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 County of Monterey  
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF MONTEREY**

HUMANE FARMING ASSOCIATION, a  
 California nonprofit corporation; SHOWING  
 ANIMALS RESPECT AND KINDNESS, INC.,  
 an Illinois nonprofit corporation; and JANE  
 DOE, an individual,

Petitioners and Plaintiff,

v.

MONTEREY COUNTY ANIMAL CONTROL  
 SERVICES, a government entity; MONTEREY  
 COUNTY HEALTH DEPARTMENT, a  
 government entity; MONTEREY COUNTY, a  
 political subdivision of the state of California;  
 ELSA JIMENEZ, in her official capacity as  
 Director of Health of the Monterey County  
 Health Department; and DOES 1 through 50,

Respondents and Defendants.

Case No. 20CV002255

**VERIFIED PETITION FOR WRIT OF  
 MANDATE AND COMPLAINT FOR  
 INJUNCTIVE RELIEF**

Petitioners HUMANE FARMING ASSOCIATION (“HFA”) and SHOWING ANIMALS  
 RESPECT AND KINDESS (“SHARK”), and Petitioner and Plaintiff JANE DOE, (collectively  
 “Petitioners”) petition this Court for mandamus under Code of Civil Procedure section 1085, and injunctive  
 relief under Code of Civil Procedure section 526a, against MONTEREY COUNTY ANIMAL  
 CONTROL SERVICES; MONTEREY COUNTY HEALTH DEPARTMENT; MONTEREY  
 COUNTY; ELSA JIMENEZ, in her official capacity as Director of Health of the Monterey County  
 Health Department; and DOES 1 through 50 (collectively, “Respondents”), based upon information  
 and belief and the investigation of counsel, except for information based upon personal knowledge, as  
 follows:

## INTRODUCTION

1. Cockfighting is a threat to public safety and animal welfare. The United States Department of Justice explains that animal fighting exhibitions such as cockfighting are linked to “gang, weapons, human trafficking, gambling, and narcotics offenses.”<sup>1</sup> As recognized by the California legislature, “There is an undeniable connection between cockfighting and other significant issues such as illegal gambling, drug trafficking, violence toward people and ... the spread of deadly and devastating diseases.”<sup>2</sup> Even amid the global coronavirus pandemic, large crowds congregate to bet on illegal cockfights; a recent investigation by Petitioners HFA and SHARK uncovered hundreds of spectators gathering, without wearing masks or social distancing, while human handlers sucked blood from the necks and heads of wounded roosters.<sup>3</sup>

2. Monterey County is a known hot bed for cockfighting and illegal rooster keeping. According to a 2019 Monterey County Civil Grand Jury report, “in Monterey County, there are an estimated one thousand known illegal rooster keeping operations housing thousands of roosters.”<sup>4</sup> But, despite years of public complaint and notice of violations, Respondents refuse to perform their mandatory duties under the local anti-cockfighting law, Monterey County Code §§ 8.50.010 *et seq.*, (hereinafter, the “Anti-Cockfighting Ordinance”), allowing cockfighting and related dangers to proliferate. By failing to take action against local cockfighters and their breeders, Respondents have also deprived taxpayers of, by a conservative estimation, hundreds of thousands of dollars in revenue those violators were required to pay as penalties under the Anti-Cockfighting Ordinance.

3. Petitioners seek to compel Respondents to perform their mandatory inspection duties under the Anti-Cockfighting Ordinance, §§ 8.50.010 *et seq.*, as well as collect mandatory fees from violators.

<sup>1</sup> U.S. Dep’t. of Just., Cmty. Oriented Policing Servs., *Animal Cruelty As A Gateway Crime*, 5 (2018), <https://cops.usdoj.gov/RIC/Publications/cops-w0867-pub.pdf>.

<sup>2</sup> Cal. B. An., S.B. 1349 Assemb., 8/21/2006.

<sup>3</sup> Duane Pohlman, *Cruelty & Contamination: Illegal Cockfighting Also Potential Breeding Ground for Pandemic*, Loc. 12 (July 5, 2020), <https://local12.com/news/investigates/undercover-at-a-potential-covid-hotspot>.

<sup>4</sup> Monterey Cty. Civ. Grand Jury, *Monterey County’s Unenforced Rooster Keeping Ordinance*, 10 (2019), <https://www.co.monterey.ca.us/home/showdocument?id=78112>.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction pursuant to Code of Civil Procedure section 1085 and jurisdiction to grant injunctive relief pursuant to Code of Civil Procedure sections 525, 526, and 526a.

5. Venue is appropriate in this Court because the acts and omissions, and/or their effects, complained of herein occurred in Monterey County.

**THE PARTIES****I. Petitioners and Plaintiff**

6. Petitioner HFA is a non-profit organization qualified under section 501(c)(3) of the Internal Revenue Code and is headquartered in California, with members residing in Monterey County. HFA's mission is to end abuse of farmed animals exploited by both agriculture and exhibition. HFA commits a portion of its resources to investigating and publicizing illegal cockfighting and rooster keeping operations in Monterey County, and calling for Respondents to inspect illegal rooster keeping operations as alleged herein. Respondents' failure to inspect illegal rooster keeping operations frustrates HFA's mission by requiring it to divert resources from other organizational activities in response to, and to counteract, the effects of the Respondents' failure to exercise its mandatory duties as alleged herein. HFA brings this case on behalf of its own organizational interests, and on behalf of the interests of its members, including its 500 members and their families who reside in Monterey County. Further, all actions HFA alleges it took herein were done for both its own interests and the interests of its members.

7. Petitioner SHARK is a non-profit organization qualified under section 501(c)(3) of the Internal Revenue Code, organized and existing under the laws of the State in Illinois, and qualified to do business in California. SHARK's mission is to end abuse of animals, particularly abuses in animal exhibitions such as illegal cockfighting. SHARK commits a portion of its resources to investigating and publicizing illegal cockfighting and rooster keeping operations in Monterey County, and calling for Respondents to inspect illegal rooster keeping operations as alleged herein. Respondents' failure to inspect illegal rooster keeping operations frustrates SHARK's mission by requiring it to divert resources from other organizational activities in response to, and to counteract, the effects of the Respondents' failure to exercise its mandatory duties as alleged herein.

8. Petitioner and Plaintiff JANE DOE ("Petitioner JANE DOE") is a resident of the County

1 of Monterey and is a taxpayer of the County of Monterey. Petitioner JANE DOE sues Respondents by a  
2 fictitious name to protect her privacy interests as identification creates a risk of retaliatory physical or  
3 mental harm by individuals engaged in cockfighting who, as alleged herein, may be involved in other  
4 criminal activities such as weapons or drug trafficking.

## 5 **II. Respondents and Defendants**

6 9. Upon information and belief, Respondent and Defendant MONTEREY COUNTY  
7 ANIMAL CONTROL SERVICES is a public entity and division and/or department of the County of  
8 Monterey, a political subdivision of the State of California.

9 10. Upon information and belief, Respondent and Defendant MONTEREY COUNTY  
10 HEALTH DEPARTMENT is public entity organized under Government Code section 33200, *et al.*, and  
11 division and/or department of the County of Monterey, a political subdivision of the State of California.

12 11. Upon information and belief, Respondent and Defendant MONTEREY COUNTY is a  
13 political subdivision of the State of California.

14 12. Upon information and belief, Respondent and Defendant ELSA JIMENEZ is an  
15 individual who serves in an official capacity as Director of Health of the Monterey County Health  
16 Department pursuant to Government Code section 33200, *et al.*

17 13. Petitioners are ignorant of the true names and capacities of Respondents sued herein as  
18 DOES 1 through 50, inclusive, and therefore sue said Respondents by such fictitious names.  
19 Petitioners will amend this Petition and Complaint to allege the true names and capacities of said  
20 Respondents when ascertained.

21 14. Petitioners are informed and believe, and based thereon allege, that each of said fictitiously  
22 named Respondents acted intentionally and/or recklessly or is responsible in some manner for the  
23 occurrences herein alleged, and that each of the violations of Petitioners' rights as herein alleged were  
24 proximately and legally caused by said Respondents' actions and/or omissions.

25 15. Petitioners are informed and believe, and based thereon allege that all of the Respondents  
26 identified herein, whether identified by name or by fictitious name, were and are the agents, servants, and  
27 employees of each of the remaining Respondents, and that in doing the things alleged herein were acting  
28 within the purpose, course, and scope of said agency, service, and/or employment and with the permission,

consent, authorization, and subsequent ratification of each of the remaining Respondents.

16. Petitioners are informed and believe, and based thereon allege that Respondents agreed to, cooperated with, aided, abetted, encouraged, ratified, and/or adopted the acts, actions, wrongdoing, and representations of each of the remaining Respondents herein, and that in doing any act alleged herein, were acting in concert and through a civil conspiracy by and among each Respondent to further the interests of each Respondent individually, and all Respondents as a group. For this reason, as well, all Respondents are jointly liable to Petitioners.

### **FACTUAL ALLEGATIONS**

17. Cockfighting is an illegal form of gambling and animal cruelty. Handlers raise and train roosters to fight to the death. This often involves injecting the birds with supplements, stimulants, and painkillers, including Strychnine, Methamphetamines, Testosterone capsules, and Anabolic steroids, to increase stamina, strength, and aggressiveness.<sup>5</sup> Prior to fighting, roosters are often armed with blades to inflict lethal wounds on one another.<sup>6</sup>

18. Because of the animal cruelty involved, cockfighting is illegal in all 50 states, including the District of Columbia and U.S. Territories.<sup>7</sup>

19. In addition to inflicting violence on animals, cockfighting is also a threat to public safety, human health, and the environment.

20. As recognized by the California legislature, “There is an undeniable connection between cockfighting and other significant issues such as illegal gambling, drug trafficking, violence toward people and, as evidenced by the outbreak of Exotic Newcastle Disease in 2002, the spread of deadly and devastating diseases.”<sup>8</sup>

#### **I. Cockfighting Spreads Dangerous Diseases**

21. Gamecocks may carry and transmit a variety of diseases, including avian influenza,

<sup>5</sup> Craig J. Forsyth, *A Pecking Disorder: Cockfighting in Louisiana*, 26 Int’l Rev. of Mod. Soc., 15, 20 (1996).

<sup>6</sup> Erin N. Jackson, *Dead Dogs Running: The Cruelty of Greyhound Racing and the Bases for Its Abolition in Massachusetts*, 7 Animal. L. 175, 195-196 (2001).

<sup>7</sup> Animal Welfare Act, 7 U.S.C.A § 2156.

<sup>8</sup> Cal. B. An., S.B. 1349 Assemb., 8/21/2006.

1 salmonella, Virulent Newcastle Disease, listeria, mycobacteria, campylobacter, and an avian coronavirus.<sup>9</sup>

2 22. Avian influenza, according to the World Health Organization, normally spreads in birds  
3 but can also infect humans. Human infections are primarily acquired through direct contact with infected  
4 poultry or contaminated environments. The ongoing circulation of these viruses in poultry is concerning,  
5 as these viruses cause severe disease in humans and have the potential to mutate to become more  
6 contagious between people.<sup>10</sup>

7 23. The Congressional Research Service reports more than 48 million chickens, turkeys, and  
8 other poultry were euthanized to stem the spread of avian influenza in 2014-2015.<sup>11</sup>

9 24. Salmonella, according to the World Health Organization, is 1 of 4 key global causes of  
10 diarrheal diseases and can be life-threatening, depending on the host and serotype of salmonella.  
11 Salmonella is also associated with antimicrobial resistance, as Salmonella is one of the microorganisms in  
12 which some resistant serotypes have emerged.<sup>12</sup>

13 25. Centers for Disease Control reports, as of June 2020, that it and public health officials in  
14 many states are investigating seven multistate outbreaks of Salmonella infections linked to contact with  
15 backyard poultry.<sup>13</sup>

16 26. Virulent Newcastle Disease (“VND”), previously called Exotic Newcastle Disease, is a  
17 contagious and fatal disease affecting all species of birds, and is one of the most infectious diseases of  
18 poultry in the world.<sup>14</sup>

19  
20 <sup>9</sup> See, e.g., Duane Pohlman, *Cruelty & Contamination: Illegal Cockfighting Also Potential Breeding*  
21 *Ground for Pandemic*, Loc. 12 (July 5, 2020), [https://local12.com/news/investigates/undercover-at-a-](https://local12.com/news/investigates/undercover-at-a-potential-covid-hotspot)  
22 [potential-covid-hotspot](https://local12.com/news/investigates/undercover-at-a-potential-covid-hotspot).

23 <sup>10</sup> WHO, *Surveillance – Avian Influenza*,  
24 <https://www.who.int/westernpacific/emergencies/surveillance/avian-influenza?> (last visited Aug. 6,  
25 2020).

26 <sup>11</sup> Joel L. Greene, U.S. Cong. Res. Serv., *Update on the Highly-Pathogenic Avian Influenza*  
27 *Outbreak of 2014-2015*, 1 (2015), <https://fas.org/sgp/crs/misc/R44114.pdf>.

28 <sup>12</sup> WHO, *Salmonella (Non-Typhoidal)*, (Feb. 20, 2018), [https://www.who.int/news-room/fact-](https://www.who.int/news-room/fact-sheets/detail/salmonella-(non-typhoidal))  
sheets/detail/salmonella-(non-typhoidal).

<sup>13</sup> Ctrs. for Disease Control & Prevention, *Outbreaks of Salmonella Infections Linked to Backyard*  
Poultry, (July 29, 2020), <https://www.cdc.gov/salmonella/backyardpoultry-05-20/index.html>.

<sup>14</sup> U.S. Dep’t. of Agric., Animal & Plant Health Insp. Serv., *Exotic NewCastle Disease (END)*,  
[https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/nvap/NVAP-Reference-](https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/nvap/NVAP-Reference-Guide/Poultry/Exotic-Newcastle-disease;)  
Guide/Poultry/Exotic-Newcastle-disease.; U.S. Dept. of Agric., Animal & Plant Health Insp. Serv.,  
*Virulent NewCastle Disease (vND)*,

27. Past outbreaks of VND have severely affected the poultry industry. In 1971-1974, a major outbreak occurred in Southern California that threatened the nation's entire poultry and egg supply. Almost 12 million birds were destroyed to control that outbreak. The eradication program cost taxpayers \$56 million and dramatically increased poultry prices.<sup>15</sup>

28. Cockfighting is attributed as the probable cause of a later 2002-2003 epidemic of VND in Southern California.<sup>16</sup> Despite the epidemic's origin in gamecocks, it eventually spread to commercial poultry—costing over \$180 million in federal funds to eradicate.<sup>17</sup>

29. VND was detected in May 2018 in Los Angeles County, spreading extensively in backyard poultry and commercial flocks—prompting a VND quarantine in Southern California that recently ended on June 1, 2020.<sup>18</sup>

## **II. The Behavior of Handlers and Spectators at Cockfights Compounds Zoonotic Risks**

30. Cockfighting promotes the transmission of disease from rooster to rooster; rooster to human handler; and spectator to spectator.

31. Human handlers make contact with roosters under a variety of circumstances. For example, according to a local news outlet covering a recent illegal cockfight, eyewitnesses observed handlers sucking puss and blood from the necks and heads of roosters. This technique is reportedly commonplace, as handlers believe removing blood and pus revives injured birds and increases fighting stamina.<sup>19</sup>

32. For example, a recent investigation by Petitioners HFA and SHARK found that, despite a

<https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian/virulent-newcastle/vnd> (last visited Aug. 6, 2020).

<sup>15</sup> Cty. Of Los Angeles Pub. Health, *Exotic Newcastle Disease Outbreak*, <http://publichealth.lacounty.gov/vet/newcastle.htm#:~:text=The%20disease%20could%20result%20in,severely%20affected%20the%20poultry%20industry.&text=Cockfighting%20was%20made%20illegal%20in,attempting%20to%20control%20the%20outbreak> (last visited Aug. 6, 2020).

<sup>16</sup> *Id.*

<sup>17</sup> U.S. Dept. of Agric., Agric. Res. Serv., *Newcastle Disease*, <https://www.ars.usda.gov/southeast-area/athens-ga/us-national-poultry-research-center/exotic-emerging-avian-viral-diseases-research/docs/newcastle-disease/> (last visited Aug. 6, 2020).

<sup>18</sup> Cal. Dept. of Food & Agric., *Virulent Newcastle Disease*, (June 1, 2020), [https://www.cdffa.ca.gov/ahfss/animal\\_health/newcastle\\_disease\\_info.html](https://www.cdffa.ca.gov/ahfss/animal_health/newcastle_disease_info.html).

<sup>19</sup> Duane Pohlman, *Cruelty & Contamination: Illegal Cockfighting Also Potential Breeding Ground for Pandemic*, Loc. 12 (July 5, 2020), <https://local12.com/news/investigates/undercover-at-a-potential-covid-hotspot>.

global coronavirus pandemic, hundreds of spectators gathered in Morgantown, Kentucky—without wearing masks or gloves, or social distancing—to watch and bet on illegal cockfighting.<sup>20</sup>

33. Cockfighting and illegal rooster keeping pose additional human health and ecological threats, as rooster housing and waste management can be unsanitary and environmentally damaging.

### III. Cockfighting is a Hotbed for Other Illegal Activity

34. According to the United States Department of Agriculture, cockfighting can be extremely dangerous, often including other illegal activities that involve drugs, firearms, and gambling.<sup>21</sup>

35. The United States Department of Justice warns that animal fighting in particular has been linked to gang, weapons, human trafficking, gambling, and narcotics offenses.<sup>22</sup>

36. For example, in June 2020, Drug Enforcement Administration (“DEA”) agents arrested two individuals in New York and seized 30 to 50 roosters bred for cockfighting, three industrial pill pressers, approximately 2.5 pounds of heroin, 34 grams of fentanyl, and 5 pounds of methamphetamine.<sup>23</sup> In February 2020, Los Angeles Police Department officers discovered several dead roosters at the scene of a cockfight, where one man was fatally shot, and another shot in the neck.<sup>24</sup> In June 2019, Virginia sheriff officers raided a cockfight arena and arrested 70 individuals linked to drug cartels—seizing cash, methamphetamine, firearms, weapons, vehicles, and cockfighting paraphernalia.<sup>25</sup> In June 2018, the leader of a drug trafficking operation with ties to multiple drug cartels was sentenced to 15 years in federal prison

<sup>20</sup> Duane Pohlman, Cruelty & Contamination: *Illegal Cockfighting Also Potential Breeding Ground for Pandemic*, Loc. 12 (July 5, 2020), <https://local12.com/news/investigates/undercover-at-a-potential-covid-hotspot>.

<sup>21</sup> U.S. Dept. of Agric., Animal & Plant Health Insp. Serv., *Animal Care Factsheet*, (November 2012), 1, [https://www.aphis.usda.gov/publications/animal\\_welfare/2012/animal\\_welfare\\_act\\_english.pdf](https://www.aphis.usda.gov/publications/animal_welfare/2012/animal_welfare_act_english.pdf).

<sup>22</sup> U.S. Dep’t. of Just., Cmty. Oriented Policing Servs., *Animal Cruelty As A Gateway Crime*, 5 <https://cops.usdoj.gov/RIC/Publications/cops-w0867-pub.pdf>.

<sup>23</sup> U.S. Drug Enf’t. Admin., *Large Scale Narcotics Pill Manufacturing Operation Dismantled in a Residential Building in the Bronx*, (June 22, 2020), <https://www.dea.gov/press-releases/2020/06/22/large-scale-narcotics-pill-manufacturing-operation-dismantled-residential>.

<sup>24</sup> Los Angeles Police Dept., *Fatal Shooting in Pacoima NR2005711*, (Feb. 24, 2020), [www.lapdonline.org/home/news\\_view/66316](http://www.lapdonline.org/home/news_view/66316).

<sup>25</sup> FOX8 Digital Desk, *70 arrested, drugs seized in cockfighting raid in Patrick County*, Fox 8 (Jun. 2, 2019), <https://myfox8.com/news/70-arrested-drugs-seized-in-cockfighting-raid-in-patrick-county/>.



in Oregon for conspiracy to distribute methamphetamine and engaging in cockfighting.<sup>26</sup> In December 2008, DEA agents arrested 621 drug traffickers who also operated a massive Tennessee cockfighting enterprise; law enforcement seized approximately \$71.2 million, 17,000 kilograms of cocaine, 1,000 pounds of methamphetamine, 20 pounds of heroin, 57,000 pounds of marijuana, and 224 weapons.<sup>27</sup>

#### **IV. Monterey County Passes the Anti-Cockfighting Ordinance to Curb Illegal Cockfighting and Associated Risks**

37. Prior to enactment of the Anti-Cockfighting Ordinance in December 16, 2014, the Monterey County Board of Supervisors “received numerous complaints from residents of the unincorporated area of Monterey County about roosters being raised in inhumane, unsanitary and crowded conditions and being used, sold or otherwise made available for illegal cockfighting.”<sup>28</sup>

38. Monterey County Board of Supervisors further acknowledged “[l]ack of regulation relating to sanitation, waste disposal, and drainage in the housing of large numbers of roosters pollutes water supplies, breeds vermin infestation, generates odors, and creates risk of disease.”<sup>29</sup>

39. As a result, “[t]o protect the public health, safety, and welfare[.]” Monterey County Board of Supervisors enacted Ordinance No. 5249, codified at Monterey County Code §§ 8.50.010 *et seq.*<sup>30</sup>

40. The Anti-Cockfighting Ordinance “serves the public health, safety and welfare by establishing a comprehensive approach to the keeping of five or more roosters that balances promotion of agriculture and agricultural education with prevention of operations that are unsanitary, inhumane, environmentally damaging, and potentially conducive of illegal conduct.”<sup>31</sup>

41. The Anti-Cockfighting Ordinance went into effect January 16, 2015.<sup>32</sup>

<sup>26</sup> U.S. Dep’t. of Just., *Hillsboro Man Sentenced to More Than 15 years in Federal Prison for Distribution of Methamphetamine and Cockfighting*, (Jun. 29, 2018), <https://www.justice.gov/usao-or/pr/hillsboro-man-sentenced-more-15-years-federal-prison-distribution-methamphetamine-and>.

<sup>27</sup> U.S. Drug Enf’t. Admin., *DEA Case Uncovers Massive Cockfighting Arena in Tennessee*, (Dec. 30, 2008), <https://admin.dea.gov/sites/default/files/divisions/atl/2008/atlanta123008p.html>.

<sup>28</sup> Monterey Cty. Code § 8.50.010(B).

<sup>29</sup> *Id.* at § 8.50.010(C).

<sup>30</sup> *Id.* at § 8.50.010(I).

<sup>31</sup> *Id.* at § 8.50.010(J).

<sup>32</sup> Monterey Cty. Code § 8.50.030.

**V. The Anti-Cockfighting Ordinance Imposes Mandatory Duties on Respondents, Including Mandatory Inspections and Collection of Revenue**

42. To end gamecock breeding, the Anti-Cockfighting Ordinance prohibits holding “five or more roosters ... on any single property within unincorporated Monterey County ... without an approved permit or an approved exemption.”<sup>33</sup> It also requires rooster keeping operations “adhere to certain sanitation, space, and animal treatment requirements.”<sup>34</sup>

43. To ensure compliance with the above, the Anti-Cockfighting Ordinance imposes a mandatory inspection duty upon Respondents.

44. Pursuant to Monterey County Code § 8.50.100(A), “Each rooster keeping operation for which a permit has been issued *shall be* inspected at intervals as determined by the Animal Control Officer, *or as a result of a public complaint, or upon other notice received* of possible violation of the provisions of this Chapter.” (emphasis added.)

45. The Anti-Cockfighting Ordinance also requires Respondents to collect certain mandatory fees.

46. Pursuant to Monterey County Code § 8.50.100(D), “When an inspection is conducted as a result of a public complaint or other notice received of possible violation of the provisions of this Chapter, and when violations are found to exist, a rooster keeping operator or a non-permitted, non-exempted person keeping five or more roosters, *shall pay* complaint investigation costs, including the costs of inspections and other investigatory activities.” (emphasis added.)

47. Complaint investigation costs are \$135 per hour, per officer.<sup>35</sup> Pursuant to Monterey County Code § 8.50.100(D), “Investigation costs *shall be* assessed through the period that either: (1) the rooster keeping operator comes into compliance with the provisions of this Chapter; or (2) the rooster keeping operator's permit is suspended or revoked; or (3) a non-permitted, non-exempted person ceases and desists from keeping five or more roosters pursuant to this Chapter.” (emphasis added.)

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at § 8.50.010(I); See also § 8.50.090.

<sup>35</sup> *Id.* at § 8.50.050; Cty. Of Monterey Health Dept., Rooster Ordinance Current Fees, (Nov. 15, 2016), <https://www.co.monterey.ca.us/government/departments-a-h/health/monterey-county-animal-services/rooster-ordinance>.

**VI. Respondents Fail to Perform Mandatory Duties Under the Anti-Cockfighting Ordinance**

48. Petitioner JANE DOE began to observe illegal rooster keeping in Monterey County, including near her residence, on or about 2017, and has since contacted Respondent MONTEREY COUNTY ANIMAL CONTROL SERVICES multiple times to remediate the site(s). Upon information and belief, the illegal operation(s) she has witnessed have not been issued permits by Respondents pursuant to the Anti-Cockfighting Ordinance.

49. For example, from 2017 to present, Petitioner JANE DOE has witnessed roosters inhumanely confined in makeshift, corrugated sheet metal enclosures, surrounded by debris. At one point, she even witnessed people living in shelters *with* the roosters. Upon information and belief, there are approximately 50 roosters, plus an unknown number of baby chicks, at any point in time on the illegal rooster keeping operation(s).

50. Beginning on or about August 2018, Petitioners HFA and SHARK began investigating illegal cockfighting and rooster keeping operations in Monterey County.

51. Since August 2018, Petitioners HFA and SHARK conducted and continue to conduct aerial investigations of properties in violation of the Anti-Cockfighting Ordinance.

52. Over the course of its investigations, Petitioners HFA and SHARK have discovered numerous illegal rooster keeping operations. These unlawful operations hold dozens or hundreds of roosters, without a permit, and often in squalid conditions.

53. Since August 2018, Petitioners HFA and SHARK created content and conducted media outreach to educate their supporters and the public about illegal cockfighting and rooster keeping in Monterey County.

54. Since August 2018, Petitioners HFA and SHARK have repeatedly made public complaints within the meaning of Monterey County Code § 8.50.100(A) to Respondents MONTEREY COUNTY ANIMAL CONTROL SERVICES and MONTEREY COUNTY HEALTH DEPARTMENT regarding various illegal rooster keeping operations, and have specifically requested Respondents enforce the Anti-Cockfighting Ordinance.

55. On or about February 2019, HFA and SHARK conducted further aerial investigation. This investigation confirmed at least two (2) addresses engaging in unlawful rooster keeping.

1           56.     On or about June 24, 2019, Monterey County Civil Grand Jury (“Grand Jury”) published  
2 its report *Monterey County’s Unenforced Rooster Keeping Ordinance* (“Grand Jury Report”).<sup>36</sup>

3           57.     The Grand Jury Report explained that it “received a complaint from a resident who  
4 discovered a well-established, alleged illegal rooster keeping operation in Monterey County during June  
5 of 2018. Unsure of where to turn, the complainant contacted four different County agencies and reported  
6 alleged animal abuse and animal cruelty including cockfighting. The complainant’s concerns were not  
7 given sufficient consideration.”<sup>37</sup>

8           58.     The Grand Jury stated, among other things, “[t]he [Anti-Cockfighting] Ordinance is not  
9 being implemented or enforced.”<sup>38</sup>

10          59.     According to the Grand Jury Report, “Numerous expert witnesses testified that today, *in*  
11 *Monterey County, there are an estimated one thousand known illegal rooster keeping operations*  
12 *housing thousands of roosters.*”<sup>39</sup> (emphasis added.) The Grand Jury Report also noted that, at present,  
13 “no permits for rooster keeping are in effect.”<sup>40</sup>

14          60.     On or about July 2019, HFA and SHARK conducted additional aerial investigation. This  
15 investigation confirmed at least twelve (12) more sites engaged in unlawful rooster keeping. Upon  
16 information and belief, none of these addresses was issued a rooster keeping permits pursuant to the Anti-  
17 Cockfighting Ordinance.

18          61.     On or about July 31, 2019, HFA and SHARK made public complaint, and/or provided  
19 notice of violations of the Anti-Cockfighting Ordinance, within the meaning of Monterey County Code §  
20 8.50.100(A) to Respondents MONTEREY COUNTY ANIMAL CONTROL SERVICES and  
21 MONTEREY COUNTY HEALTH DEPARTMENT, through the Monterey County Board of  
22 Supervisors.

23  
24  
25 <sup>36</sup> Monterey Cty. Civ. Grand Jury, *Monterey County’s Unenforced Rooster Keeping Ordinance*,  
26 (2019), <https://www.co.monterey.ca.us/home/showdocument?id=78112> (hereinafter *Grand Jury Rep.*)

27 <sup>37</sup> *Grand Jury Rep.* at 3.

28 <sup>38</sup> *Id.* at 4.

<sup>39</sup> *Id.* at 10.

<sup>40</sup> *Id.* at 14.

62. On or about October 12 through October 14, 2019, HFA and SHARK conducted additional aerial investigation. This investigation confirmed at least sixteen (16) more sites engaged in unlawful rooster keeping, as well as confirmed continued violations by previously investigated properties. Upon information and belief, none of these addresses was issued a rooster keeping permits pursuant to the Anti-Cockfighting Ordinance.

63. On or about October 15, 2019 and October 16, 2019, based on its the investigations of February 2019, July 2019, and October 2019, HFA and SHARK made public complaint within the meaning of Monterey County Code § 8.50.100(A) to Respondents MONTEREY COUNTY ANIMAL CONTROL SERVICES and MONTEREY COUNTY HEALTH DEPARTMENT, reporting a list of at least thirty (30) unlawful rooster keeping operations.

64. On or about February 7, 2020, HFA and SHARK made another public complaint within the meaning of Monterey County Code § 8.50.100(A) to Respondents MONTEREY COUNTY ANIMAL CONTROL SERVICES and MONTEREY COUNTY HEALTH DEPARTMENT, reporting the same list of unlawful rooster keeping operations as cited in the preceding paragraph.

65. On or about June 15, 2020, Petitioners again made a public complaint within the meaning of Monterey County Code § 8.50.100(A) to Respondents MONTEREY COUNTY ANIMAL CONTROL SERVICES and MONTEREY COUNTY HEALTH DEPARTMENT. The public complaint reincorporated the addresses reported on October 2019 and February 7, 2020, and included an additional address.

66. To date, Respondents have not responded to Petitioners' public complaints and/or notices of violation dated October 15, 2019, October 16, 2019, February 7, 2020, or June 15, 2020, nor have Respondents conducted any mandatory inspection with the meaning of § 8.50.100(A).

67. Because Respondents refuse to enforce the Anti-Cockfighting Ordinance—including refusing to perform mandatory inspections upon either public complaint and/or notices of violation within the meaning of Monterey County Code § 8.50.100(A)—Respondents also fail to collect mandatory fees within the meaning of Monterey County Code § 8.50.070(D).

68. Because Respondents have refused to enforce the Anti-Cockfighting Ordinance, including mandatory inspection duties described herein, Petitioners HFA and SHARK continue to, among other

things, investigate and report properties violating the law; create content to educate their supporters and the public about Respondent's failure to enforce the law; issue calls-to-action to their supporters and the public; as well as solicit media coverage.

69. Petitioners' public complaints and/or notices of violation of the Anti-Cockfighting Ordinance within the meaning of Monterey County Code § 8.50.100(A) apply to at least the following addresses, all of which, upon information and belief, contain illegal rooster keeping operations:

- a) 16820 El Rancho Way, Salinas, CA (Parcel Number 261-081-003-000)
- b) 16860 El Rancho Way, Salinas, CA (Parcel Number 261-081-005-000)
- c) 16880 El Rancho Way, Salinas, CA (Parcel Number 261-081-006-000)
- d) 16990 El Rancho Way, Salinas, CA (Parcel Number 261-131-036-000)
- e) 412 Virginia Avenue, Salinas, CA (Parcel Number 261-092-014-000)
- f) 419 Hyland Dr., Salinas, CA (Parcel Number 261-122-012-000)
- g) 442 Boronda Rd., Salinas, CA (Parcel Number 261-101-006-000)
- h) 1091 Fontes Ln., Salinas, CA (Parcel Number 261-073-012-000)
- i) 1093 Fontes Ln., Salinas, CA (Parcel Number 261-073-013-000)
- j) 1101 Fontes Ln., Salinas, CA (Parcel Number 261-073-002-000)
- k) Fontes Ln., Salinas, CA (Parcel Number 261-073-001-000)
- l) 430 Hyland Dr., Salinas, CA (Parcel Number 261-121-007-000)
- m) 438 Hyland Dr. #B, Salinas, CA (Parcel Number 261-121-002-000)
- n) 440 Hyland Dr., Salinas, CA (Parcel Number 261-121-001-000)
- o) 209 Hudson Landing Rd., Royal Oaks, CA (Parcel Number 117-171-005-000)
- p) 219 Hudson Landing Rd., Royal Oaks, CA (Parcel Number 117-171-003-000)
- q) 189 Hudson Landing Rd., Royal Oaks, CA (Parcel Number 117-171-009-000)
- r) 15270 Betty Way, Royal Oaks, CA (Parcel Number 181-211-008-000)
- s) 391 Vega Rd., Royal Oaks, CA 95076 (Parcel Number 117-421-045-000)
- t) 356 Paul Ave., Salinas, CA (Parcel Number 113-191-010-000)
- u) 360 Paul Ave., Salinas, CA (Parcel Number 113-191-005-000)
- v) 349 San Juan Grade Rd., Salinas, CA (Parcel Number 113-191-002-000)

w) 385 San Juan Grade Rd., Salinas, CA (Parcel Number 113-201-005-000)

x) 526 Old Stage Rd., Salinas, CA (Parcel Number 211-221-006-000)

y) 751A Middlefield Rd., Salinas, CA (Parcel Number 211-121-022-000)

z) 749 Middlefield Rd., Salinas, CA (Parcel Number 211-121-023-000)

aa) San Benito St., San Lucas, CA (Parcel Number 231-034-005-000)

bb) 53495 San Benito St., San Lucas, CA (Parcel Number 231-035-003-000)

cc) San Benito St., San Lucas, CA (Parcel Number 231-031-010-000)

dd) Julius St., San Lucas, CA (Parcel Number 231-031-004-000)

ee) Rosa St., San Lucas, CA (Parcel Number 231-037-010-000)

70. Upon information and belief, notwithstanding the thousands of illegal rooster keeping operations in Monterey County, Respondents have zero rooster keeping permits currently in effect.

71. Upon information and belief, Respondents are not conducting any enforcement actions pursuant to the Anti-Cockfighting Ordinance, nor have they meaningfully done so since, at the latest, 2017.

### **FIRST CAUSE OF ACTION**

**(Against All Respondents)**

#### **Writ of Mandate to Compel Respondents to Inspect Illegal Rooster Keeping Operations**

**(Cal. Civ. Proc. Code §1085)**

72. Petitioners refer to and incorporate by reference each of the allegations contained in the preceding paragraphs of this Petition.

73. Petitioners have made public complaints and/or provided notices of violations to Respondents within the meaning of meaning of § 8.50.100(A) on numerous occasions, including at least July 31, 2019, October 15, 2019, October 16, 2019, February 7, 2020, and June 15, 2020, as alleged herein. Such public complaints and notices trigger mandatory duties under § 8.50.100(A), requiring that violators “shall be inspected” by Respondents.

74. But Respondents have refused and continue to refuse to perform their mandatory duty to inspect upon public complaint within the meaning of Monterey County Code § 8.50.100(A).

75. The Grand Jury Report served as “other notice” within the meaning of § 8.50.100(A).

1           76.     But Respondents have refused and continue to refuse to perform mandatory duty to inspect  
2 “upon other notice received” within the meaning of Monterey County Code § 8.50.100(A).

3           77.     Respondents’ refusal to exercise their mandatory duty to inspect upon public complaint as  
4 alleged herein is not episodic, but rather, is recurring and systemic.

5           78.     Respondents’ have deliberately failed to exercise their nondiscretionary duty to inspect  
6 rooster keeping operations with five or more roosters in accordance with Anti-Cockfighting Ordinance as  
7 set forth above.

8           79.     Petitioners are beneficially interested within the meaning of Code of Civil Procedure  
9 section 1086, as, among other things, they are engaged in a valid non-profit purpose of animal welfare.  
10 Petitioners’ mission is to end abuse and cruelty to animals, particularly farmed animals abused in  
11 exhibition.

12          80.     Petitioners are funded by limited private donations.

13          81.     Because Petitioners have limited resources, they cannot address all instances of animal  
14 abuse.

15          82.     Petitioners have been investigating illegal rooster keeping operations and demanding  
16 Respondents to inspect said operations since at least 2018. Because Respondents fail to exercise their  
17 nondiscretionary duty to inspect, Petitioners continue to investigate and seek to offset Respondents’  
18 failure to enforce.

19          83.     Petitioners have diverted monetary and organizational resources from other activities  
20 in order to investigate and seek to offset Respondents’ lack of action.

21          84.     Petitioners have incurred investigatory expenditures and spent resources in attempting  
22 to persuade Respondents to take action and to educate the public regarding the same.

23          85.     Past and continuing instances of Respondents refusal to exercise their nondiscretionary  
24 duty under the Anti-Cockfighting Ordinance has frustrated Petitioners’ mission by compelling  
25 Petitioners to divert resources away from other activities that would better advance Petitioners' mission  
26 and increase Petitioners' visibility, influence, and membership. Had Respondents exercised their  
27 nondiscretionary duty to inspect rooster keeping operations, Petitioners would not have incurred such  
28 expenses and/or diverted such organizational resources.



1           86.     Petitioners have suffered an injury in fact, including loss of money and diversion of  
2 organizational resources, as a result of Respondents' failure to exercise its nondiscretionary duty to  
3 inspect rooster keeping operations as herein alleged.

4           87.     Petitioner HFA is further beneficially interested within the meaning of Code of Civil  
5 Procedure section 1086 because HFA's members would otherwise have standing to sue in their own  
6 right; the interests Petitioners seeks to protect are germane to HFA's purpose; and neither the claim  
7 asserted nor the relief requested requires the participation of individual members in the proceeding.

8           88.     Petitioners have no plain, speedy, and adequate remedy in the ordinary course of law  
9 within the meaning of Code of Civil Procedure, section 1086, and therefore request that this Court  
10 issue a peremptory writ of mandate compelling Respondents to exercise this nondiscretionary duty to  
11 inspect rooster keeping operations upon public complaints and other notice received.

12                               **SECOND CAUSE OF ACTION**

13                   **(Against Elsa Jimenez, as Director the Monterey County Health Dept., and DOES 1-50)**

14                               **Failure to Enforce Statute that Enhances Government Revenue**

15                                       **(Cal Civ. Proc. Code §526a)**

16           89.     Petitioners refer to and incorporate by reference each of the allegations contained in the  
17 preceding paragraphs of this Petition.

18           90.     Petitioner is a resident of Monterey County and has paid income tax, sales and use tax,  
19 and property taxes to the County of Monterey.

20           91.     Upon information and belief, Petitioner's taxes are distributed to Respondents for  
21 governmental expenditures and business operations.

22           92.     Respondents do not perform mandatory duties under the Anti-Cockfighting Ordinance.

23           93.     Respondents' failure to perform mandatory duties under the Anti-Cockfighting  
24 Ordinance is unlawful.

25           94.     As a result of Respondents' failure to enforce the Anti-Cockfighting Ordinance,  
26 Respondents also fail to enforce a statute that enhances government revenue.

97. Addresses reported by Petitioners are demonstrably in violation of the Anti-Cockfighting Ordinance, as alleged herein.

98. Because Respondents refuse mandatory inspection duties and, as a result, fail to collect mandatory fees, Respondents fail to enforce a statute that enhances government revenue.

99. Respondents' collection of inspection fees would generate significant revenue for the County of Monterey.

100. Petitioner therefore requests that this Court require Respondents to enforce the statute enhancing government revenue, as set forth herein.

**(Against All Respondents)**

### **Alternatively, Writ of Mandate to Compel Exercise of Discretion**

## Over Noticed Illegal Rooster Keeping Operations

**(Cal. Civ. Proc. Code §1085)**

101. Petitioners refer to and incorporate by reference each of the allegations contained in the preceding paragraphs of this Petition.

102. Petitioners plead, in the alternative to their first cause of action, Respondents abused their discretion with respect to Petitioners' public complaints and/or notices of violation of the Anti-Cockfighting Ordinance.

103. Petitioners plead, in the alternative to their first cause of action, Respondents have a mandatory duty imposed by law to exercise discretion in determining whether to take action with respect to the public complaints and notices of violations alleged herein.

<sup>41</sup> Monterey Cty. Code § 8.50.050; Cty. Of Monterey Health Dept., Rooster Ordinance Current Fees, (Nov. 15, 2016), <https://www.co.monterey.ca.us/government/departments-a-h/health/monterey-county-animal-services/rooster-ordinance>.

104. Upon receiving Petitioners' public complaints and/or notices of violation of the Anti-Cockfighting Ordinance, Respondents, however, have failed to exercise any discretion.

105. The failure to exercise discretion is an abuse of discretion.

106. In the alternative to their first cause of action, Petitioners request that this Court issue a peremptory writ of mandate compelling Respondents to exercise discretion to determine, without arbitrariness or capriciousness, whether or not to investigate the violations cited in Petitioners' public complaints of July 31, 2019, October 15, 2019, October 16, 2020, February 7, 2020, and June 15, 2020, and other notice received.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioners and Plaintiff(s) pray for relief as follows:

A. For a peremptory writ of mandate, commanding Respondents to exercise their nondiscretionary duty to inspect illegal rooster keeping operations reported in Petitioners' public complaints or other notices of violation;

B. For an order permanently enjoining each of the Respondents to collect revenue in the form of inspection fees for violations of the Anti-Cockfighting Ordinance as alleged herein;

C. Alternatively, for a peremptory writ of mandate, commanding Respondents to exercise discretion, without arbitrariness or capriciousness, whether or not to investigate illegal rooster keeping operations reported in Petitioners' public complaints or other notices of violation;

D. For payment of reasonable attorneys' fees and costs, including those recoverable pursuant to California Code of Civil Procedure § 1021.5 and/or pursuant to equitable principles, and/or other applicable method of awarding attorneys' fees and costs;

E. For this Court to retain jurisdiction over Respondents until such time as the Court is satisfied that Respondents' omissions no longer exist and will not recur;

F. For preparation of a statement of decision; and

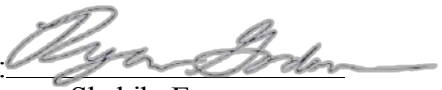
/// (Cont'd. on next page)

1           G.       For any such further relief as may be permitted by law and/or that this Court deems  
2 equitable, just, and proper.

3  
4                               Respectfully submitted,

5                               **ADVANCING LAW FOR ANIMALS**

6  
7  
8       Dated: August 26, 2020

9                               By:   
10                              Vanessa Shakib, Esq.  
11                              Ryan Gordon, Esq.

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13  
14                              Attorneys for Petitioners and Plaintiff  
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**VERIFICATION**

I, Steve Hindi, the undersigned say:

I am the President of Petitioner Showing Animals Respect and Kindness (SHARK), a party to this action, and am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE RELIEF and know the contents thereof. I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon information and belief, and as to those matters I believe the same to be true.

I declare under penalty of perjury that the foregoing is true and correct according to the laws of the State of California and that this declaration was executed on the August 24, 2020 in Elburn, Illinois.



Steve Hindi  
President of SHOWING ANIMALS RESPECT  
AND KINDESS  
Petitioner


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**VERIFICATION**

I, Bradley Miller, the undersigned say:

I am the National Director of Petitioner HUMANE FARMING ASSOCIATION, a party to this action, and am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE RELIEF and know the contents thereof. I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon information and belief, and as to those matters I believe the same to be true.

I declare under penalty of perjury that the foregoing is true and correct according to the laws of the State of California and that this declaration was executed on the August 24, 2020 in Glenn County, California.

  
Bradley Miller  
National Director  
HUMANE FARMING ASSOCIATION  
Petitioner