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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

11 COLLEEN WESTLAKE, an individual;
12 AMERICAN WILD HORSE PRESERVATION
13 CAMPAIGN d/b/a AMERICAN WILD
14 HORSE CAMPAIGN a California non-profit
15 corporation,

16 Plaintiffs,

17 vs.

18 CHRIS MILLER, in his capacity as Enforcement
19 Supervisor for the Nevada State Department of
20 Agriculture; DOUG FARRIS as Animal Industry
21 Administrator for the Nevada State Department
22 of Agriculture; NEVADA STATE
23 DEPARTMENT OF AGRICULTURE, a
24 political subdivision of the State of Nevada;
25 ZENA QUILLAN, an Individual; CATTOOR
26 LIVESTOCK ROUNDUP, INC., a Utah
27 Corporation; PYRAMID LAKE PAIUTE
28 INDIAN TRIBE; DOES 1-X; DOE MEMBERS
of the PYRAMID LAKE PAIUTE INDIAN
TRIBE XI - XXX and ROE ENTITIES I-X

Defendants.

CASE NO.: 3:19-cv-00023

DEPT NO.:

COMPLAINT

COME NOW Plaintiffs, COLLEEN WESTLAKE, and AMERICAN WILD HORSE
PRESERVATION CAMPAIGN d/b/a AMERICAN WILD HORSE CAMPAIGN, by and through
their attorneys, GUS W. FLANGAS, ESQ., and JESSICA K. PETERSON, ESQ., of the FLANGAS

DALACAS LAW GROUP, and for their causes of action against Defendants, allege as follows:

THE PARTIES

1. At all times material hereto, Plaintiff, COLLEEN WESTLAKE (hereinafter referred to as "Ms. Westlake"), was and is a resident of Washoe County, Nevada.

2. At all times material hereto, Plaintiff, AMERICAN WILD HORSE PRESERVATION CAMPAIGN d/b/a AMERICAN WILD HORSE CAMPAIGN (hereinafter referred to as "AWHC"), was and is a California non-profit corporation, whose goal is to preserve wildhorses in the United States for the benefit of all citizens.

3. Plaintiffs are informed and believe and upon that basis allege that at all times material hereto, Defendant, DOUGLAS FARRIS (hereinafter referred to as "Defendant Farris"), was and is a resident of Washoe County, Nevada.

4. Plaintiffs are informed and believe and upon that basis allege that at all times material hereto, Defendant, CHRIS MILLER (hereinafter referred to as "Defendant Miller"), was and is a resident of Washoe County, Nevada.

5. Plaintiffs are informed and believe and upon that basis allege that at all times material hereto, Defendant, NEVADA DEPARTMENT OF AGRICULTURE (hereinafter the "Department"), is a political subdivision of the State of Nevada, and pursuant to NRS 569 et. seq., is considered the owner of the feral horses which are at issue in this case.

6. Plaintiffs are informed and believe and upon that basis allege that at all times material hereto, Defendant, PYRAMID LAKE PAIUTE INDIAN TRIBE (hereinafter the "Tribe"), was and is a sovereign nation whose reservation is located in Washoe County, Nevada. The tribe while sovereign, is subject to the laws of the State of Nevada for actions taken by its Members acting on behalf of the Tribe on non-reservation land.

7. Plaintiffs are informed and believe and upon that basis allege that at all times material hereto, Defendant, CATTOOR LIVESTOCK ROUNDUP, INC., (hereinafter Catoor") was and is a Utah Corporation, who was hired by the Tribe to assist in the illegal roundup of the horses as set forth herein.

8. At all times material hereto, Defendant, ZENA QUILLAN (hereinafter

1 “Defendant Quillan”), was and is a resident of Churchill County, Nevada, and is the individual
2 who illegally paid for and received the feral horses, at issue in this case, from the Tribe.

3 9. At all times material hereto, Defendant Farris was and is the Animal Industry
4 Administrator for the Department. In that role, Defendant Farris, is responsible for the
5 management of the Animal Industry Division of the Department, which is in charge of
6 regulatory, testing, inspection, licensing, certification, and service programs statewide.
7 Specifically, Defendant Farris is responsible for issuing brand certificates for feral horses to
8 individuals who have claimed ownership, for issuance of livestock auction licenses, and for
9 enforcing the statutory regulations of NRS 569 et. seq.

10 10. Plaintiffs are informed and believe and upon that basis allege that Defendant Farris
11 can delegate the authority to issue the brand certificates to enforcement agents within the
12 Department, and authorized Defendant Miller to issue the brand certificates at issue in this case.

13 11. The true names and capacities of Defendants named herein as DOES I-X, DOES
14 MEMBERS OF THE PYRAMID LAKE PAIUTE INDIAN TRIBE XI-XXX inclusive, and ROE
15 ENTITIES I-X, inclusive, whether individual, corporate, associate or otherwise, are presently
16 unknown to Plaintiffs who therefore sue the said Defendants by such fictitious names; and when the
17 true names and capacities of such DOES I through X, inclusive, DOES MEMBERS OF THE
18 PYRAMID LAKE PAIUTE INDIAN TRIBE XI-XXX inclusive, and ROE ENTITIES I-X, inclusive,
19 are discovered, Plaintiffs will ask leave to amend this Complaint to substitute the true names of the
20 said Defendants. Plaintiffs are informed, believe and therefore allege that Defendants so designated
21 herein are responsible in some manner for the events and occurrences contained in this action.

22 **JURISDICTION & VENUE**

23 12. This Court has original jurisdiction over Plaintiffs’ due process claim brought under
24 42 U.S.C. § 1983 because it is a claim to redress the deprivation without due process in violation of
25 the XIV Amendment and Plaintiffs liberty or property interests created as a result of enactment of
26 NRS 569 et. seq. and 565 et.seq., which placed substantive limitations on official discretion, and
27 required notice to be provided to Plaintiffs and other official actions to be taken before the feral
28 horses could be rounded up or sold. 28 U.S.C. § 1343(a)(3). This Court also has supplemental

jurisdiction over Plaintiffs' state-law claims pursuant to 28 U.S.C. § 1367(a) because those claims and Plaintiffs' § 1983 claim "form part of the same case or controversy."

13. Plaintiffs are informed and believe and upon that basis allege that Defendant Farris issued brand certificates transferring ownership and livestock movement permits in violation of NRS 569 et. seq; NRS 565 et. seq., and NRS 575 et. seq. and or authorized Defendant Miller to issue brand certificates transferring ownership and livestock movement permits in violation of the foregoing statutes.

14. The improper actions as contained in paragraphs 11 and 12 have deprived Plaintiffs of rights, privileges, or immunities secured by the Constitution or laws of the United States.

15. This Court also has jurisdiction over the other Defendants as the other Defendants acted in concert with Defendants Miller and Farris to deprive Plaintiffs of their rights to not be deprived of their property without due process in violation of the Fourteenth Amendment and thus the other Defendants are guilty of conspiracy to violate 42 U.S.C. §1983.

16. Cattoor is subject to personal jurisdiction of this Court because they are a foreign corporation that regularly conducts business in this jurisdiction, and they acted in concert with the other Defendants to violate the statutes at issue in this case.

17. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because a substantial part of the events that give rise to this Complaint occurred in this judicial district.

GENERAL ALLEGATIONS

18. Plaintiffs are informed and believe and upon that basis allege that on or about January 4th and 5th 2019, Members of the Tribe used ATV's and trucks, and also rode horses, to enter onto private land located in the Palomino Valley located in Washoe County, Nevada (hereinafter the "Valley"), to wrongfully roundup and or rustle feral horses and burros that were located on "Private Land" in the Valley, and drive them onto reservation land.

19. Plaintiffs are informed and believe and upon that basis allege that Cattoor was hired by the Tribe to assist with the round-up and were the owners of the helicopter that also assisted in driving the horses onto reservation land.

20. Although the Private Land was not fenced, there were posts and signs that said "No

1 Trespassing,” and in addition, one of the owners of the Private Land had informed the members of
2 the Tribe involved in improperly taking the feral horses and burros, that they were on Private Land.

3 21. The horses that were on the Private Land were feral horses as that term is defined
4 pursuant to NRS 569 et. seq.

5 22. In addition to the feral horses that were improperly rounded up, some of the horses
6 that were caught in the roundup were owned by Individuals and not the Department nor the Tribe.
7 Specifically, Ms. Westlake’s horse was caught in the roundup and has not been returned.

8 23. During this improper roundup, horses were taken off property belonging to other
9 individuals, and although some of the horses were subsequently released, the horses have been so
10 traumatized that they have not and probably will not return back to the land from where they were
11 wrongfully taken.

12 24. At the time this improper roundup was taking place, Plaintiffs called the Sheriff’s
13 Department to report the illegal actions being taken by the Members of the Tribe. Plaintiffs were
14 then told by the Sheriff’s Office to call the Department. When the Plaintiffs called the Department
15 to report the illegal actions of Members of the Tribe, the Department told the Plaintiffs to call the
16 Sheriff’s Department. Plaintiffs also notified the Department and the Attorney General’s Office by
17 email of the illegal roundup.

18 25. Plaintiffs are informed and believe and upon that basis allege that Defendant Quillan
19 entered into a contract with the Tribe for the sale of the feral horses to her so that she could
20 subsequently resell them to a slaughter house. Defendant Quillan knew or should have known that
21 the contract with the Tribe was void as a matter of law because the Tribe did not have ownership of
22 the horses.

23 26. Plaintiffs are informed and believe and upon that basis allege that Defendant Quillan
24 received horses taken in the improper roundup and has or is in the process of transporting them to
25 the slaughter house(s).

26 27. Plaintiffs are informed and believe and upon that basis allege that Defendant Miller
27 cleared the horses captured on January 4th and 5th 2019, for shipment by improperly issuing brand
28 inspections on the morning of January 6, 2019 in violation of NRS 569 et. seq.; NRS 565.130; and

1 NRS 565.150.

2 28. NRS 565.130 requires that ownership of feral horses be established prior to issuance
3 of brand inspection clearance certificates. NRS 565.150 requires an inspector to refuse to issue
4 brand inspection clearance certificates and immediately seize and take possession of any animal
5 where the person presenting the animal cannot establish legal possession or right to ownership of the
6 animals.

7 29. Plaintiffs are informed and believe and upon that basis allege that Defendant Miller
8 issued the brand certificates to the Tribe without any proof of the Tribe having ownership in the feral
9 horses, and with knowledge that pursuant to NRS 569, the Department was and is the owner of the
10 feral horses at issue herein.

11 30. Plaintiffs are informed and believe and upon that basis allege that at the time of
12 improper roundup, Defendant Miller was aware of residents' concerns regarding the improper capture
13 of privately owned horses and feral horses belonging on the Private Land in the Valley, and failed
14 to enforce the law.

15 31. Plaintiffs are informed and believe and upon that basis allege that Defendant Miller
16 acting under color of state law and pursuant to his authority as an Enforcement Administrator with
17 the Department conspired with the Tribe and Defendant Quillan to circumvent the requirements of
18 NRS 569 et. seq.

19 32. Plaintiffs are informed and believe and upon that basis allege that the acts of the
20 conspiracy consisted of having the Tribe improperly and without basis' claim ownership of the
21 horses, so Defendant Miller could issue brand certificates to the Tribe enabling the Tribe to sell the
22 horses to Defendant Quillan for a profit, thereby negating the requirement of the Department having
23 to comply with the requirements of NRS 569 et. seq.

24 33. Plaintiffs are informed and believe and upon that basis allege that the Tribe does not
25 have ownership of the horses as the horses are feral horses and are thus owned by the Department.

26 34. On Monday January 7th, 2019, Ms. Westlake contacted the Department and notified
27 Defendant Farris that her horse was among the horses that were caught in the improper round-up that
28 occurred on January 4th and 5th. Ms. Westlake provided a copy of the Brand Inspection Clearance

1 Certificate to Defendant Farris showing that she was and is the owner of the horse.

2 35. Ms. Westlake was told by Defendant Farris' via email that the Department was
3 inspecting all horses captured and would notify her if her horse was found.

4 36. Plaintiffs are informed and believe and upon that basis allege that at the time these
5 representations were made that Ms. Westlake's horse had already been sold and was being
6 transported to the slaughterhouse.

7 37. As to the other feral horses, Plaintiffs are informed and believe and upon that basis
8 allege that Defendant Miller improperly and without authority and in violation of NRS 569 et. seq.,
9 issued Brand Inspection Clearance Certificates to the Tribe deeming the tribe to be the owners of the
10 feral horses.

11 38. Plaintiffs are informed and believe and upon that basis allege that the actions of
12 Defendant Miller were ratified by his superior Defendant Farris and as such are actions on the part
13 of the Department.

14 39. Plaintiffs are informed and believe and upon that basis allege that Defendant Miller
15 also improperly and without authority and in violation of NRS 569 et. seq., and 575 et. seq., issued
16 a Livestock Movement License to Defendant Quillan permitting her to transport and relocate the
17 horses.

18 40. Plaintiffs are informed and believe and upon that basis allege that on the basis of the
19 improperly issued Brand Inspection Clearance Certificates that the Tribe was able to sell the horses
20 to Defendant Quillan.

21 41. Plaintiffs are informed and believe and upon that basis allege that Defendant Quillan
22 has subsequently sold the horses to a slaughterhouse and the horses are currently in transport on their
23 way to a slaughterhouse in either Mexico or Canada.

24 42. NRS 569.010 provides that the Nevada Department of Agriculture is the owner of
25 feral livestock and may dispose of feral livestock by sale through an agent appointed by the
26 Department.

27 43. NRS 569.045 requires notice to be published for four weeks in a newspaper of
28 general circulation prior to feral livestock being gathered describing the area where the gathering is

1 to take place, describe the type of feral livestock that will be gathered, indicate a location where
2 owners or possible owners of the feral livestock may go to claim the feral livestock that was
3 gathered, and list the name and telephone number of a person who may be contacted if an owner or
4 possible owner is interested in viewing the feral livestock.

5 44. NRS 569.075 requires the Department to publish notice of the sale of all feral
6 livestock.

7 45. Plaintiffs are informed and believe and upon that basis allege that there was no
8 "Notice of Gathering" published nor was any "Notice of Sale" published, which are both in violation
9 of NRS 569 et. seq.

10 46. Plaintiffs are informed and believe and upon that basis allege that any of the proceeds
11 from the sale of feral livestock are to be deposited into the State Treasury for credit to the Livestock
12 Inspection Account, which is used for the Department.

13 47. Plaintiffs are informed and believe and upon that basis allege that the purpose of the
14 Department and the funds that are allocated to it, is to promote efficient, orderly and economical
15 conduct of the various activities for the encouragement, advancement and protection of the livestock
16 and agricultural industries of the State of Nevada which is a benefit to the welfare of all of the people
17 of the State of Nevada.

18 48. Plaintiffs are informed and believe and upon that basis allege that if the Department
19 does not obtain funds from various activities of the Department including from the sale of feral
20 livestock that in order to carry out its mandates that it receives funds from the General Fund.

21 49. The violation of NRS 569 et. seq., by Defendant Miller in allowing the Tribe to claim
22 ownership of the horses and sell the horses to Ms. Quillan and the subsequent ratification by
23 Defendant Farris of the foregoing acts is a violation of their fiduciary duties to all of the people of
24 the State of Nevada.

25 50. Plaintiffs are informed and believe and upon that basis allege that Defendant Farris
26 is authorized pursuant to NRS 561.148 to temporarily stop the movement of livestock for purposes
27 of inspection.

28 51. Plaintiffs are informed and believe and upon that basis allege that Defendant Farris

1 could have issued and enforced a written hold order to the owner or custodian of any livestock which
2 the Director finds is in violation of any of the provisions of law administered by the Department
3 which can prohibit the further sale or movement or require that the livestock be held at a designated
4 premise until the Director has evidence that the order was complied with.

5 52. Plaintiffs are informed and believe and upon that basis allege that despite
6 Defendant Farris's ability to issue such Orders and despite being informed of the violations of the
7 provisions of NRS 569 et. seq. Defendant Farris failed to issue the appropriate Orders to stop the
8 transport of the horses.

9 53. feral horses are part of the wildlife in Nevada that is for the benefit of all Nevada
10 citizens.

11 54. The mission of AWHC is to increase protection of wild horses and burros to
12 preserve these cherished animals and their natural habitat and behaviors for future generations to
13 enjoy in the wild, which is a right provided to the citizens of the State of Nevada.

14 55. AWHC has a vested interest in supporting the rights of Nevada citizens by virtue
15 of having a membership of over 5,000 Nevada citizens who support AWHC's mission. In
16 addition, these Nevada members of AWHC enjoy viewing, studying and photographing wild
17 horses on public and open rangeland. AWHC is thereby entitled to bring this action on behalf of
18 Nevada citizens to demand enforcement of the appropriate laws germane to this case.

19 **FIRST CLAIM FOR RELIEF**

20 **(Violation of NRS 569 et. seq - All Defendants)**

21 56. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1
22 through 55, above, as though fully set forth herein.

23 57. The Department as owner of the feral horses, Defendant Miller, and Defendant Farris
24 all have a duty to Ms. Westlake and to the 5,000 citizens of Nevada represented by AWHC to
25 enforce the provisions of NRS 569 et. seq.

26 58. By failing to require notice of gathering, failing to publish Notice of Sale and
27 then issuing brand certificates to the Tribe declaring the Tribe to be the owner of the feral horses and
28 issuing livestock movement licenses, Defendants Miller and Farris breached their duty to Ms.

1 Westlake and to AWHC as the representative of Nevada citizens.

2 59. When Members of the Tribe are on non-reservation land, they have a duty to follow
3 the laws of the State of Nevada.

4 60. By trespassing onto the private non-reservation land and rounding up feral horses the
5 Members of the Tribe and Catoor violated NRS 569 et. seq.

6 61. By selling the horses to Defendant Quillan without notice as required by NRS 569
7 et. seq., the Tribe violated the statute.

8 62. As a direct and proximate result of the action taken by the Members of the Tribe, and
9 Catoor acting on behalf of the Tribe, Plaintiffs have been damaged.

10 63. Defendant Quillan also violated NRS 569 et. seq. by purchasing the feral horses from
11 the Tribe.

12 64. Defendant Quillan knew or should have known that the sale of the horses to her was
13 in violation of NRS 569 et. seq.

14 65. As a direct and proximate result of Defendants' actions Ms. Westlake's horse and
15 many other horses were taken causing damages to Ms. Westlake including but not limited to special
16 damages for the cost and value of her horse, which is incapable of being measured, general damages
17 for pain and suffering for the loss of her beloved animal and the anxiety and worry it has caused; and
18 damages to Nevada citizens for destruction of feral horse groups that have been on this property for
19 years and upon which citizens enjoy viewing, studying and photographing these wild horses.

20 66. The actions of Defendants were oppressive, fraudulent or malicious , therefore,
21 Plaintiffs are entitled to recover damages for the sake of example and by way of punishing
22 Defendants in an amount in excess of \$75,000, the exact amount to be proven at a Trial in this
23 matter.

24 67. Plaintiffs have had to retain the services of attorneys to seek return of these animals
25 and that the laws be enforced, and are thus entitled to costs and reasonable attorneys fees.

26 **SECOND CLAIM FOR RELIEF**

27 **(Violation of 42 U.S.C. § 1983 - All Defendants)**

28 68. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1

1 through 67, above, as though fully set forth herein.

2 69. Defendants' improper actions in gathering up the horses without notice, selling the
3 horses without notice, issuing Brand Certificates declaring the Tribe to be the owners, and issuing
4 Livestock Movement permits were performed while acting under color of state law.

5 70. Defendants' improper actions as noted above deprived Plaintiffs of the rights,
6 privileges, or immunities secured by the Constitution or laws of the United States.

7 71. As a direct and proximate result of Defendants' improper actions, Ms. Westlake has
8 suffered severe or extreme emotional distress, including but not limited to long spells of uncontrolled
9 crying, and anxiety, which emotional distress will become even more pronounced if her horse is
10 actually slaughtered.

11 72. As a direct and proximate result of Defendants' improper actions, Ms. Westlake's
12 horse and many other horses were taken causing damages to Ms. Westlake including but not limited
13 to special damages for the cost and value of her horse, which is incapable of being measured, general
14 damages for pain and suffering for the loss of her beloved animal and the anxiety and worry it has
15 caused; and damages to Nevada citizens for destruction of feral horse groups that have been on this
16 property for years and upon which citizens enjoy viewing, studying and photographing these wild
17 horses.

18 73. As a direct and proximate result of Defendants' improper actions, Plaintiffs are
19 entitled to mandatory injunctive relief requiring the return of the horses until such time as there is
20 compliance with NRS 569 et. seq., and specifically, Ms. Westlake is entitled to a mandatory
21 injunction requiring return of her horse to her.

22 74. It has become necessary for Plaintiffs to engage the services of an attorney to
23 commence this action and Plaintiffs, are therefore, entitled to reasonable attorney's fees and costs
24 as damages

25 **THIRD CLAIM FOR RELIEF**

26 **(Conspiracy - All Defendants)**

27 75. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1
28 through 74, above, as though fully set forth herein.

1 76. Defendants entered into an agreement with the Tribe that the tribe would trespass
2 onto private property round -up the feral horses on those properties, and get them onto reservation
3 land. Then the Department through Defendant Miller would issue brand certificates transferring the
4 ownership to the Tribe so the Tribe could sell the horses to Defendant Quillan, which would then
5 allow her to sell them to a slaughterhouse(s).

6 77. All of the named Defendants agreed and understood that foregoing actions of
7 Defendants were illegal and in violation of NRS 569 et. seq.

8 78. All of the named Defendants further understood and agreed that each would act in
9 concert with each other to deprive Plaintiffs of their property and their rights as afforded to them by
10 the United States Constitution, and NRS 569 et seq.

11 79. The foregoing actions of Defendants constituted a conspiracy to deprive Plaintiffs
12 of their property in violation of 42 U.S.C. 1983 and were undertaken under color of state law.

13 80. Defendants undertook the acts as described in Paragraph 69 for their unlawful gain
14 and did so with malice and an intent to injure Plaintiffs.

15 81. Unless prevented by appropriate injunctive measure including mandatory injunctive
16 relief, the horses already in transport will be slaughtered and the additional horses that are on the
17 reservation will be transferred to the Tribe by Defendant Miller or Defendant Farris who will then
18 sell the horses to a third party for sale to the slaughterhouse(s).

19 82. Additionally the Court must issue injunctive relief requiring Defendants to
20 comply with the provisions of NRS 569 et seq.

21 83. It has become necessary for Plaintiffs to engage the services of an attorney to
22 commence this action and Plaintiffs, are therefore, entitled to reasonable attorney's fees and costs
23 as damages

24 **FOURTH CLAIM FOR RELIEF**

25 **(Declaratory Relief)**

26 84. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1
27 through 83 above and incorporates them as though fully set forth herein.

28 85. Plaintiffs brings this action to seek a declaration of rights pursuant to NRS 30.040,

1 which states:

2 **Questions of construction or validity of instruments, contracts and statutes.** Any
3 person ...whose rights, status or other legal relations are affected by a statute, ...may
4 have determined any question of construction or validity arising under the statute,
...and obtain a declaration of rights, status or other legal relations thereunder.

5 86. A dispute has arisen between Plaintiffs and Defendants with respect to NRS 569 et
6 seq.

7 87. Plaintiffs allege that Defendants were required to comply with the Notice, Publication
8 and sale provisions of NRS 569 et. seq.

9 88. Defendants have stated that these were not feral horses but were actually owned by
10 the Tribe and thus the Tribe had the right to go onto private land and reclaim the horses and be
11 declared as owners thus eliminating the need for them to comply with NRS 569 et. seq.

12 89. Plaintiffs are entitled to a Declaratory Judgment in their favor declaring the following:
13 (a) that the horses that are the subject of the round-up that occurred on January 4, and 5th 2019 are
14 feral horses and as such are owned by the Department; (b) that all unbranded horses in the Valley
15 not on reservation land are feral horses; (c) that the Department be required to enforce the notice and
16 publication provisions of NRS 569 et. seq., for the benefit of all of the Nevada citizens; (d) that Ms.
17 Westlake is the owner of Lady and her horse shall be returned to her forthwith, regardless of where
18 it is presently located; (e) that because the transfer of the horses to the Tribe was done in
19 contravention of the requirement of NRS 569 et seq., and in violation of the law; and (f) that the sale
20 to Defendant Quillan is void as a matter of law and thus, she is not the owner of the horses and the
21 horses must be returned by Defendant Quillan to the Department for restoration to the land from
22 where the horses were taken.

23 90. A Declaratory Judgment is appropriate in this case because there exists a justiciable
24 controversy between the Parties with respect to the requirements of the statute.

25 91. The interests of Plaintiffs and Defendants are adverse as Plaintiffs seek to
26 declare the sale void and seek return of all of the horses while Defendants seek to uphold the
27 gathering, transfer of ownership and subsequent sale.

28 92. The controversy between the Parties is ripe for judicial determination as the horses

1 are currently in transit and it is anticipated that Ms. Westlake's horse is among the horses already
2 in transport, and without judicial intervention her horse will be slaughtered.

3 93. The controversy between the Parties is ripe for judicial determination also because
4 the Tribe Members have stated that they intend to do this again and without judicial intervention,
5 the Department will continue to act in violation of the law.

6 94. It has become necessary for Plaintiffs to engage the services of an attorney to
7 commence this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs as
8 damages.

9 **FIFTH CLAIM FOR RELIEF**

10 (Mandatory Injunctive Relief)

11 95. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1
12 through 94 above as though fully set forth herein.

13 96. On or about January 4th and 5th, 2019, Defendants engaged in a conspiracy for the
14 removal, transfer of ownership and subsequent sale of the feral horses located in the Valley on
15 private land.

16 97. Pending adjudication on the merits of this case, any efforts by Defendants to deprive
17 Plaintiffs of their property in contravention of the notice provisions of NRS 569 et. seq. gives rise
18 for the need of Mandatory Injunctive Relief in order to maintain the status quo so Plaintiffs can
19 continue to enjoy the benefits of the horses.

20 98. By virtue of Defendants' actions, Plaintiffs are being damaged in an amount that is
21 difficult to determine due to the fact that the horses are feral horses and as such are of a value that
22 is incapable of being adequately measured.

23 99. The damages and injuries caused to Plaintiffs, are of a such a nature that they cannot
24 be adequately measured because the damages consist of not only Plaintiffs' rights to enjoy the horses
25 on the land but also to potentially buy the horses if the Department decides to sell them pursuant to
26 the provisions of NRS 569. Therefore, the taking and destruction of the horses, is not easily
27 compensable by money damages.

28 100. There is no adequate, plain or speedy remedy at law to protect Plaintiffs except

1 to return Ms. Westlake's horse to her; return the horses to the lands from which they were taken,
2 require the Department and Defendants Farris and Miller to abide by the requirements of NRS 569
3 et seq., issue a mandatory injunction requiring the Tribe and any other subsequent purchaser to abide
4 by NRS 569; and require the Department to produce documents to subsequent owners showing that
5 the law has been complied with.

6 101. It has become necessary for Plaintiff to engage the services of an attorney to
7 commence this action and Plaintiff are, therefore, entitled to reasonable attorney's fees and costs as
8 damages.

9 **SIXTH CLAIM FOR RELIEF**

10 **(Permanent Injunction)**

11 102. Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1
12 through 101 above and incorporate them as though fully set forth herein.

13 103. Plaintiffs are being irreparably harmed by the failure of Defendants to abide by NRS
14 569 et. seq.

15 104. The damages for the general loss of the horses and for Ms. Westlake's loss of her
16 horse are of a type that cannot be adequately measured, and thus, Plaintiffs' injuries are not easily
17 compensable by money damages.

18 105. Plaintiffs are suffering continuing damages for fear and worry that the Tribe members
19 will return and more horses will be taken, sold and slaughtered, the extent of which can not be
20 measured or ascertained.

21 106. There is no adequate, plain or speedy remedy at law to protect Plaintiffs except
22 to require the Court to enjoin Defendants from rounding up, issuing Brand Certificates, and selling
23 the horses until NRS 569 et. seq. is complied with.

24 107. Therefore, Plaintiffs are entitled to an order granting a preliminary injunction against
25 Defendants: (1) enjoining Defendants from entering onto private lands and gathering the feral horses
26 without notice; (2) enjoining Defendants from issuing brand certificates or livestock movement
27 licenses without compliance with NRS 569 et. seq.; (3) enjoining the slaughter of the horses that are
28 currently believed to be in transit; (4) issuance of an Order stopping the horses from crossing the

1 border; and (5) immediate return of Ms. Westlake's horse.

2 108. It has become necessary for Plaintiffs to engage the services of an attorney to
3 commence this action and Plaintiffs are, therefore, entitled to reasonable attorney's fees and costs

4 WHEREFORE, Plaintiffs respectfully request that this Court enter an Order

5 1. Declaring that Defendants to have engaged in a civil conspiracy to violate the
6 provisions of NRS 569 et. seq. upon Plaintiffs and to therefore be jointly and severally liable for
7 all damages awarded by the Court without allocation, apportionment, or limitation of liability.

8 2. Enjoining Defendants from committing any further acts in furtherance of said
9 conspiracy including but not limited to transferring or selling any other horses.

10 3. Awarding Plaintiffs compensatory and incidental damages in an amount not less
11 than Seventy Five Thousand Dollars (\$75,000.00)

12 4. Awarding Plaintiffs punitive damages in such amount as the Court may deem
13 appropriate to penalize Defendants for their intentional and malicious acts of misconduct.

14 5. Requiring Defendants to comply with the provisions of NRS 569 and in the event
15 of a question to seek written guidance from the Attorney General's Office.

16 6. Immediately restraining the Tribe from rounding up any horses that are not on
17 reservation land.

18 7. Declaring the contract between the Tribe and Defendant Quillan void as a matter
19 of law.

20 8. For a mandatory injunction returning Ms. Westlake's horse and all other horses
21 that were taken by the Tribe:

22 9. For the Court to require that any horses that were sold to Zena Quillan that have
23 now been placed in trucks for shipment that Zena Quillan contact the shipper and have the
24 shipper return the horses to Zena Quillan who shall then arrange for the transport back to the
25 Pyramid Lake Paiute Indian Tribe or to the Valley

26 10. That all horses currently in the possession of the Tribe be returned to the
27 Valley and/or held by the Department until compliance with the provisions of NRS 569 are met.

28 11. That this Order to be provided to all border control stations that the Border

1 Control Agents disallow any trucks transporting non-papered horses from crossing the border and
2 report the location to Plaintiffs' counsel so that instructions may be provided on returning the
3 horses.

4 12. For an Order requiring Zena Quillan and/or the Tribe provide the current location
5 of the horses to Plaintiff's counsel.

6 13. Awarding Plaintiffs, the costs of this action and any subsequent appeal, together
7 with such other relief, not necessarily limited to pecuniary relief as the Court may deem Plaintiffs
8 entitled to receive.

9 14. For such other and further relief as the Court may deem just and proper.

10 DATED this 16th day of January, 2019.

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