa Cruz  
SPCA Field Services Manager (831) 475-6454 ext. 60

Kat Brown, Acting Director of Animal Control,  
Santa Cruz SPCA (831) 475-6454

Occurrence #2:

Lt. Dan Soszynski, Animal Control Officer & Santa Cruz  
SPCA Field Services Manager (831) 475-6454 ext. 60

Kat Brown, Acting Director of Animal Control,  
Santa Cruz SPCA (831) 475-6454

Occurrence #3:

Lt. Dan Soszynski, Animal Control Officer & Santa Cruz  
SPCA Field Services Manager (831) 475-6454 ext. 60

Kat Brown, Acting Director of Animal Control,  
Santa Cruz SPCA (831) 475-6454



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### Occurrence #4:

Lt. Dan Soszynski, Animal Control Officer & Santa Cruz  
SPCA Field Services Manager (831) 475-6454 ext. 60

Kat Brown, Acting Director of Animal Control]  
Santa Cruz SPCA (831) 475-6454

Brian Taylor and Jo Storsburg, Co-Directors,  
Santa Cruz SPCA (831) 475-6454

### Occurrence #5:

Lt. Dan Soszynski, Animal Control Officer & Santa Cruz  
SPCA Field Services Manager (831) 475-6454 ext. 60

Kat Brown, Acting Director of Animal Control,  
Santa Cruz SPCA (831) 475-6454

Brian Taylor and Jo Storsburg, Co-Directors,  
Santa Cruz SPCA (831) 475-6454

Susan Pearlman, Santa Cruz County  
Administrative Office (831) 454-3412

Jeff Almquist, Santa Cruz County Supervisor,  
5th District (831) 454-2200

16. Amount Claimed Now ..... \$ 2,165,728.36

Estimated Amount Of Future Loss, If Known... , . . . \$ unknown

**TOTAL \$ 2,165,728.36**



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### **7. Basis For Above Computations:**

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#### Occurrence #1:

Compensatory damages against the County of Santa Cruz, the Santa Cruz County Animal Welfare Association, Inc. (a.k.a. as Santa Cruz SPCA), Lt. Dan Soszynski, Kat Brown, and all others (who may be responsible, but are unknown to the Claimant at this time), in the amount of \$ 2400.00

#### Occurrence #2:

Compensatory damages against the County of Santa Cruz, the Santa Cruz County Animal Welfare Association, Inc. (a.k.a. as Santa Cruz SPCA), Lt. Dan Soszynski, Kat Brown, and all others (who may be responsible, but are unknown to the Claimant at this time), in the amount of \$ 2,000.00

#### Occurrence #3:

Compensatory damages against the County of Santa Cruz, the Santa Cruz County Animal- Welfare Association, Inc. (a.k.a. as Santa Cruz SPCA), Lt. Dan Soszynski, Kat Brown, and all others (who may be responsible, but are unknown to the Claimant at this time), in the amount of \$ 2,150.00

#### Occurrence #4:

Compensatory damages against the County of Santa Cruz, the Santa Cruz County Animal Welfare Association, Inc. (a.k.a. as Santa Cruz SPCA), Lt. Dan Soszynski, Kat Brown, Brian Taylor, Jo Storsburg, and all others (who may be responsible, but are unknown to the Claimant at this time), in the amount of \$ 5200.00



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Punitive damages for the knowing and intentional deprivation of constitutional rights under color of state law [42 U.S.C. § 1983] against Lt. Dan Soszynski, Kat Brown, Brian Taylor, Jo Storsburg, and all others (who may be responsible, but are unknown to the Claimant at this time), in the amount of \$ 1,000,000.00

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### Occurrence #5:

Compensatory damages against the County of Santa Cruz, the Santa Cruz County Animal Welfare Association, Inc. (a.k.a. as Santa Cruz SPCA), Lt. Dan Soszynski, Kat Brown, Brian Taylor, Jo Storsburg, and all others (who may be responsible, but are unknown to the Claimant at this time), in the amount of \$ 153,978.36

Punitive damages for the knowing and intentional deprivation of constitutional rights under color of state law [42 U.S.C. § 1983] against Lt. Dan Soszynski, Kat Brown, Brian Taylor, Jo Storsburg, and all others (who may be responsible, but are unknown to the Claimant at this time), in the amount of \$ 1,000,000.00

### **8. If The Amount Claimed Is Over \$10,000.00, Indicate The Court Of Jurisdiction:**

Either Santa Cruz County Superior Court or United States District Court, For the Northern District of California (under the provisions of 42 U.S.C. § 1983, which would allow the Claimant to obtain complete and lasting justice). In federal court the Claimant will be able to seek monetary, declaratory, and injunctive relief so that the types of egregious Santa Cruz SPCA misconduct illustrated by in this case, involving Apollo and the Beus family, will never happen again. Justice for Apollo requires that the performance of the Santa Cruz SPCA be greatly improved, and that requires that Title 6 be



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amended to provide objective standards and criteria for enforcement, plus a meaningful procedure by which to appeal an order to destroy an animal, where the need for the destruction of the animal would be reviewed - not merely the legality of the animal's impoundment.

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In federal court, the Claimant can seek to have certain sections of Title 6 of the Santa Cruz County Code, declared unconstitutionally vague and overbroad. Claimant will be able to argue that unlike the provisions of otherwise applicable state law (under the California Food & Agriculture Code), where objective standards for enforcement are provided (at least 2 incidents, of unprovoked aggression, within a 36 month period are required), Title 6 of the Santa Cruz County Code (which has superseded and replaced the otherwise applicable provisions of state law), does not provide any standards or criteria for enforcement. More specifically, under Title 6, § 6.04.020-W, a "Vicious animal" can mean any animal that has actually bitten a person, but it can also mean something much less threatening, such as one dog who has simply growled at another dog, because the code section says the term can be applied to "any animal, . . . which threatens or attempts to bite or attack . . . animals".

Unlike state law, this definition does not require that any damage be inflicted by an offending dog, and it can be invoked on the basis of a single, isolated incident (state law requires at least 2 incidents, and that a petition be filed in Superior Court to have a dog declared a "potentially dangerous animal"). Unlike state law, Title 6 of the Santa Cruz County Code is unconstitutionally vague and over-broad, because it's enforcement is left up to the subjective interpretations and discretion of the individual enforcement officers. Title 6 gives individual enforcement officers virtually unlimited power against dog owners, because any dog who so much as growled at another dog could be declared a "vicious animal" ("any animal, . . . which threatens, . . . animals"); and thereafter, the dog could be ordered impounded (under Title 6, § 6.20.020(B)&(D)), and then the dog could ultimately be ordered destroyed (under Title 6, § 6.24.070(C)). Under Title 6, any appeal of an order to destroy a dog would be limited to the sole issue of whether the dog had been lawfully impounded, and the larger issue of whether the dog deserved to die,





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because he was a threat to public safety, would not even be addressed.

Accordingly, Title 6 of the Santa Cruz County Code is unfair and defective because it is unconstitutionally too vague and over-broad. Claimant asserts this vagueness allowed the abuses of power that have been detailed in this claim. Title 6 gives animal control officers almost unlimited power, but without the establishment or the imposition of reasonable standards and criteria for the exercise of this virtually unlimited, life or death, power that is wielded by the animal control officers who Santa Cruz County empowers through the provisions of Title 6. Title 6 grants a police power to the animal control officers, as violations of Title 6 are considered to be either infractions or misdemeanors (§ 6.24.090).

In a 1993 case entitled Williams v. Garcetti 5 Cal.4th 561, 567; 20 Cal. Rptr. 341; 853 P.2d 507 (July 1993), the California Supreme Court discussed the hazards and dangers of laws that were unconstitutionally too vague, like Title 6, by stating the following:

"The constitutional interest implicated in questions of statutory vagueness is that no person be deprived of 'life, liberty, or property without due process of law; as assured by both the federal Constitution (U.S. Const., Amends. V, XIV) and the California Constitution (Cal. Const., art. I, § 7). Under both Constitutions, due process of law in this context requires two elements: a criminal statute 'must "be definite enough to provide (1) a standard of conduct for those whose activities are proscribed and (2) a standard for police enforcement and for ascertainment of guilt"' [citations] . . . . Vague laws may trap the innocent by not providing fair warning. Second, if **arbitrary and discriminatory enforcement is to be prevented, law!s must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, . . . for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application**" [Citations.]"



Williams v. Garcetti (bold emphasis added by Claimant)  
5 Cal.4th 561, 567-568, 20 Cal. Rptr. 341 (1993)

## **“APOLLO” Beus**

(9/22/92-9/22/99)

Unfairly Taken From The Beus Family  
And Put To Death By The Santa Cruz  
SPCA In A Cruel, Inhumane, Illegal  
And Unconstitutional Manner

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Title 6 needs to be rewritten to provide specific and objective standards for enforcement, similar to state law provisions relating to the same subject matter, so that it can pass muster and not be a threat to the citizens of Santa Cruz County by inviting the type of arrogant, obstinate, arbitrary, capricious and discriminatory behavior by animal control officers and the Santa Cruz SPCA that has plagued the Beus family and caused the death of Apollo, who never bit a human being in his entire life.

Photographs of Apollo are attached hereto (Exhibit 4), along with photographs of the improvements the Claimant was illegally ordered and forced to make (Exhibit 5).

Also attached hereto as Exhibit 6 is the form that has been approved by the Judicial Council of California for menacing dog situations, Form MC-600, entitled *Petition To Determine If Dog Is Potentially Dangerous Or Vicious (Menacing Dog)*. This form makes it clear that State Law (Food & Agricultural Code § 3160-l et seq.) proceedings against owner's of allegedly menacing dogs have objective standards and criteria for determining if a dog is a "potentially dangerous dog" or a "vicious dog", and the determination is made by a judge, based on evidence presented by an animal control officer or a law enforcement officer, after a fair hearing. By contrast, in Santa Cruz County, there are no objective standards or criteria for determining if a dog is a "Vicious animal", and whether the dog needs to be destroyed because the dog is an unreasonable threat to public safety - and the subjective determination is made by the animal control officer, based on whatever he feels like considering, without any type of hearing, and without any type of meaningful appeal or review of the decision to order the destruction of an allegedly "vicious animal" by a Santa Cruz County Animal Control Officer.

Because Santa Cruz County has an unconstitutional Animal Control Ordinance, the Santa Cruz SPCA was given absolute power, instead of a democratic power that is subject to checks and balances to ensure the power is not abused or used unfairly. In Santa Cruz County, an Animal Control Officer can operate as the investigator, the policeman, the prosecutor, the judge, the jury and the executioner.



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This is too much power to give a single individual or group. As one would expect, the absolute power given the Santa Cruz SPCA has corrupted the Animal Control Division of the organization, which has evolved into an arrogant, totalitarian organization that is an absolute nightmare for the unfortunate animal owner's it targets for enforcement actions, and this dark-side of the Santa Cruz SPCA represents a potential menace to all animal owners who reside in Santa Cruz County.

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To insure that Apollo's cruel and inhumane death has not been in vain, the Claimants, and their Representative, are determined to see that the necessary changes are made to the Santa Cruz County Code, to the organizational structure of the Santa Cruz SPCA, and to the training the Santa Cruz SPCA provides to its animal control officers, so that this hubris infected organization can improve itself and more fully 'live up to its noble mission of protecting animals and serving the public.

This broad objective will most likely cause the Claimant to seek his justice in the United States District Court, For The Northern District of California, although jurisdiction also would rest in Santa Cruz County Superior Court, if the Claimant chooses to proceed in State Court. Such a determination will be made after the Claimant retains an attorney to represent him in this matter.

DATED: December 10 , 1999

CLAIMANT'S SIGNATURES :

*Leo Leslie Beus* 12-10-99  
LEO LESLIE BEUS DATE

*Jamie Ann Beus* 12/10/99  
JAMIE ANN BEUS (GUBBNNI) DATE



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Nick Beus 12/10/99  
NICK BEUS DATE

Brittany Beus 12/10/99  
BRITTANY BEUS DATE

### CLAIMANT'S REPRESENTATIVE\*\*:

William Rupert 12/14/99  
WILLIAM RUPERT DATE  
INDEPENDENT PARALEGAL

\*\*

Claimants request that all requests for  
information, relative to this claim, be  
channelled through their Representative,  
William Rupert - by either mail, telephone,  
or e-mail, at the following addresses:

Mail: P.O. Box 66403, Scotts Valley, CA 95067-6403  
"Telephone: (831) 3357144  
E-mail: emfwtr@msn.com