

CAUSE NO. 18-C-3491

STREETSTOSHEETS ANIMAL RESCUE § **IN THE COUNTY COURT AT LAW**
§
§
v. § **NO. 1**
§
§
MUTTS & MAYHEM ANIMAL RESCUE and SELENA SCHMIDT §
§
§ **ELLIS COUNTY, TEXAS**

**PLAINTIFF'S ORIGINAL PETITION, REQUEST FOR TEMPORARY INJUNCTION
AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF THE COURT:

StreetsToSheets Animal Rescue, Plaintiff, files this original petition and request for disclosure complaining of Mutts & Mayhem Animal Rescue and Selena Schmidt, Defendants, and in support of this petition will show the following:

Discovery Control Plan

1. Plaintiff intends that discovery be conducted under Discovery Control Plan Level 1 pursuant to Rule 190 of the Texas Rules of Civil Procedure.

Parties

2. Plaintiff is a non-profit corporation organized under the laws of the State of Texas.
3. Defendant, Mutts & Mayhem Animal Rescue is a corporation doing business in Texas and may be served with citation by serving its registered agent, Selena Dell Schmidt, at 8517 Broad Meadow Lane, McKinney, Texas 75071
4. Defendant, Selena Schmidt is an individual residing in Texas and may be served with process at 8517 Broad Meadow Lane, McKinney, Texas 75051.

Jurisdiction and Venue

5. Pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) venue is proper in Ellis County, Texas because it is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. The relief sought in this case is within the jurisdiction of this

Court.

Facts of the case

6. StreetstoSheets is a 501(c)(3) non-profit organization that is dedicated to rescuing, rehabilitating and placing abandoned and homeless animals with loving families in “forever homes.”

7. In early June of 2018 StreetsToSheets was notified by local residents and business owners in Waxahachie, Texas that a Great Pyrenees dog with a severe neck injury had been roaming the streets of Waxahachie since late November 2017. He had been named “Hobo” because of his used of railroad tracks to navigate the area. It was quickly determined that his injury was more severe than everyone thought; his neck was necrotic due to an infection from an embedded collar. StreetsToSheets and its team of volunteers immediately began working on a plan and logistics to capture Hobo. Their plan included ensuring he was fed daily, providing antibiotics, documenting his routine from 6 AM to 3 AM, locating his primary resting areas and mapping out any and all routes of travel. Once all of his activities were correlated, a plan to humanely capture him was formulated.

8. Beginning on June 14, 2018 StreetstoSheets and its volunteers began working day and night, trying to capture Hobo. They searched a ten-mile radius for him, tracked him, provided food and water for him, set up surveillance cameras and placed traps for him.

9. At some point, Defendants learned that StreetsToSheets was trying to capture Hobo and on June 16, 2018, Defendants contacted StreetsToSheets and offered to assist in Hobo’s capture. Defendant, Selena Schmidt, stated that although “[t]his location is out of our primary service area, if you get to a point where you need it, we might be able to deploy a support team for you, possibly providing you with some thermal aerial support or custom built trap if you need it and our team veterinarian for advanced capture tactics. Our availability just depends on if we are already busy working emergencies in our area. If you ever need us, our search command number is 469-608-0729.” StreetstoSheets accepted the offer of assistance.

10. Another rescue group known as Twisted Tails also volunteered to assist StreetsTo Sheets in Hobo’s capture and provided volunteers and surveillance cameras. The effort to capture Hobo continued for several more long days and nights.

11. On June 26, 2018 a volunteer with Twisted Tails came up with the idea to use a

“Ghillie Suit” which is basically a grass camouflage suit. The suit would be worn by the Twisted Tails volunteer in order to get close enough to trigger the trap door after Hobo entered the cage. Twisted Tails provided equipment that allowed them to monitor Hobo’s movements via a live feed. At 10:29 p.m. Hobo entered the cage-trap and the Twisted Tails volunteer triggered the trap door, causing it to shut. After the Twisted Tails volunteer had secured Hobo in the cage, volunteers from StreetsToSheets and Defendants exited their parked vehicles and went to the scene of the capture. At the time the Twisted Tails volunteer trapped Hobo, he intended for StreetsToSheets to own and take possession of Hobo and had trapped Hobo on their behalf. It was also the understanding, agreement and intent of all three organizations that once he was captured, Hobo would be StreetsToSheets’ dog.

12. Hobo needed immediate medical attention and Defendants offered to have their veterinarian treat Hobo. It was agreed by all involved that Defendants’ veterinarian would treat Hobo and when he was well enough, he would be returned to StreetsToSheets.¹

13. Once Defendants had taken possession of Hobo, they immediately began using him to raise money. Defendants began bragging all over the internet about how they had captured Hobo and began soliciting donations. As a result, Defendants have received thousands of dollars in donations from an unsuspecting public. 

14. Because Defendants are making so much money off the Hobo story, they do not want to turn off the money spigot and have decided to keep Hobo as a fundraising gimmick, even though he belongs to StreetsToSheets Animal Rescue. Defendants are now hiding Hobo and have repeatedly refused to return him, forcing StreetsToSheets to file this lawsuit to get him back.

Request for Declaratory Judgment

15. StreetsToSheets Animal Rescue brings this action under The Uniform Declaratory Judgments Act (Chapter 37 of the Texas Civil Practice and Remedies Code) asking the Court to declare that StreetsToSheets Animal Rescue is the owner of Hobo and is entitled to immediate and permanent possession of Hobo.

¹ Defendants acknowledged this in written texts shortly after Hobo’s capture that stated, “he will be taken to the vet, then he will be coming to Streets to Sheets,” and “For the first few days, he is with Mutts and Mayhem Emergency Search and Rescue, being treated by our team veterinarian and then he will be transferred to Streets to Sheets.”

Theft Liability Act

16. Defendants' refusal to return Hobo to StreetsToSheets Animal Rescue constitutes theft as that term is defined in the Texas Penal Code and proximately caused actual damages to Plaintiff. Therefore, this suit is brought against Defendants under the Texas Theft Liability Act. *See Ashburn v. Caviness*, 298 S.W.3d 401 (Tex. App.—Amarillo 2009, no pet. h.)

Conversion

17. Unfortunately, under Texas law, dogs are considered "personal property." Defendants' refusal to return Hobo constitutes conversion of unique personal property owned by StreetsToSheets Animal Rescue.

Request for Injunction

18. StreetsToSheets Animal Rescue says that it will suffer imminent and irreparable harm or injury if a temporary injunction is not issued in this case and that it has no adequate remedy at law. StreetsToSheets Animal Rescue requests that, after notice and hearing, this Court issue a temporary injunction ordering Defendants not to sell, transfer, give away, harm, hide, alter, remove from the Court's jurisdiction or otherwise dispose of Hobo during the pendency of this suit. StreetsToSheets Animal Rescue further requests this Court to issue a temporary injunction ordering Defendants to return Hobo to StreetsToSheets Animal Rescue and awarding possession of Hobo to StreetsToSheets Animal Rescue during the pendency of this suit. Upon final trial, StreetsToSheets Animal Rescue requests that the temporary injunction be made permanent and that Defendants be prohibited from taking or regaining possession of Hobo.

Request for disclosure

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

Relief requested

20. Pursuant to Rule 47 Plaintiff seeks monetary relief of \$100,000 or less and non-monetary relief.

Prayer

21. StreetsToSheets Animal Rescue prays for a judgment declaring that it owns Hobo and is entitled to permanently possess him. StreetsToSheets Animal Rescue 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. StreetsToSheets Animal Rescue prays that it recover reasonable and necessary attorney's fees from Defendants and for such other relief at law or in equity to which it may be justly entitled.

Respectfully submitted,

/s/ Randall E. Turner

Texas State Bar No.: 20328310

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