

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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Daniel Reed Christensen,  
David Reed Christensen, and  
Kelly Jo Ann Christensen;

Civil File #10-4128

Plaintiffs,

vs.

**AMENDED COMPLAINT**

Rosey Quinn,  
Second Chance Rescue Center,  
James Adamson, individually and in his official  
capacity as a Turner County Commissioner,  
Luverne Langerock, individually and in his official  
capacity as a Turner County Commissioner,  
John Overby, individually and in his official  
capacity as a Turner County Commissioner,  
Steve Schmeichel, individually and in his official  
capacity as a Turner County Commissioner,  
Lyle Van Hove, individually and in his official  
capacity as a Turner County Commissioner,  
Tiffani Landeen-Hoeke, individually and in her official  
capacity as Turner County State's Attorney  
Byron Nogelmeier, individually and in his official  
capacity as Turner County Sheriff,  
Jay Ostrem, individually and in his official capacity  
as a Turner County Deputy,  
Jim Severson, individually and in his official capacity  
as a Special Agent for the Division of Criminal Investigation,  
Lara Cunningham, individually and in her official capacity  
as a Revenue Agent for the South Dakota Department of  
Revenue and Regulations,  
The Humane Society of the United States a/k/a HSUS,  
Wayne Pacelle,  
Scotlund Haisley,  
Dr. Adam Bauknecht,  
Emergency Animal Rescue Sanctuary a/k/a EARS,  
Dr. Dawn Dale,  
Turner County, South Dakota;

Defendants.

### **JURISDICTION**

1. Dan Christensen is a resident of Turner County.
2. In the years preceding September 2, 2009 Christensen bred and raised dogs at his personal residence and at the acreage owned by his son, David Christensen and David's wife, Kelly Christensen.
3. Both Kelly Christensen and the couple's two children actively helped Dan Christensen with his dog breeding operation until September 2, 2009.

### **GENERAL ALLEGATIONS**

4. On April of 2009, Dan Christensen had approximately one-hundred adult dogs which he used for breeding and approximately seventy puppies which he was marking as hunting dogs.
5. Second Chance Animal Rescue ("Second Chance") is a nonprofit corporation organized pursuant to South Dakota Codified Laws ("SDCL") 40-2-1 for the purpose of preventing cruelty to animals.
6. Turner County, South Dakota, through its Board of County Commissioners, contracted with Second Chance, by and through its Executive Director, Rosey Quinn, for animal control enforcement services under authority of SDCL 40-2-5.
7. The Turner County Commissioners in office at all times pertinent to the facts alleged in the counts below were: James Adamson, Luverne Langerock, John Overby, Steve Schmeichel and Lyle Van Hove.
8. The contract was executed on July 8, 2008 and allowed Quinn, in violation of South

Dakota law to have all of the powers afforded to a “peace officer” under the law in existence prior to July 1, 2006. Under the former law, unlike the amended law, she could make arrests, carry a gun, wear a badge and uniform and execute search warrants.

9. Rosey Quinn and Dana Wigg, at all times pertinent to the Counts alleged in this action, held themselves out as being Animal Control Officers (“ACO’s”) with Second Chance.
10. Neither Rosey Quinn or Dana Wigg were certified in accordance with SDCL 40-2-6 to be Animal Control Officers in Turner County, South Dakota.
11. Sometime prior to April of 2009, Lara Cunningham, a Revenue Agent from the South Dakota Department of Revenue, became suspicious that Dan Christensen was operating his dog breeding operation over the internet without having a State Sales Tax License.
12. Without attempting to contact Dan Christensen, in order to investigate whether he in fact was required to have a sales tax license, Cunningham ignored the customary practice of attempting to contact a suspected violator of the revenue laws by mail or phone and instead submitted an Affidavit in Support of Arrest Warrant. She also drafted a three-day notice to quit operating a business without a sales tax license.
13. On April 9, 2009, a Turner County lay magistrate, granted State’s Attorney, Tiffani Landeen-Hoeke’s, request to issue an arrest warrant for Dan Christensen for the offense of Failure to Obtain a Sales Tax License, a class I Misdemeanor. Christensen’s bond was unsecured allowing him to leave the jail immediately after being booked and printed.
14. Sometime between 9:00 a.m. and 10:00 a.m. that morning, Turner County Sheriff Deputies Jay Ostrem and Jared Overweg, Revenue Agent Lara Cunningham, State of South Dakota Department of Criminal Investigation (“DCI”) Agent, Jim Severson, along

with Second Chance ACO's Rosey Quinn and her assistant, Dana Wigg, all went to Dan Christensen's residence to serve the misdemeanor arrest warrant and notice to quit.

15. Agent Severson was in Parker, South Dakota investigating a recent murder of a Turner County Deputy when he learned Cunningham was on her way to Hurley, South Dakota for the purpose of serving a "three-day notice" on Dan Christensen so he decided to help her.
16. There is animosity between Severson and Dan Christensen going back to 2002 when Severson was a main witness in a criminal trial in which Dan Christensen was acquitted.
17. There is also animosity between Dan Christensen and Sheriff Nogelmeier. Nogelmeier was Sheriff when Christensen was acquitted in Turner County in 2002 and Deputy Sheriff when Christensen was unsuccessfully prosecuted in approximately 1998.
18. In reference to the sales tax charge, Nogelmeier told Dan Christensen he would "just as soon ....throw away the key."
19. Deputy Ostrem and Deputy Overweg were present to serve the arrest warrant.
20. Quinn claims she can't recall who asked her to be present, but that she was there to help care for Dan Christensen's dogs if he was to be away long due to his arrest.
21. Severson claims he knew Dan Christensen had lots of dogs at his residence, and that it was actually him that asked Quinn to be present in order to control any loose dogs.
22. Waiting in Dan Christensen's driveway for him to be arrested, Quinn claims she observed that a nearby building housing dogs was dilapidated and that a chain link fence around its perimeter had jagged edges. She also noticed the dogs' only entrance had rough edges.
23. Deputy Ostrem admits he saw no loose dogs when he initially looked around Dan

Christensen's farmplace the morning of April 9, 2009.

24. Both ACO Quinn and DCI Agent Severson admit they looked around Dan Christensen's farmplace while he was gone without his permission and encountered no roaming dogs.
25. Severson also admits he didn't take any precautions in case he ran into any roving dogs, nor did he observe Quinn to take any precautions.
26. Agent Cunningham admits she did look in the windows of various buildings and did enter at least one of the buildings on Dan Christensen's farm.
27. Quinn and Wigg followed Cunningham as she searched for Dan Christensen as at his farm and that made observations about the conditions they observed.
28. Deputy Ostrem admits testified that when serving an arrest warrant, he can only view what is in plain sight and that when driving around someone's farmplace in order to serve an arrest warrant that he needs to keep his vehicle on the main pathway. He also claims testified that he can get out if he sees a door to a building open and yell toward the building in hopes of getting the attention of the person being served.
29. Nevertheless, Ostrem testified that he and Severson walked around Dan Christensen's property looking for him in order to serve the warrant.
30. When Dan Christensen was not found, one or more of those looking for Christensen, drove to David Christensen's residence to look for Dan.
31. Dan Christensen was not present at David's property either so the "search party" decided to camp out across the road from Dan's farm to wait for his return.
32. Nearly five hours after the search for Dan Christensen began, Dan returned home and backed his pickup up to his garage door to unload groceries.

33. Next, he carried a load of groceries into the house, after shutting the door of his pickup.
34. A short time later, someone knocked at his door. When he came to the door, he saw the six people he originally noticed across the road when he came home.
35. He also noticed that Severson was in the front seat of his pickup looking through his groceries and that Quinn and Wigg were sitting on the back of his pickup.
36. Ostrem served the arrest warrant for Failure to Have a Sales Tax License.
37. Cunningham served Dan Christensen with the three-day notice to quit.
38. At about this same time, Agent Severson came within close proximity to Dan Christensen and pointed his finger in Dan's face as he warned Christensen that he could either let Cunningham search his residence or he would be charged with a felony.
39. At the same time Severson was wagging his finger in Dan Christensen's face, he was also tapping his right hand on his service weapon.
40. Dan offered no resistance and even voluntarily agreed to allow Cunningham and Deputy Overweg to search his house for evidence concerning his dog breeding business.
41. Severson had been a DCI Agent for many years and had a history of being overly aggressive and intimidating those he deals with. Nevertheless, his superiors arranged for him to be a trainer with the DCI after he recently retired.
42. Dan Christensen informed Ostrem he didn't trust Severson to be the one who took him to jail.
43. Before being arrested, Quinn claims Dan Christensen admitted to keeping several of his Weimaraner dogs at David Christensen's farmplace.
44. A short time later, Dan was arrested and taken by Deputy Overweg for booking. Dan

returned within one hour.

45. In July of 2009, ACOs Quinn and Wigg stopped by Dan Christensen's residence asking to see his dogs at which time Dan Christensen told them to immediately leave his property.
46. On August 17, 2009, Quinn received a call about a sick Weimaraner puppy.
47. The Complainants said the puppy was purchased from Dan Christensen and had diarrhea.
48. A veterinarian found that the puppy had likely been vaccinated too young.
49. Quinn testified that she is aware that when a dog is vaccinated for Parvo Virus, it might test positive for the virus due to the vaccination, not because it actually has the virus.
50. On August 27, 2009, Quinn asked for a search warrant of David Christensen's property.
51. Quinn's supporting affidavit alleged that based upon conditions she observed at Dan Christensen's on April 9<sup>th</sup>, Dan Christensen's admission that he keeps Weimaraners at David's and the vet report concerning the sick Weimaraner puppy, it was likely there would be sick Weimaraners at David's since the conditions would be similar to conditions at Dan's.
52. Search Warrant SWA 09-10 was issued for David's property.
53. Ostrem and Quinn executed the search. The Return showed the dogs appeared "ok," some kennels were surrounded by feces, some of the drinking water was cloudy, some water bowls were empty and there were no Weimaraners
54. Within couple days, Quinn contacted HSUS for help in raiding Christensen's facility.
55. HSUS has a history of working with local humane societies to raid breeding facilities.
56. HSUS has been sued as a result of many of these raids.

57. HSUS and its President, Wayne Pacelle, have been informed numerous times their uniforms and badges make them appear too much like law enforcement officers.
58. Scottlund Haisley was head of HSUS' team which raided Christensen's facility. Haisley has been often criticized for impersonating law enforcement officers, kicking in doors during searches, being dishonest as to the scope of HSUS' involvement in a search, etc. Haisley has been quoted as saying that he wants the scum to think he's "law enforcement."
59. Wayne Pacelle was Scottlund Haisley's boss during the raid. Pacelle has been quoted as saying he likes Scottlund Haisley's "cowboy ways." Haisley was reportedly fired in January 2010.
60. On September 2, 2009, ACO Quinn submitted two identical affidavits in support of the search warrants for Dan and David Christensen's properties.
61. Quinn's affidavits cited mainly to observations she made at Dan Christensen's property on April 9, 2009 and also recited the same allegations and conclusions contained in the affidavit in support of the August 27, 2009 search warrant for David Christensen's property.
62. Quinn failed to disclose that she and Ostrem searched David's property on August 27<sup>th</sup> so the Court was unaware she hadn't seen Wiemariners on David's property and the health of the dogs was "ok."
63. The Court granted the search and seizure warrant for David's property but refused to give a warrant for Dan's property.
64. The Judge told Quinn she could supplement the affidavit with sworn testimony.

However, after a short amount of testimony, the Court once again refused to give a warrant.

65. A short time later, the Prosecutor, Tiffani Landeen-Hoeke, who was in the Court Room, asked the Court: “When she walked around the property when she was there, in your opinion, would that be admissible evidence...?” The Court told her to offer the testimony.
66. After a short conference with Landeen-Hoeke, Quinn testified that “during the search warrant with Lara Cunningham,” the water was filthy, the kennels were full of feces, the dogs had scars, their coats were not shiny, some dogs appeared thin and some dogs appeared hyper and scared. The dogs appeared jumpy and skittish as if they were not use to human interaction. She further noted that some dogs appeared undernourished while others didn’t. She also alleged she noticed dogs with coats which weren’t as shiny as would be expected for a healthy dog.
67. Quinn testified that she purposely held back these facts until the third time she appeared before the court in when requesting the search warrant for Dan Christensen’s farm. Prior to giving this testimony, Quinn’s observations from April 9, 2009, whether by affidavit or testimony, were confined to what she could see from Christensen’s driveway, the same observations she could arguably make within the scope of a search incident to serving an arrest warrant.
68. Based upon this testimony, the Court granted the warrant for Dan Christensen’s property.
69. Quinn was reckless at best, and committed perjury at worst, when she twice told the Court she made her final observations while having a search warrant on April 9, 2009.
70. On September 2, 2009, warrants for Dan and David Christensen’s properties were

executed by Scotlund Haisley and other agents from the Humane Society of the United States, (“HSUS”), and Second Chance.

71. Deputy Jay Ostrem was also present when the search warrants were executed.
72. David Christensen’s property was searched first.
73. Upon his arrival, Dan Christensen made it clear to law enforcement and/or bystanders that he wanted all those executing the warrants at both his farm and at David’s to leave.
74. Christensen’s vet was present for the search of both David and Dan’s farms. However, she was denied access to the dogs until shortly before the final load of dogs was taken.
75. Dr. Hora was given permission by Deputy Ostrem to inspect the dogs once they arrived at the Turner County Fairgrounds where the animals were being housed.
76. Dr. Hora had experience with Christensen and his dogs. She had examined and treated many of Dan Christensen’s dogs in the two or three years prior to the raid.
77. Dr. Hora had given over 200 health certificates to Dan’s dogs in that same period. The certificates established that those dogs were in good enough health to be transported to out-of-state buyers. Dr. Hora didn’t understand why the dogs were being seized.
78. By later afternoon, all Christensen’s dogs were at the Turner County Fairgrounds.
79. HSUS, EARS, and Second Chance personnel utilized a truck provided with the help of HSUS which was specially built to carry dogs.
80. The truck had been used at three other HSUS-assisted raids which occurred across the United States during the week prior to the truck arriving at Dan Christensen’s facility.
81. A horse trailer, which was borrowed from someone locally was also used to transport some of the dogs.

82. The horse trailer and semi-trailer used to haul the dogs appeared to be contaminated with manure and had not been cleaned out or sanitized.
83. During the raid, Dan Christensen and Dr. Hora, asked Rosey Quinn why she and the other people transporting the dogs were not exercising proper biosecurity measures.
84. Quinn tersely indicated to Christensen that his dogs were already in such bad shape as to make biosecurity measures unnecessary.
85. Agents from all the out-of-state organizations which helped execute the search were present at the Turner County Fairgrounds before the search warrants were even granted.
86. Shortly after the search began, a professional film crew under the direction of HSUS began filming what appeared to be shots designed for television commercials.
87. Witnesses even saw the film crew make multiple cuts of some of the events they filmed.
88. HSUS sponsors its own cable television shows and often uses commercial showing abused dogs and cats in order to solicit donations from the public. Based upon good faith belief and information, it is alleged that some of the footage of Christensen's dogs was actually shown on television commercials asking people to donate money to HSUS.
89. None of the people from HSUS, UAN or any other out-of-state entity, had their names listed on the search warrant as being allowed to search.
90. Quinn and Landeen-Hoeke did not tell the Court these out-of-state organizations were already at the Fairgrounds making preparations for the dogs to be taken in the raid, even though the Court had yet to be asked for the warrant needed for the raid.
91. Two local veterinarians, Dr. Laura Byl and Dr. Tom Rentschler, also volunteered to help with the September 2, 2009 raid.

92. All the dogs which were seized were initially brought to some sort of evidence table set up by HSUS's evidence coordinator.
93. The evidence table was managed by Dr. Laura Byl, Dr. Angie Plahn and someone from HSUS who claimed to be its "evidence coordinator."
94. At the evidence table, each dog was briefly examined, its condition was recorded, its picture was taken and an identifying number/letter combination was assigned to it..
95. A copy of the picture of each dog and a document indicating its condition while still at Christensen's breeding facility was provided to Dan Christensen and his attorney.
96. In a post-raid television interview, Scotlund Haisley, claimed HSUS was in charge of the raid. He stated: "We're collecting evidence, we're safely and humanely removing [the dogs]. Some animals may be fractious. We're providing the animals with all the necessary medical care and the sheltering personnel. Sheltering personnel for 172 dogs is dozens and dozens of people scheduled on a regular daily basis."
97. Once the dogs were taken to the Turner County Fairgrounds, Deputy Ostrem, the lead Turner County Deputy attending the seizure, Tiffani Landeen-Hoeke, the State's Attorney who allowed Dr. Hora ten minutes to examine the 173 dogs seized and Sheriff Byron Nogelmeier, the Turner County Sheriff who is the person in charge of all Deputies and Administrative personnel working for the Sheriffs Office, allowed control of the State's evidence to be turned over to Rosey Quinn, Second Chance, Scotlund Haisley, Dr. Dawn Dale, Dr. Adam Bauknecht, HSUS and any other agency which helped Second Chance take care of the dogs in the days following the seizure.
98. The dogs were penned in "hog crates" which were approximately three to four feet high.

99. The hog crates were located in a livestock barn which had recently been used to house hogs during the Turner County Fair. The barn did not appear to have been sanitized.
100. Second Chance, Rosey Quinn, HSUS, EARS and all of their volunteers, employees and agents who worked on the search, seizure and transport of Dan Christensen's dogs, had all been involved in numerous search and seizures or raids involving dogs prior to the raid on September 2, 2009, or at the very least, were experienced with housing or impounding dogs at a shelter/rescue facility.
101. Based upon their appearance and the examinations which were performed, there was no reason to believe Dan Christensen's dogs needed to be seized.
102. By the afternoon of September 3, 2009, several veterinarians, including: 1) Dr. Adam Bauknecht, an out-of-state veterinarian who wasn't licensed in South Dakota and who volunteered as a member of United Animal Nations ("UAN") at HSUS's invitation; 2) Dr. Dawn Dale, the President of the Board of Directors for Second Chance and owner of Dale Animal Hospital; 3) Dr. Laura Byl, an employee of Dr. Dale; 4) Dr. Angie Plahn, a local veterinarian who works for All City Pet Care West, and 5) Dr. Tom Rentschler; conducted a more thorough examination of each dog seized from Dan Christensen.
103. Each of these veterinarians, other than Dr. Rentschler had some tie to Rosey Quinn or Second Chance or to various "animal rescues."
104. While present at the search of David Christensen's property on September 2, 2009, Dr. Rentschler found the dogs to have adequate food and water and to be in no need of immediate medical attention. When he examined animals the following day at the Fairgrounds, he determined that the dogs he examined were in good condition. By

contrast, Rosey Quinn, Dana Wigg, and Dr. Byl found the same dogs to be in bad condition overall and to be living in what their reports indicate was squalor.

105. Based upon Dr. Hora's observations and the pictures taken of the dogs when they were at the "evidence table," the dogs at David Christensen's property alleged to have been living without adequate food or water and lying in their own feces, were actually very clean, not underweight, and had nice coats. This observation is not inconsistent with the observation made by Deputy Ostrem in the Return of Warrant he filed with the court after he was at the same property five days earlier.
106. Although the workers which removed these dogs from their pens were wearing white shirts, the pictures of them cradling the puppies in their arms, did not reveal any visible feces or stains on their shirts, nor did the puppies appear to be covered with feces.
107. Sheriff Nogelmeier, Deputy Ostrem, HSUS, Scotlund Haisley, State's Attorney Landeen-Hoeke, Dr. Dawn Dale, Dr. Adam Bauknecht and anyone who participated in the raid or helped after the dogs arrived at the Fairgrounds, either knew before the seizure or should have known immediately after the seizure, that Rosey Quinn and Second Chance's preparation for housing the dogs as evidence was grossly inadequate.
108. Dr. Dawn Dale, through her dealing with Quinn as President of Second Chance's Board of Directors, knew that Rosey Quinn was known to not exercise proper biosecurity techniques in order to keep from spreading disease and that she was not qualified to handle such a large amount of evidence.
109. The adult dogs were able to jump over the top of the kennels. Pregnant bitches were housed in too close of proximity to adjacent pens filled with other females in heat or pens

- which contained nursing mothers and their newborn puppies.
110. There weren't sufficient resources to be able to provide an ongoing source of food and medical supplies to sustain the dogs for the duration of the prosecution of Christensen.
  111. Lastly, Quinn made no arrangements with anyone from Turner County, including Sheriff Nogelmeier, to find a way to provide care for the dogs in a safe manner which didn't destroy their value as evidence or their value as registered hunting dogs.
  112. Many of the larger dogs jumped out of their crates the first night and as a result were involved in fights and/or were permanently misidentified.
  113. Almost immediately after the seizure, many of the dogs seized as evidence were given to various care providers ("foster families") without Dan Christensen's approval and without the approval or knowledge of the Court.
  114. As litters of puppies were born in the following days, puppies born after the seizure were also allowed to be taken by foster families.
  115. Many of the fostered dogs suffered injury, such as a broken leg, disease or death.
  116. Due to being exposed to multiple people who didn't exercise biosecurity techniques these dogs were forever tainted as evidence against Christensen, beginning the day HSUS, Scotlund Haisley, Second Chance, UAN and the Sheriff's Office first arrived at the scene of the raid.
  117. In an interview Quinn gave to the Argus Leader on September 10, 2009, she stated: "The dogs never appeared that bad. Most of our issues were with internal parasites." However, by mid-September of 2009, medical records show the dogs became diseased, were injured or suffered death.

118. Some of the puppies taken during the raid or which were born after the raid, were even chewed up by escaped dogs or dogs in adjacent crates. In a September 29, 2009 Keloland TV interview, Quinn acknowledged dogs were “fighting through the cages.”
119. Dr. Laura Byl, documented that the day after the dogs first arrived at the Turner County Fairgrounds, many of them were checked for Parvo Virus but that all test were negative.
120. On September 25, 2009, Tiffani Landeen-Hoeke convened a Turner County Grand Jury to investigate Dan Christensen’s treatment of his dogs all the while the health of these same dogs was deteriorating rapidly while the dogs were under the control of Turner County.
121. That same day, the Grand Jury returned an indictment against Dan Christensen for 173 counts of inhumane treatment of an animal in violation of SDCL 40-1-2.4.
122. On or about September 29, 2009, the dogs remaining at the Fairgrounds, were taken to the Expo Building, located at the Sioux Empire Fairgrounds in Sioux Falls, South Dakota, with the knowledge of Sheriff Nogelmeier, State’s Attorney Tiffani Landeen-Hoeke and the Turner County Commissioners.
123. While at the Expo Building, the health of the seized dogs continued to deteriorate. Additional dogs suffered bite wounds, some developed a form of mange and others contracted kennel cough. Some died of Parvo Virus.
124. On or about mid-October of 2009, with the knowledge of Sheriff Nogelmeier, the State’s Attorney, Quinn and the Turner County Commissioners, Christensen’s dogs which were still at the Sioux Empire Fairgrounds were moved to Second Chance Rescue Center.
125. Quinn purposely allowed them to be housed in close proximity to dogs she knew to have Parvo Virus.

126. Dr. Dawn Dale, President of Second Chance's Board, had previously warned Quinn that she should start using the biosecurity protocol Dale had suggested for Second Chance in order to avoid spreading disease.
127. The morning after Christensen's dogs were moved to Second Chance, the first workers who arrived at Second Chance discovered that during the night, Christensen's dogs had contracted the Parvo Virus. Feces were everywhere and many of the dogs died from the disease in the days which followed.
128. On October 27, 2009, Dan Christensen filed a Motion in Magistrate Court in Turner County, South Dakota asking that all dogs born after the seizure be returned to him.
129. On or about November 5, 2009, Dan Christensen filed a Motion to Suppress all evidence seized as a result of an illegal warrantless search performed on April 9, 2009, and an illegal search and seizure which took place on September 2, 2009.
130. On December 4, 2009, the Court granted Dan Christensen's October 27, 2009 motion for to return all puppies born after the September 2, 2009 seizure.
131. Between approximately September 2, 2009 and May of 2010, Rosey Quinn and Second Chance provided Dan Christensen with numerous records which indicated that many of the dogs died under the control of Second Chance, or were injured or contracted disease.
132. During this same time frame, Rosey Quinn and Second Chance also provided various spreadsheets which allegedly documented all of Dan Christensen's dogs still technically under the control of Turner County. None of the spreadsheets provided a plausible account of the approximately 296 puppies born to the 37 pregnant hunting dogs seized on September 2, 2009 or of the remaining breeding stock or puppies born before the raid.

133. Although several different orders entered by the Court, between December of 2009 and May of 2010, would have allowed Christensen to take possession of the remaining dogs held by Turner County, he was advised by his veterinarian and other breeders that he could never sell any of the registered breeding stock or breed them again.
134. Due to press releases forwarded to members of the press from all over the world by HSUS and Rosey Quinn immediately following the raid, the American Kennel Club (“AKC”), the main organization Dan Christensen relied upon at that time to register his dogs, sent him a letter dated approximately the same day as the raid, indicating in effect that he was to immediately cease selling all previously registered dogs and that AKC would discontinue registering any of his dogs.
135. This not only made it impossible for him to market dogs, but it ruined his reputation as a hunting dog breeder.
136. To date, Dan Christensen has allowed many of the dogs taken during the seizure as well as most of the puppies born Second Chance and Turner County still had under their control for the last few months following the raid, to be sold by Quinn for \$100.00 a piece.
137. For months following the raid, Quinn maintained, in numerous television interviews, that Dan Christensen knew where all of his dogs were and that she could account for them all. Quinn eventually admitted in a television interview that too many puppies were bom in the weeks following the seizure for her to be able to keep track of them all.
138. On January 13<sup>th</sup> and 14<sup>th</sup>, 2010, a suppression hearing was held before Magistrate Judge Tami Bern at the Turner County Courthouse. The hearing was based upon Dan

Christensen's November 5, 2009 Motion to Suppress evidence gathered from the September 2, 2009 searches and seizures.

139. At the suppression hearing, Quinn testified that she was asked by the prosecutor, Tiffani Landeen-Hoeke, to not mention what was found during the August 27, 2009 search.
140. Landeen-Hoeke also asked Quinn if she explained to the Court that the purpose of the two affidavits was to cure any defect in the August 27, 2009 affidavit, warrant and search at David Christensen's property.
141. Although Quinn responded in the affirmative, she could in no way explain how this was accomplished when she was cross-examined at the suppression hearing.
142. Because Dan Christensen had a Motion pending at that time to also suppress the evidence from the August 27, 2009 search at David's property, evidence that this search was "tainted" was exculpatory and had to be provided to Dan Christensen by Landeen-Hoeke.
143. To date, no evidence suggesting the August 27<sup>th</sup> search was defective has ever been turned over to Dan Christensen even though in the State's Brief to the South Dakota Supreme Court, the State once again asserted that there had been a defect in the August 27<sup>th</sup> search.
144. Quinn also admits Landeen-Hoeke, the same prosecutor who told her not to mention the evidence she gleaned from the August 27, 2009 search warrant, actually helped her rewrite the September 2<sup>nd</sup> affidavits which left out the exculpatory evidence in question.
145. On January 29, 2010, Magistrate Bern filed her decision suppressing all evidence derived from the September 2, 2009 searches.
146. The Court's finding of fact indicate that during the September 2, 2009 searches, Dan

Christensen had a reasonable expectation of privacy in both his property and the property of David Christensen and Kelly Christensen. The Court also found that Rosey Quinn had withheld exculpatory evidence about the August 27, 2009 search at David Christensen's property. The Court ruled that had the issuing Court heard this evidence, it surely would not have found the existence of probable cause for the warrants. Judge Bern also found that it was Landeen-Hoeke who told Quinn not to inform the Court about the August 27, 2009 search.

147. Since the facts cited by the Court, as the basis for its conclusion of law, that on September 2, 2009, Christensen had a "reasonable expectation of privacy" at both properties where he kept dogs, were nearly identical to the facts the court adopted pertaining to the April 9, 2009 search, it is clear that Judge Bern was ruling there was also a reasonable expectation of privacy at Dan Christensen's on April 9<sup>th</sup>. The only reason her findings and conclusions weren't more thorough on that issue is because she ruled that the April 9<sup>th</sup> evidence was stale in comparison to the August 27<sup>th</sup> evidence.
148. Judge Bern also ruled Lara Cunningham was incorrect in asserting South Dakota law allowed her to look around the premises at Dan Christensen's farmplace on April 9, 2009.
149. On April 26, 2010, Dan Christensen served a Notice of Entry of Order Granting Motion to Suppress on State's Attorney, Tiffani Landeen-Hoeke.
150. On May 5, 2010, the State filed a Motion for a Stay pending appeal and a Petition for Permission to Take Discretionary Appeal with the South Dakota Supreme Court.
151. On May 10, 2010, the Supreme Court granted the State's request for a stay of the Jury Trial pending appeal.

152. The State's appellate brief indicated that without the evidence from the two September 2, 2009 search warrants, it would not be able to convict Dan Christensen.
153. The Brief also indicated that if Judge Bern's decision should be allowed to stand, that her "finding" that State's Attorney Landeen-Hoeke told Rosey Quinn to withhold exculpatory evidence concerning the August 27, 2009 search at David Christensen's residence, it would cause the citizens of Turner County to lose confidence in government and its officials.
154. On May 19, 2010, the South Dakota Supreme Court issued its decision denying the State's motion for a discretionary appeal.
155. On or about May 12, 2010, the State of South Dakota dismissed its 173 count criminal indictment against Dan Christensen.
156. Shortly after the September 2, 2009 searches, the Turner County Sheriff's Office engaged in a policy of harassing Dan Christensen and his family.
157. Dan's daughter, Brooke Christensen, who testified when Dan was unsuccessfully prosecuted in 2002, was wrongfully charged with a crime in September of 2009. The charges were subsequently dismissed by State's Attorney Landeen-Hoeke. She has also been the target of numerous stops for which the Turner County Deputy making the stop had no reasonable suspicion.
158. On at least two occasions, Brooke has been accused of drinking and driving although the Turner County Deputy making the stop did not even ask her to take a breathalyzer test.
159. Dan Christensen's residence was "staked out" for months, with the Sheriff's Department going so far as to simultaneously have one Deputy parked just north of his farm, another

at his south corner and still another Deputy parked on the west side of Highway 19, adjacent to the entrance to his property.

160. Sheriff Nogelmeier even asked acquaintances of Dan Christensen to keep an eye out and to report any suspicious behavior exhibited by him.

## **CLAIMS**

### **COUNT I.**

#### **Violation of U.S.C. Title 42, Section 1983**

##### **(All Defendants)**

161. Plaintiffs incorporate each and every allegation set for in paragraphs 1-160, as if set forth herein.
162. Plaintiffs are all “citizens” under authority of 42 U.S.C. Section 1983.
163. Defendants are “persons” within the meaning of this section and its jurisdictional counterparts.
164. On September 2, 2009, Defendants all acted in concert and/or conspired together and committed acts designed to accomplish unreasonable searches and seizures at the property of Plaintiff Dan Christensen and at the property of Plaintiffs David and Kelly Christensen in violation of Plaintiffs’ right to be free from unreasonable searches and seizures in violation of the Fourth Amendment to the United States Constitution.
165. Defendants acted in concert and/or conspired together and committed acts designed to deprive Plaintiff Dan Christensen of his property which was held and stored under the authority of the Turner County Sheriffs Office as evidence in an ongoing criminal investigation and prosecution after it was unlawfully seized on September 2, 2009,

insomuch as his dogs were removed from his property and the property of Plaintiffs David and Kelly Christensen without his consent for an unreasonable amount of time and improperly cared for, causing them to be permanently altered or destroyed, thereby depriving him of his right to Procedural and Substantive Due Process in violation of the Fifth and Fourteenth Amendment to the United States Constitution.

166. During the commission of the above unlawful acts, these Defendants were each operating under color of South Dakota law. The actions described above constitute a violation of 42 U.S.C. Section 1983.

167. As a direct and proximate result of these violations of Plaintiffs' 42 U.S.C. Section 1983 Civil Rights, Plaintiffs are entitled to reasonable attorney fees under U.S.C. Title 42, Section 1988 and suffered great personal injury, including severe mental anguish, emotional distress and loss of property and business interests.

## **COUNT II.**

### **Violation of U.S.C. Title 42, Section 1983**

**(Against Defendants Jim Severson, individually and in his official capacity as a DCI Agent, Sheriff Byron Nogelmeler, individually and in his official capacity as the Turner County Sheriff, Deputy Jay Ostrem, individually and in his official capacity as a Turner County Deputy, Revenue Agent Lara Cunningham, individually and in her official capacity as a Revenue Agent with the South Dakota Department of Revenue, James Adamson, individually and in his official capacity as a Turner County Commissioner, Luverne Langerock, individually and in his official capacity as a Turner County Commissioner, Steve Schmeichel, individually and in his official capacity as a Turner County Commissioner, Lyle VanHove, individually and in his official capacity as a Turner County Commissioner, Rosey Quinn, Second Chance Animal Rescue and Turner County)**

168. Plaintiffs incorporate each and every allegation set for in paragraphs 1-167, as if set forth herein.

169. Plaintiffs are all “citizens” under authority of 42 U.S.C. Section 1983.
170. Defendants are “persons” within the meaning of this section and its jurisdictional counterparts.
171. Defendants acted in concert and/or conspired together and committed acts designed to accomplish the unreasonable searches and seizures executed at the properties of Dan Christensen and the property of David and Kelly Christensen on or about April 9, 2009 in violation of Plaintiffs’ right to be free of unreasonable searches and seizure based upon the Fourth Amendment to the United States Constitution.
172. During the commission of the above unconstitutional acts, these Defendants were each operating under color of South Dakota law. The actions described above constitute a violation of 42 U.S.C. Section 1983.
173. As a direct and proximate result of these violations of Plaintiffs’ 42 U.S.C. Section 1983 Civil Rights, Plaintiffs are entitled to reasonable attorney fees under U.S.C. Title 42, Section 1988 and suffered great personal injury, including severe mental anguish, emotional distress and loss of property and business interests.

**COUNT III.**

**Malicious Prosecution**

**(Against all Defendants, but on Behalf of Plaintiff, Dan Christensen, only)**

174. Plaintiffs incorporate each and every allegation set forth in paragraphs 1-173, as if set forth herein.
175. On or about September 25, 2009, a 173 count criminal indictment was returned by the Turner County Grand Jury against Dan and David Christensen charging both with 173

counts of inhumane treatment of animals. The portion of the indictment dealing with David Christensen was subsequently dismissed by the State.

176. The Defendants, with malice toward the Plaintiffs, acted in concert with and/or conspired together and committed acts designed to cause the criminal proceeding against Plaintiff Dan Christensen.
177. Probable cause did not exist for the criminal charges against the Plaintiff.
178. Turner County Prosecutor Tiffani Landeen-Hoeke was found by Magistrate Judge Tami Bern to have told Rosie Quinn to withhold all evidence concerning the August 27, 2009, search of David and Kelly Christensen's property. This same evidence was exculpatory to the extent that had the issuing Court heard the evidence, SW 09-11 and SW09-12 would not have been granted, according to Judge Bern's Order suppressing all evidence obtained during these search warrants.
179. Tiffani Landeen-Hoeke nevertheless made a conscious decision to offer this illegally obtained evidence to be presented to the Turner County Grand Jury in order to obtain a 173 count indictment against Dan Christensen.
180. Landeen-Hoeke knew this evidence was fraudulently withheld from the Court and that Rosie Quinn lied about having a search warrant when she made the observations, on April 9, 2009, which finally convinced the issuing Court to grant the search warrant the third time she appeared before the Court.
181. Landeen-Hoeke had to have known that the evidence described above was obtained illegally, yet she nevertheless presented it to the Grand Jury in order to indict Dan Christensen. Without this evidence there was no probable cause to search Christensen's

facility.

182. In addition, Landeen-Hoeke even asked the Court to put a lien against proceeds from the sale of farmland Dan Christensen had to sell in order to make ends-meet because his dog breeding business was shut down.
183. On or about May 12, 2010, the State of South Dakota dismissed its 173 count criminal indictment against Christensen and the 180-rule has since run, thereby precluding Christensen from being charged or indicted again.
184. As a direct result of Defendants' conduct, Plaintiffs incurred legal expenses and suffered great personal injury including severe mental anguish, emotional distress and loss of his property and business interests.
185. Defendants' conduct was in reckless disregard of Plaintiffs' rights, such that they are entitled to punitive and exemplary damages.

#### **COUNT IV.**

##### **Intentional Infliction of Severe Emotional Distress**

**(Against all Defendants, but on Behalf of Plaintiff, Dan Christensen, only)**

186. Plaintiffs incorporate each and every allegation set forth in paragraphs 1-185, as if set forth herein.
187. Between April 9, 2009 and the present, Defendants acted in concert and/or conspired together and committed acts designed to produce a result which amounted to extreme and outrageous conduct toward Plaintiff, Dan Christensen.
188. Defendants knew or should have known their actions were likely to cause Plaintiff to experience severe emotional distress.

189. Defendants' conduct was the cause in fact of Plaintiff distress.
190. The Plaintiff suffered an extreme disabling emotional response to Defendants' conduct,
191. Defendants' conduct was in reckless disregard of Plaintiffs' rights, such that they are entitled to punitive and exemplary damages.

**COUNT V.**

**Violation of Animal Enterprise Protection Act of SDCL 40-38-2 and SDCL40-38-3**

**(Against all Defendants, but on Behalf of Plaintiff, Dan Christensen, only)**

192. Plaintiffs incorporate each and every allegation set for in paragraphs 1-191, as if set forth herein.
193. Between April 9, 2009 and the present, Defendants, without consent, intentionally damaged or destroyed an animal facility, an animal, or property in or on the animal facility, or obstructed any enterprise conducted at the animal facility.
194. Between April 9, 2009 and the present, Defendants, without consent, acquired or otherwise exercised control over an animal facility or an animal or other property from an animal facility with the intent to deprive the owner or to obstruct the enterprise conducted at the facility.
195. Between April 9, 2009 and the present, Defendants, without consent, entered an animal facility, not then open to the public, with the intent to commit any acted prohibited by section SDCL 30-38-2.
196. Between April 9, 2009 and the present, Defendants, without consent, entered or remained in an animal facility where entry forbidden or notice to depart was received.
197. Plaintiffs have been damaged by reason of Defendants' violation of the Animal Enterprise

Protection Act under SDCL 40-38-2 and SDCL 40-38-3 and are entitled to recover an amount equal to three times the actual and consequential damages, court costs and reasonable attorney fees under SDCL 40-38-5.

**COUNT VI.**

**Negligence per se - Criminal Trespass in violation of SDCL 22-35-6**

**(All Defendants)**

198. Plaintiffs incorporate each and every allegation set for in paragraphs 1-197, as if set forth herein.
199. On April 9, 2009 at Dan Christensen's residence and again on September 2, 2009 at Dan Christensen's residence and David and Kelly Christensen's residence, Defendants acted in concert and/or conspiring together and commit acts designed to gain entry upon Plaintiffs' property, which they were not privileged to enter and for which they did not possess a valid search warrant, even after Plaintiff Dan Christensen clearly communicated to them that they should leave the property.
200. As a proximate cause of this trespass, Plaintiffs suffered loss of enjoyment of their property, were subjected to an illegal and unconstitutional search of their properties and also suffered mental and emotional anguish.
201. Defendants' conduct was in reckless disregard of Plaintiffs' rights, such that they are entitled to punitive and exemplary damages.

**COUNT VII.**

**Negligence per se - Intentional Damage to Private Property in violation of SDCL 22-344,**

**SDCL 40-1-21 and SDCL 40-2-6.**

**(Against all Defendants)**

202. Plaintiffs incorporate each and every allegation set forth in paragraphs 1-201, as if set forth herein.
203. Defendants acted in concert and/or conspired together and committed acts designed to cause Plaintiff Dan Christensen, to be permanently deprived of his private property, namely the dogs taken from him as a result of the September 2, 2009 warrantless and unlawful search and seizure.
204. Defendants' actions caused Plaintiff Dan Christensen's dogs to be turned over to Rosey Quinn, Second Chance, HSUS and any other person or entity which exercised control of the dogs after they were seized.
205. Rosey Quinn, Second Chance, Scotlund Haisley, Dr. Adam Bauknecht and Dr. Dawn Dale acted in concert in an intentional or reckless manner to cause Christensen's dogs to be subjected to disease, to become injured, to become mis-identified, to suffer neglect and to die.
206. As a proximate cause of this intentional damage to his property, Plaintiff Dan Christensen suffered loss of the enjoyment of his property, loss of business opportunity and mental and emotional anguish.
207. Defendants' conduct was in reckless disregard of Plaintiffs Dan Christensen's rights, such that he is entitled to punitive and exemplary damages.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs demand judgment against the Defendants for actual and compensatory damages, attorney fees and judgment against the Defendants for punitive and

exemplary damages, together with each person's costs in this action.

**Plaintiffs demand trial by jury.**

Dated this 7<sup>th</sup> day of September, 2012.

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**CERTIFICATE OF SERVICE**

Lee M. Pecoske, one of the attorneys for Plaintiffs, Daniel Reed Christensen, David Reed Christensen, and Kelly Jo Ann Christensen, hereby certifies on this 7<sup>th</sup> day of September, 2012, I caused Plaintiffs' Amended Complaint to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-mail notice of the electronic filing to the following:

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