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7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 ANIMAL LEGAL DEFENSE FUND, a  
11 California corporation, CHIMPANZEE  
COLLABORATORY, SARAH  
12 BAECKLER, AMAZING ANIMAL  
ACTORS, INC., a California corporation,  
13 and JOHN ORTBALS,

14 Plaintiffs,

15 v.

16 SIDNEY JAY YOST, an individual, and  
DOES 1 through 50, inclusive,

17 Defendants.  
18

Case No.

**COMPLAINT FOR:**

- (1) VIOLATION OF ENDANGERED SPECIES ACT, 16 U.S.C. § 1531 *et seq.*;
- (2) RECOVERY OF POSSESSION OF PERSONAL PROPERTY
- (3) CONVERSION
- (4) VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200 *et seq.*;
- (5) VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17500 *et seq.*;
- (6) VIOLATION OF CALIFORNIA PENAL CODE § 597;
- (7) DECLARATORY RELIEF
- (8) WRIT OF POSSESSION

**DEMAND FOR JURY TRIAL**

Action Filed: November 18, 2005

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1 Plaintiffs Animal Legal Defense Fund, Chimpanzee Collaboratory, Sarah  
2 Baeckler (“Baeckler”), Amazing Animal Actors, Inc. (“AAA”), a California  
3 corporation, and John Ortvals (“Ortbals”) (together “Plaintiffs”) bring this  
4 Complaint against Defendant Sidney Jay Yost (“Defendant” or “Yost”), and Does 1  
5 through 50 (“Does 1-50”), and each of them, and allege as follows:

6 **INTRODUCTION**

7 1. Defendant Sidney Jay Yost (“Yost”) is in possession of four  
8 chimpanzees, who he uses in television and motion picture productions, and for  
9 public and private demonstrations. He repeatedly beats these chimpanzees with  
10 sticks. As a matter of routine, he punches them with his fists. He regularly taunts  
11 them and intimidates them. He harasses and injures them. He has been doing this  
12 for many years, and continues to do it on an ongoing basis. Yost carries on this  
13 egregious conduct as part of a business which – in contrast to the indisputable abuse  
14 – claims its chimpanzees have been “affection trained with love, respect, and  
15 positive reinforcement.”

16 2. Chimpanzees suffer emotional and physical pain “just as we do and  
17 often for the same reasons.” Roger Fouts, *On the Psychological Well-Being of*  
18 *Chimpanzees*, 1 *Journal of Applied Animal Welfare Science* 65 (“Psychological  
19 Well-Being of Chimpanzees”), 69 (1998). Indeed, chimpanzees engage in higher  
20 level cognitive behavior, including rational and conceptual thought, problem-  
21 solving, creative thinking and strategizing. *See, e.g.*, S. Savage-Rumbaugh, D.  
22 Rumbaugh and Boysen, *Symbolic communication between two chimpanzees (pan*  
23 *troglydytes)*, *Science* 201, 641-44 (1978); B.T. Gardner & R.A. Gardner, *Two-Way*  
24 *Communication with an Infant Chimpanzee*, *Behavior of Nonhuman Primates*, Vol.  
25 4 (1971). When faced with abuse, they respond like humans subjected to abuse.  
26 They cry and scream, and utter sounds with distinct meanings. Jane Goodall, *The*  
27 *Chimpanzees of Gombe: Patterns of Behavior* 125 (1986). They are aware of  
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1 themselves and others as distinct individuals. R. Fouts and S.T. Mills, *Next of Kin*  
2 (“*Next of Kin*”) 155 (1997) (chimpanzees express understanding of humans’  
3 distress, physical pain and anger); J. van Hooff, *Understanding Chimpanzees* 276-  
4 84 (1994). Their social relations with one another and with humans are wide-  
5 ranging and complex. William Karesh, *Appointment at the Ends of the World: A*  
6 *Memoirs of a Wildlife Veterinarian* 299 (1999); Psychological Well-Being of  
7 Chimpanzees, 69. It is virtually undisputed that “chimpanzees have emotions  
8 similar to those which in ourselves we label pleasure, joy, sorrow, boredom and so  
9 on.” See Goodall, p. 118; see also *Next of Kin* 155 (chimpanzees expressing  
10 sadness, pleasure). Thus, when they are beaten or abused, they suffer pain and  
11 psychological harm.

12 3. Some of the chimpanzees Yost has abused over the years have been  
13 seen in popular films and television shows, and he has often brought them to parties,  
14 exhibitions and commercial establishments. On several occasions, the chimpanzees  
15 in Yost’s possession have bitten members of the public. Although Yost knows that  
16 all such bites must be reported, he urges those bitten, as well as those who work  
17 with him, not to report any bite.

18 4. One example of the level of cruelty perpetrated by Yost was his  
19 treatment of Apollo, one of the chimpanzees still in his possession. On at least one  
20 occasion, Apollo was subjected to a prolonged beating with a thick, cane-shaped  
21 stick. Yost first had a coworker beat Apollo with the stick; when she got tired, Yost  
22 began beating Apollo until he broke the stick over Apollo’s back.

23 5. Another example of Yost’s brutality was his of vicious treatment Teá, a  
24 baby chimpanzee who was in Yost’s possession. Yost beat baby Teá so badly, with  
25 a lock, that he split her head open, causing a deep cut on her eyebrow that required  
26 stitches. Afterwards, Teá became extremely timid and frightened.

27 6. Yost also has had devices he called “hot shots.” These are handheld  
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1 electric sticks with two diodes, like a cattle prod. As part of his “training” of the  
2 chimpanzees, Yost would use these devices to shock the chimpanzees, causing them  
3 to scream in pain.

4 7. By this action, Plaintiffs seek redress for Yost’s violent, brutal,  
5 unjustified and excessive abuse of animals; his unlawful conversion and  
6 embezzlement of two chimpanzees as well as other animals and assets; and unlawful  
7 business practices. Plaintiffs seek an order pursuant to the Endangered Species Act  
8 (“ESA”) and its implementing regulations declaring Yost’s treatment of the animals  
9 in his possession unlawful and enjoining him from continuing to violate the ESA  
10 with respect to the animals in his possession. Under the ESA and California Penal  
11 Code 597 (the California anti-cruelty statute), Plaintiffs also seek an order enjoining  
12 Yost from further harming, harassing, beating, wounding, and injuring any animals,  
13 including the chimpanzees currently in his possession and control.

14 8. Based on his long history of abuse of the Chimpanzees and other  
15 animals, Plaintiffs also seek an injunction removing the chimpanzees and all other  
16 animals from Yost’s possession and control. Plaintiffs seek the return of AAA’s  
17 chimpanzees, and an order requiring Yost and his agents to cease all activities in  
18 which Yost exercises control over the animals he has been abusing. Plaintiffs also  
19 seek injunctive relief ordering Yost to return all other property that he unlawfully  
20 converted from AAA, including animal cages, a Canon camera, and funds totaling  
21 approximately \$50,000.

## 22 THE PARTIES

23 9. Plaintiff Animal Legal Defense Fund (“The Fund”) is a non-profit  
24 corporation founded in 1979 to protect the lives and interests of animals through the  
25 judicial process and enforcement of laws, and through the provision of information  
26 to others desiring to protect the lives and interests of animals. The Fund has  
27 approximately 100,000 members nationwide, including lawyers, law professors, law  
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1 students, and other similarly-interested individuals. Its members have viewed and  
2 continue to view the chimpanzees Yost exhibits in film, television and live and  
3 public entertainment. The Fund's members, being aware of the abuse these  
4 chimpanzees have suffered, are distressed when they view these chimpanzees. By  
5 seeing these chimpanzees, who are beaten and injured by Yost, the Fund's members  
6 suffer ongoing aesthetic injury.

7       10. Plaintiff Chimpanzee Collaboratory is a collaborative project of  
8 attorneys, scientists, and public policy experts working to establish greater  
9 protections for chimpanzees and other great apes. Its members have viewed and  
10 monitored and continue to view and monitor the chimpanzees Yost exhibits in  
11 screen and public entertainment. As experts with respect to chimpanzee behaviors  
12 and physiology, its members have a special interest in seeing these chimpanzees  
13 treated properly, and a specialized understanding of the effects of the treatment  
14 perpetrated by Yost on the chimpanzees. Its members have viewed and continue to  
15 view the chimpanzees Yost exhibits in film, television and live and public  
16 entertainment. The Collaboratory's members, being aware of the abuse these  
17 chimpanzees have suffered, are distressed when they view these chimpanzees. By  
18 seeing these chimpanzees, who are beaten and injured by Yost, the Collaboratory's  
19 members suffer ongoing aesthetic injury

20       11. Plaintiff Sarah Baeckler ("Baeckler") is a primatologist and was, at all  
21 relevant times, a resident of California. Ms. Baeckler worked with the chimpanzees  
22 at issue when they were in the possession of AAA. As a result, she formed a strong,  
23 personal attachment to these animals. She personally witnessed Yost, and those in  
24 concert with Yost, abuse the animals and physically and brutally beat them, which  
25 caused and continues to cause damage and injury to Baeckler and the chimpanzees.  
26 Baeckler would like to see and spend time with these chimpanzees again and would  
27 attempt to do so if the chimpanzees were relocated. She plans on visiting the  
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1 chimpanzees as soon as possible, but is unwilling to do so because she would suffer  
2 aesthetic injury from seeing the chimpanzees in the possession of Yost because of  
3 Yost's continuous mistreatment of them.

4 12. Plaintiff Amazing Animal Actors, Inc. ("AAA") is, and at all relevant  
5 times hereto was, a California corporation with its principal place of business in  
6 California. AAA is the sole owner of two chimpanzees named Cody (previously  
7 known as Budd) and Sable, as well as other animals in Yost's possession. AAA  
8 suffered economic injury because of Yost's conversion of the chimpanzees.

9 13. Plaintiff John Ortvals ("Ortbals") is, and at all relevant times was, a  
10 resident of California. Mr. Ortvals currently is the President and owner of AAA.  
11 Ortvals has worked with all of the animals who are owned by AAA, including the  
12 two chimpanzees who Yost currently possesses illegally. As a result of his work  
13 with the animals, he has formed a strong, personal attachment to them. He saw  
14 Yost, and those in concert with Yost, abuse the animals and physically and brutally  
15 beat them, which caused and continues to cause damage and injury to them. He  
16 would like to see and spend time with these animals again. He also would like to  
17 visit the animals, including the chimpanzees, but is unwilling to do so because he  
18 would suffer aesthetic injury from seeing all of them in the possession of Yost  
19 because of Yost's continuous mistreatment of them. In addition, as the owner of  
20 AAA, he has suffered and continues to suffer economic and non-economic harm as  
21 a result of Yost's abuse of the animals and Yost's theft of AAA's assets, including  
22 the animals.

23 14. Defendant Sidney Jay Yost ("Yost") is an individual who at all relevant  
24 times conducted business in and maintained a residence in California. Yost purports  
25 to be a "trainer" of exotic animals, including chimpanzees, for use in television and  
26 motion picture productions, and for public and private demonstrations. His  
27 "training techniques" – which he attempts to pass on to those working with him –  
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1 consist of regular and repeated beatings of the various animals

2 15. Plaintiffs are unaware of the true names and capacities of the  
3 defendants named herein as Does 1 through 50, inclusive, and therefore sue said  
4 Doe defendants by such fictitious names. Plaintiffs are informed, believe, and  
5 thereon allege that each of the fictitiously-named defendants is responsible in some  
6 manner for the occurrences herein alleged and that Plaintiffs' damages were  
7 proximately caused by such defendants. Plaintiffs will seek leave to amend this  
8 complaint to allege said defendants' true names and capacities, together with such  
9 other allegations as are appropriate, when they are ascertained.

10 16. Plaintiffs are informed and believe, and on that basis allege, that each  
11 of the defendants is, and at all relevant times was, the agent of the other defendants  
12 in performing the acts alleged. Plaintiffs are further informed and believe, and on  
13 that basis allege, that each of the defendants has pursued a common course of  
14 conduct and aided and abetted one another to accomplish the acts alleged and each  
15 therefore is legally responsible for the acts of the other.

16 **VENUE AND JURISDICTION**

17 17. Venue is proper in this Court pursuant to 28 U.S.C. Section 1391(b)  
18 because defendant Yost resides within this District and a substantial part of the  
19 events and omissions giving rise to this claim occurred within this District.

20 18. This Court has jurisdiction over this action pursuant to 28 U.S.C.  
21 Sections 1331 (federal question), 1367(a) (supplemental jurisdiction), 2201  
22 (injunctive relief), and 16 U.S.C. Section 1540(g) (Endangered Species Act citizen  
23 suit provision).

24 19. As required by 16 U.S.C. Section 1540(g), Plaintiffs have furnished  
25 notice to Yost and to the Fish and Wildlife Service and the Secretary of the Interior  
26 regarding the violations alleged in this complaint more than sixty days prior to the  
27 filing of this action. The Secretary of the Interior has not commenced an action to  
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1 impose a penalty pursuant to 16 U.S.C. Section 1540(a) to redress the violations  
2 alleged herein. The United States has not commenced a criminal action in a court of  
3 the United States or any State Court to redress the violations alleged herein. A copy  
4 of this letter is attached hereto as Exhibit A.

5 **RELEVANT FACTS**

6 **Amazing Animal Actors**

7 20. AAA is a California corporation that was incorporated in 2001.

8 21. At the time of its incorporation, AAA was located at 4584 N. Ventura  
9 Avenue, Ventura, California, 93001. Up until May 2002, the various animals of  
10 AAA, including the chimpanzees, were housed at this address in Ventura,  
11 California.

12 22. In or around May 2002, AAA relocated to 10950 Citrus Drive,  
13 Moorpark, California, 93021. At this time, the animals were transferred from  
14 Ventura, California to the "Bony Pony Ranch" in Malibu, California. The address  
15 was 12555 Yerba Buena Rd., Malibu, CA 90265. Soon thereafter, AAA itself  
16 relocated to the Bony Pony Ranch.

17 23. After its incorporation, AAA acquired ownership of a variety of exotic  
18 animals, including:

- 19 i. Three chimpanzees named Sable, Cody, and Teá;  
20 ii. A male African lion named Jabari;  
21 iii. A female Bengal tiger named Taja;  
22 iv. A female Harris hawk named Nike;  
23 v. An Albino Burmese python;  
24 vi. A Leopard gecko;  
25 vii. Two red-tail Boa Constrictor snakes;  
26 viii. Multiple tarantulas;  
27 ix. Multiple scorpions; and  
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1 x. Multiple King Snakes

2 At all times, all of these animals were the property of, and owned by, AAA.

3 24. Other assets acquired by AAA after its incorporation and before 2004  
4 included various animal cages, including large cages for the chimpanzees, and a  
5 Canon XLIS Camera.

6 **AAA's Relationship with Defendant Yost**

7 25. In 2001, AAA hired Yost as an independent contractor to serve as an  
8 animal trainer. At the time, Yost owned two chimpanzees of his own – Apollo and  
9 Angel – and a Harris hawk. Upon information and belief, the Harris hawk owned  
10 by Yost died in 2002.

11 26. Yost was never an owner or incorporator of AAA and his name never  
12 appeared on any of the company documents; rather, he was an independent  
13 contractor who simply was a trainer of the animals.

14 27. AAA compensated Yost based on a percentage of revenue that AAA  
15 generated each time that Yost worked on a job or service that AAA was hired to  
16 perform. Examples of various jobs and services included: private parties where  
17 AAA would bring along its various animals for demonstrations; functions for public  
18 viewing; animal “encounters” where members of the public would pay a fee to visit  
19 with and spend time with AAA’s various exotic animals; animal exhibits; use of the  
20 animals in television programs, commercials, or motion picture productions; and  
21 other public exhibitions of the animals. The funds received from these jobs would  
22 be deposited into AAA’s private business checking account, from which Yost would  
23 be paid.

24 **The Chimpanzees**

25 28. In 2002, AAA acquired three chimpanzees from the Coulston  
26 Foundation, a primate research facility in Alamogordo, New Mexico. Under the  
27 arrangement with the Coulston Foundation, a private individual would sponsor a  
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1 chimpanzee by making a “donation” to the Coulston Foundation and then ownership  
2 of the sponsored chimpanzee would be transferred to AAA.

3 29. Through these sponsorship agreements, AAA acquired three  
4 chimpanzees: Sable, Cody, and Teá. Per the sponsors’ agreements with the  
5 Coulston Foundation, ownership of these chimpanzees was transferred from the  
6 Coulston Foundation to AAA. The relevant documents signifying the transfer of  
7 ownership of these three chimpanzees are attached to the Complaint as Exhibit A.

8 30. These chimpanzees who are owned by AAA, as well as Apollo and  
9 Angel (the chimpanzees owned by Yost), have been or still are often part of  
10 television programs and major motion pictures. For example, some of the  
11 chimpanzees at issue have appeared in various television series, including “Meet My  
12 Folks,” “The Gong Show,” “Judge Brown,” “Candid Camera,” “The Craig Kilborn  
13 Show,” as well as programming on the “Animal Planet” network. In addition, they  
14 have appeared in television commercials, photo shoots for various magazines, and at  
15 private parties.

### 16 **Defendant Yost’s Vicious Treatment Of The Animals**

17 31. Yost has consistently made false representations that he “[a]ffection  
18 [t]rains” the chimpanzees (and all animals) “with love, respect and positive  
19 reinforcement [that] produces animals that enjoy learning and working.” In fact,  
20 throughout his time as an independent contractor with AAA, and continuing today,  
21 Yost has brutally and viciously mistreated, and continues to brutally and viciously  
22 mistreat, all the animals owned by AAA. During his time at AAA, Yost has also  
23 encouraged other individuals, including various trainers and volunteers of AAA, and  
24 plaintiffs Sarah Baeckler and John Orbals, to physically hit and beat the animals.  
25 Upon information and belief, these beatings and mistreatment continue to take  
26 place.

27 32. The abuse and mistreatment toward the chimpanzees is extensive and  
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1 longstanding. This brutality includes:

- 2 i. Beatings with various hard objects such as sticks, pieces of  
3 metal, broom handles, handles of a hammer, and copper rods.
- 4 ii. Punches with closed fists, and kicks to the head, back and  
5 arms. At times, Yost uses all his strength and puts his whole  
6 body into each blow to the chimpanzees.
- 7 iii. Throwing hard objects, such as rocks, sticks, rubber mallets or  
8 skateboards, at the chimpanzees' heads or backs. According  
9 to Yost, one should aim for the head because "it is really  
10 sturdy."
- 11 iv. Yost and others would hit the chimpanzees on the head with a  
12 metal lock, causing the chimpanzees to scream and rub their  
13 heads in pain.
- 14 v. Viciously beating the chimpanzees with a broom handle, often  
15 swinging the handle in a full-power, baseball swing motion,  
16 causing the chimpanzees to scream in agony.
- 17 vi. Use of a device called a "hot shot." This device was a  
18 handheld electric stick with two diodes, like a cattle prod.  
19 Yost would use it to shock the chimpanzees, causing them to  
20 scream in pain.
- 21 vii. Taunting and various forms of intimidation, including constant  
22 verbal abuse.
- 23 viii. In order to get the chimpanzees to stand upright, Yost would  
24 grab the chimpanzees by the ears and lips and forcibly pull  
25 them up on their feet, causing the chimpanzees to scream in  
26 pain.
- 27 ix. When the chimpanzees would run away from Yost, he would  
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1 run after them and then drag them by their ears and lower lips  
2 back to their cages.

3 x. In order to encourage the chimpanzees to “smile,” Yost would  
4 forcibly stick his fingers in the chimpanzees’ mouths, forcing  
5 the edges of their lips to spread into a “grin.”

6 xi. To get the chimpanzees to lie down, Yost would grab the  
7 chimpanzees by their lower lips, pull them forward by their  
8 lip, and then push them down until they were lying on their  
9 back. This would often cause the chimpanzees to scream and  
10 whimper in pain.

11 33. Yost would encourage others who worked with him and with AAA –  
12 either trainers or volunteers – to be aggressive and to beat the chimpanzees. He  
13 would encourage others to “get angry and beat the s--t out of them” if they  
14 misbehaved.

15 34. Yost told his training students to have an attitude that if “one of [the  
16 chimpanzees] messes with you, you nail them.” When referring to one of the  
17 chimpanzees, Yost would say “you cannot hurt her. Hit her as hard as you can.  
18 Kick her in the face.”

19 35. Defendant Yost’s abuse of the chimpanzees is so prevalent that the  
20 chimpanzees often will scream when Yost approaches. In addition, when terrified  
21 or nervous, the chimpanzees would huddle together and rock back and forth in a  
22 crouched position, a sign of extreme stress.

23 36. Yost once brutally beat up the chimpanzee “Apollo” with a thick cane.  
24 Yost hit Apollo so hard that the cane eventually broke. Yost punched Apollo  
25 repeatedly with all his strength. After the beating, Apollo was huddled up and  
26 screaming and his face was extremely puffy.

27 37. Yost once brutalized Teá so badly that she had a deep, long cut on her  
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1 eyebrow, requiring stitches. As a result, Teá became extremely timid, frightened  
2 and withdrawn.

3 38. Yost also would viciously beat other animals, including Jabari, the  
4 African lion cub. Upon information and belief, Yost once took a cane and hit Jabari  
5 across the face.

6 39. Upon information and belief, Yost has been brutalizing chimpanzees  
7 for many years, and continues to do so on an ongoing basis. Yost's brutality  
8 towards these chimpanzees – as well as other animals in his possession – is in  
9 violation of the Endangered Species Act and its implementing regulations; the  
10 California animal cruelty statutes, California Penal Code section 597 *et seq.*, as well  
11 as the federal Animal Welfare Act.

#### 12 **Yost's Theft, Embezzlement And Fraud**

13 40. Much of the income for AAA came from public appearances with the  
14 animals, including the chimpanzees, and encounters with members of the public.  
15 Yost stole and embezzled much of this income from AAA throughout his  
16 relationship with AAA. For example, Yost would take money that was paid to AAA  
17 for "animal encounters" or "trainer for a day" programs and instead of giving that  
18 money to AAA, he would keep it himself. Yost embezzled up to \$5,000 per month  
19 from AAA.

20 41. In the summer of 2003, Yost suddenly demanded full control of AAA.  
21 He demanded that AAA's then-President, Paul Orbals, step down and hand over the  
22 company and all its assets to him. Yost threatened Paul Orbals with physical harm  
23 if he did not comply. In addition, Yost stated that if the company did not turn  
24 everything over to him, he would "take all the assets and leave Paul with all of the  
25 debt."

26 42. When Paul Orbals refused, Yost began a systematic course of conduct  
27 whereby, without express or implied permission, he began taking the assets of AAA  
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1 for himself. Upon information and belief, he quickly formed a new company of his  
2 own, Amazing Animal Productions, Inc. ("AAP"). He then began to siphon away  
3 the assets of AAA and transfer them illegally to AAP. Upon information and belief,  
4 in late 2003, Yost opened a business account in the name of AAP and illegally  
5 transferred the balance of AAA's business account – approximately \$16,000 – to the  
6 new AAP account without the permission of AAA or anyone associated with AAA.

7 43. In addition, upon information and belief, Yost unlawfully deposited the  
8 following checks that were made out to AAA into AAP's business account:

- 9 i. A check from Wanda J. Acuna to AAA, dated November 5,  
10 2003 in the amount of \$150.00;
- 11 ii. A check from Bensur Advertising to AAA, dated November  
12 13, 2003, in the amount of \$4640.00;
- 13 iii. A check from Expertcity.com to AAA, dated November 20,  
14 2003, in the amount of \$1,150.00;
- 15 iv. A check from Imara Shaw to AAA, dated December 21, 2003,  
16 in the amount of \$600.00;
- 17 v. A check from ACPD, Inc. to AAA, dated December 17, 2003,  
18 in the amount of \$2,300.00; and
- 19 vi. A check from Bacara Resort Services, Inc., dated December  
20 23, 2003, in the amount of \$3,000.00.

21 44. Upon information and belief, Defendant Yost also issued new invoices  
22 to AAA's customers requesting that payment now be made to AAP and not to AAA.  
23 As a result, the following payments that were due to AAA were wrongfully made to  
24 AAP instead:

- 25 i. A check issued to AAP from Kristina M. Torres, dated  
26 December 2, 2003 in the amount of \$467.50;
- 27 ii. Payment to AAP from Brad Levine on or about December 15,  
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1                    **Violation of the Endangered Species Act 16 U.S.C. § 1531 et seq.**

2            52. Plaintiffs re-allege and incorporate by reference each and every  
3 allegation contained in this Complaint as if fully set forth herein.

4            53. In enacting the Endangered Species Act (“ESA”), the United States  
5 Congress declared that the “United States has pledged itself as a sovereign state in  
6 the international community to conserve to the extent practicable the various species  
7 of...wildlife...facing extinction.” 16 U.S.C. § 1531(a)(4). One of the ESA’s  
8 express purposes is to “provide a program for the conservation of...endangered  
9 species and threatened species.” 16 U.S.C. § 1531(b).

10           54. The ESA defines an “endangered species” as “any species which is in  
11 danger of extinction throughout all or a significant portion of its range.” 16 U.S.C.  
12 § 1532(6). A “threatened species” is one that is in danger of becoming “an  
13 endangered species within the foreseeable future throughout all or a significant  
14 portion of its range.” 16 U.S.C. § 1532(20).

15           55. Captive chimpanzees are classified as threatened species under the  
16 ESA. 55 Fed. Reg. 9129; 41 Fed. Reg. 45993.

17           56. Pursuant to 16 U.S.C. Section 1533(d), the United States Fish and  
18 Wildlife Service has prohibited the “taking” of any threatened species. 50 C.F.R. §  
19 17.31.

20           57. The ESA defines the term “take” to include “harass, harm, pursue,  
21 hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such  
22 conduct.” 16 U.S.C. § 1532(19). The term “harm” includes an act which “kills or  
23 injures” an endangered or threatened animal. 50 C.F.R. § 17.3 The term “harass”  
24 includes an “intentional or negligent act or omission which creates the likelihood of  
25 injury [to an endangered or threatened animal] by annoying it to such extent as to  
26 significantly disrupt normal behavioral patterns which include, but are not limited  
27 to, breeding, feeding, or sheltering.” 50 C.F.R. § 17.3

1           58. Threatened species are subject to the special rulemaking provisions of  
2 16 U.S.C. § 1533(d). Section 1533(d) provides that “[w]henever a species is listed  
3 as a threatened species pursuant to section (c) of this section, the Secretary shall  
4 issue such regulations as he deems necessary and advisable to provide for the  
5 conservation of such species.” 16 U.S.C. § 1533(d) (emphasis added).

6           59. Section 9 of the ESA also prohibits any person from violating any  
7 regulation promulgated by the Secretary pursuant to the ESA that pertains to any  
8 endangered species or threatened species. 16 U.S.C. § 1538(a)(1)(G).

9           60. As set forth herein, Yost has taken, abused, harmed, harassed, beaten,  
10 brutalized, and wounded a threatened species (i.e. the Chimpanzees) in violation of  
11 the ESA. If not enjoined by this Court, Yost will continue to do so.

12           61. Pursuant to 16 U.S.C. § 1540(g), Plaintiffs have furnished notice to  
13 Yost and to the Secretary of the Interior regarding the violations alleged herein more  
14 than sixty days ago. The Secretary of the Interior has not commenced an action to  
15 impose a penalty pursuant to 16 U.S.C. § 1540(a) to redress the violations alleged  
16 herein. The United States has not commenced a criminal action in a court of the  
17 United States or any State Court to redress the violations alleged herein. A copy of  
18 this letter is attached hereto as Exhibit A.

19                           **Second Cause of Action for Specific Recovery**

20           62. Plaintiffs repeat and re-allege each and every allegation contained in  
21 this Complaint as if fully set forth herein.

22           63. Plaintiff AAA has a right to immediate repossession of all its assets,  
23 including all of the animals (including the chimpanzees) as set forth herein (“AAA’s  
24 Property”), that are in Yost’s wrongful possession.

25           64. Yost has no right to possession of any of AAA’s Property, all of which  
26 is legally owned by AAA.

27           65. All of AAA’s Property is wrongfully being detained by Yost in San  
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1 Bernardino, California.

2 66. AAA made demand on Yost to return all AAA's Property in Yost's  
3 possession and/or under his control before this action was filed, but Yost refused to  
4 do so.

5 67. AAA has sustained damages as a result of the wrongful detention of  
6 AAA's Property, including all of its animals, by Yost in an amount to be determined  
7 at trial.

8 **Third Cause of Action For Conversion**

9 68. Plaintiffs re-allege and incorporate by reference each and every  
10 allegation contained in this Complaint as if fully set forth herein.

11 69. At all material times hereto, Plaintiff AAA was, and still is, the legal  
12 owner of AAA's Property and has a right to immediate possession of that property.

13 70. Beginning in or about January of 2004, Yost absconded with AAA's  
14 Property. By doing so, Yost wrongfully interfered with AAA's interests in AAA's  
15 Property by wrongfully taking possession and/or control of it for their own use.

16 71. AAA has demanded that Yost return AAA's Property to AAA that  
17 currently is in his possession and/or under his control before this action was filed,  
18 but he refused to do so.

19 72. Yost has failed and refused, and continues to fail and refuse, to return  
20 possession of AAA's property to AAA. Yost has converted AAA's Property to his  
21 own use and benefit thereby damaging AAA and its business in an amount  
22 according to proof.

23 73. As a result of Yost's and Does 1 through 50's acts of conversion,  
24 Plaintiffs John Ortballs and AAA have suffered and will continue to suffer severe  
25 harm, including the lost use and companionship of the animals, lost revenues and  
26 profits that are generated by the exhibition of the animals, and lost opportunities for  
27 developing and retaining business. Yost and any later-named Doe defendants and  
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1 each of them have unfairly and unlawfully obtained economic benefits as a result of  
2 their conduct, which must be disgorged and reinstated to Plaintiffs.

3 74. AAA is further entitled to compensation for the time and money  
4 expended in pursuit of the property.

5 75. In taking AAA's Property, Yost's conduct was deliberate, willful,  
6 intentional, and oppressive, as Yost acted with fraud and malice in order to injure  
7 and destroy AAA's business and its ability to compete in the marketplace. Such  
8 actions were and are despicable and have been carried on by Yost in conscious  
9 disregard of AAA's rights. In light of the foregoing, Plaintiffs are entitled to an  
10 award of punitive and exemplary damages against Yost in an amount to be proven.

11 **Fourth Cause of Action For Violation of**

12 **California Business and Professions Code Section 17200, et seq.**

13 76. Plaintiffs re-allege and incorporate by reference each and every  
14 allegation contained in this Complaint as if fully set forth herein.

15 77. Yost's conduct, as alleged above, constitutes unlawful, unfair, and/or  
16 fraudulent business practices in violation of Business and Professions Code § 17200  
17 *et seq.* This conduct includes violations of (1) the Endangered Species Act and its  
18 implementing regulations, (2) the California animal anti-cruelty statutes, California  
19 Penal Code section 597 *et seq.*, (3) the federal Animal Welfare Act, 7 U.S.C. §§  
20 2131 *et seq.*, (4) conversion, and (5) California Business and Professions Code §  
21 17500 *et seq.* for false advertising.

22 78. Plaintiffs Ortvals and AAA have suffered harm and have lost both  
23 money and property as a result of Yost's violation of California Business and  
24 Professions Code § 17200 *et seq.* Ortvals has worked and interacted with all of the  
25 animals owned by AAA who Yost currently possesses illegally, as well as other  
26 animals currently in Yost's possession, including the four chimpanzees. As a result,  
27 Ortvals has formed a strong, personal attachment to these animals.

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1 allegation contained in this Complaint as if fully set forth herein.

2 90. California Penal Code Section 597 makes it unlawful for any person to  
3 maliciously and intentionally maim, mutilate, torture, or wound a living animal.  
4 Section 597 embodies the strong public policy of the State of California that cruelty  
5 to animals should be prevented and prohibited within the State's borders.

6 91. The routine beating, harassment and abuse, as well as the absence of  
7 sanitation and disease control, and the failure to provide appropriate veterinary care,  
8 has caused and continues to cause unnecessary pain and suffering to the  
9 chimpanzees under Yost's custody and control.

10 92. The routine beating, harassment and abuse, as well as the absence of  
11 sanitation and disease control, and the failure to provide appropriate veterinary care,  
12 constitutes torture of the chimpanzees under Yost's custody and control.

13 93. Thus, as described herein, Yost now and in the past has been  
14 responsible for cruel treatment of animals resulting in unjustified physical pain and  
15 suffering, in violation of California Penal Code section 597.

16 94. Plaintiffs request injunctive relief to cease the acts of abuse and  
17 mistreatment alleged herein and an order compelling Yost to relinquish custody and  
18 control of the animals in his possession.

19 **Seventh Cause of Action For Declaratory Relief**

20 95. Plaintiffs repeat and re-allege each and every allegation contained in  
21 this Complaint as if fully set forth herein.

22 96. An actual controversy has arisen and now exists between Plaintiffs and  
23 Defendant Yost concerning their respective ownership rights to AAA's Property,  
24 including all of AAA's assets, animals, and chimpanzees. AAA contends that it is  
25 entitled to sole possession of all of AAA's Property, including the animals and the  
26 chimpanzees. Yost refuses to return to AAA all of its property in his possession  
27 and/or under his control.

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- 8. An order stating that AAA is entitled to immediate possession of all its assets, including all of the animals and specific chimpanzees discussed herein, that currently are in the possession and/or control of Defendant Yost, and that Yost has no ownership right or any right of possession over any of those assets, including the animals and chimpanzees;
- 9. Damages according to proof;
- 10. Punitive damages;
- 11. An order for pre-judgment writ of possession pursuant to California Code of Civil Procedure, §§ 514.010 through 514.050;
- 12. Prejudgment interest as permitted by law on all sums awarded;
- 13. Reasonable costs and expenses, including attorneys' fees according to proof at trial; and
- 14. Such other and further relief as the Court deems just and proper.

DATED: November 18, 2005

SETH A. STEVELMAN  
JEFFERY A. GROSS  
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Seth A. Stevelman  
Attorneys for Plaintiffs

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**JURY DEMAND**

Plaintiffs hereby demand a jury trial on all applicable claims.

DATED: November 18, 2005

SETH A. STEVELMAN  
JEFFERY A. GROSS  
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Seth A. Stevelman

Attorneys for Plaintiffs