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County of Monterey
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By: Christina Flores, Deputy

1 Caitlin Hawks (Bar No. 260417)
2 James Erselius (Bar No. 303026)
3 Caitlin Zittkowski (Bar No. 290108)
4 PETA Foundation
5 2154 West Sunset Boulevard
6 Los Angeles, CA 90026
7 Tel: (661) 644-5398
8 Fax: (213) 484-1648
9 caitlinh@petaf.org
10 jamese@petaf.org
11 caitlinz@petaf.org

12 *Attorneys for Plaintiff People for the Ethical
13 Treatment of Animals, Inc.*

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF MONTEREY

16 PEOPLE FOR THE ETHICAL TREATMENT) Case No.20CV002113
17 OF ANIMALS, INC., a nonprofit corporation,) COMPLAINT FOR INJUNCTIVE RELIEF
18 Plaintiff,) [Business and Professions Code § 17200 *et seq.*]
19 v.)
20 MONTEREY ZOOLOGICAL SOCIETY, INC.,)
21 and CHARLIE SAMMUT,)
22 Defendants.)

23
24
25 **INTRODUCTORY STATEMENT**

26 1. This is a complaint seeking a permanent injunction against Defendants Monterey
27 Zoological Society, Inc. (“Monterey Zoo”) and its president Charlie Sammut (together “Defendants”), to
28 prevent their ongoing unlawful business practices in the management and care of elephants.

1 2. While every other facility in California that houses elephants manages them in “protected
2 contact,”¹ Defendants and their staff manage the two African elephants currently in their care in “free
3 contact”—a dangerous and abusive circus-style training method where keepers share the same unrestricted
4 space with the elephants and use domination, force, negative reinforcement, and physical punishment to
5 exact their obedience—and use wooden canes to control them. The use of canes, bullhooks,² or any
6 “device designed to inflict pain for the purpose of training or controlling the behavior of an elephant”
7 (collectively, “bullhooks”) is prohibited in California. (See Fish & Game Code § 2128(a).)

8 3. In June 2018, one of Monterey Zoo’s employees, while working in free contact with
9 elephants named Paula and Kristy at an event where members of the public would be able to interact with
10 the elephants, took aggressive action towards Paula when Paula refused to keep walking. Consequently,
11 Paula attacked the employee, thrashing and stepping on the employee while a second employee beat Paula
12 with a cane in an attempt to stop the attack. The employee who was attacked suffered a broken back and
13 ankle. Paula and Kristy have both since died. In response to this incident, the California Division of
14 Occupational Safety and Health (“CAL/OSHA”) cited Monterey Zoo for failing to establish and
15 implement an effective injury and illness prevention program to ensure a safe work environment. (8 CCR
16 § 3203, subd. (a)(6).)

17 4. Even following this incident, Defendants continue to use canes to control the remaining
18 elephants confined at Monterey Zoo, Butch and Buffy, in violation of California’s ban on the use of
19 bullhooks to manage elephants. (Fish & Game Code § 2128.) Defendants’ continued use of canes and free
20 contact methods also fails to provide a safe work environment in violation of the California Occupational
21

22 ¹ As described below, in contrast with free contact, protected contact refers to a widely used management
23 system where elephants and their keepers typically do not share the same space. Instead, contact occurs
24 through a barrier. The elephant is not spatially confined and is free to leave the work area at will. The
25 elephant learns through positive reinforcement, and physical punishment is strictly prohibited.

26 ² Bullhooks resemble staffs or sticks with a pointed end—commonly a fiberglass or wooden rod
27 resembling a fire poker—and function to control elephants through negative reinforcement (teaching
28 elephants to move away from the bullhook to avoid the physical or psychological pain they learn to
associate with the device), and positive punishment (discouraging unwanted behaviors by inflicting pain).
The wooden canes Defendants use to control the elephants at Monterey Zoo have L-shaped handles that
resemble a hook, are used for negative reinforcement and positive punishment, and are treated the same
as bullhooks under California’s ban on such devices. (See Fish & Game Code § 2128, subd. (a)(1)(A).)

1 Safety and Health Act's ("COSH Act") general duty clauses and its regulations.
2 (Lab. Code, §§ 6400–6404; 8 CCR § 3203, subd. (a)(6).)

3 5. Defendants' business practices concerning elephants are illegal and therefore subject to
4 relief under California's Unfair Competition Law. (Business & Professions Code § 17200 *et seq.*)

5 **PARTIES**

6 6. Plaintiff People for the Ethical Treatment of Animals, Inc. ("PETA") is a nonprofit
7 corporation organized under the laws of the State of Virginia, with its corporate headquarters located in
8 Norfolk, Virginia. PETA also has offices located in Los Angeles, California, and Berkeley, California.

9 7. PETA is dedicated to protecting animals, including animals used in entertainment, from
10 abuse, neglect, and cruelty, and works to achieve its mission through public education, cruelty
11 investigation, research, animal rescue, legislation, campaigns, and other events. PETA's motto, which
12 summarizes its mission statement, reads, in part, "Animals are not ours to . . . use for entertainment, or
13 abuse in any other way."

14 8. To achieve its objectives of ending the abuse of animals, including animals used for
15 entertainment, PETA investigates cruelty; educates the public through its website, social media, and
16 traditional media; uses public records, scholarly publications, and expert consultants to inform its public
17 education efforts; submits letters to the editor and op-eds; organizes demonstrations; seeks enforcement
18 of animal protection laws and regulations; pursues legislative and regulatory change to ban bullhooks,
19 elephant rides, and the use of animals in entertainment; works with companies to end practices that
20 promote the use of animals in entertainment; convinces performance venues to prohibit wild-animal
21 shows; educates children, teens, and college students about the harms of using animals in entertainment;
22 works with celebrities and influencers to promote its animal protection message; provides support to
23 advocacy efforts of individuals and grassroots organizations; and rescues wild animals used in
24 entertainment.

25 9. Specifically in California, PETA has supported legislation to ban bullhooks at the state and
26 local levels by providing oral and written testimony at legislative hearings, working with experts to
27 educate lawmakers, encouraging its members and supporters to contact their legislators, and engaging
28 celebrity support for these efforts. PETA also sponsored legislation adopted last year to ban the use of

1 animals in circuses. As a result of PETA’s work, the use and abuse of elephants for entertainment has
2 nearly been eliminated in California: circuses no longer use elephants; county fairs and theme parks no
3 longer offer elephant rides; and Hollywood animal trainers with elephants have left the state.

4 10. To achieve its objectives of ending the abuse of animals, including animals used for
5 entertainment, PETA also advocates for rulemaking concerning occupational safety while working with
6 wild animals, and seeks enforcement of occupational safety laws, as doing so reduces or eliminates the
7 use of abusive training methods and force, and reduces or eliminates situations where an animal might be
8 abused for acting in a manner that endangers a worker. For example, PETA has petitioned the federal
9 Occupational Safety and Health Administration (“OSHA”) to enact specific rules requiring protected
10 contact elephant management and requested that OSHA issue guidance that direct contact with elephants
11 violates the Occupational Safety and Health Act.

12 11. PETA brings this suit on its own behalf to protect its programs, which have been
13 perceptibly impaired by Defendants’ unlawful conduct. Defendants’ use of free contact methods and use
14 and display of wooden canes to manage elephants abuses elephants and directly frustrates PETA’s mission
15 to eliminate the abuse of animals in entertainment.

16 12. As a result of Defendants’ unlawful conduct, PETA has been forced to divert resources to
17 halt Defendants’ abusive and illegal treatment of animals; and to counteract the public impression that
18 Defendants’ elephant management practices are lawful and consistent with animal welfare and worker
19 safety. PETA has been and continues to be forced to, among other activities: request that the U.S.
20 Department of Agriculture (“USDA”) investigate the deaths of elephants at Monterey Zoo; request that
21 the California Department of Fish and Wildlife (“CDFW”) investigate Defendants’ illegal practices;
22 request and review public records from governmental agencies; arrange for volunteers to visit and
23 document the elephant management practices at Monterey Zoo; monitor Defendants’ social media and
24 website; draft multiple posts for the PETA.org blog; distribute press releases on Defendants’ abuse of
25 elephants; and engage its members and supporters in calling for Defendants to retire Butch and Buffy to
26 an accredited sanctuary that never uses instruments designed to inflict pain and manages elephants safely
27 in protected contact.

1 13. PETA’s ongoing need to expend resources to investigate and counteract Defendants’
2 unlawful management of elephants has perceptibly impaired its ability to advance its mission. Specifically,
3 the expenses incurred identifying and counteracting Defendants’ violations of already existing laws have
4 forced PETA to divert significant resources from its ordinary campaigns and programs that focus on the
5 manner in which all animals are commonly and, in many instances, lawfully used, in order for PETA to
6 halt Defendants’ uniquely egregious violations of existing law and to counteract the public misperceptions
7 thereby created.

8 14. Defendants’ ongoing violations frustrate PETA’s advocacy for an *effective* ban on
9 bullhooks in California, and sets back PETA’s progress to protect elephants in California. As a result,
10 PETA is forced to continue its focus on California and is unable to shift its focus on advocacy efforts to
11 other states and at the federal level.

12 15. Continuing to engage in abusive elephant management practices without repercussion
13 creates the incorrect public impression that these practices are humane and lawful, that Defendants can
14 lawfully abuse elephants, and that elephants voluntarily choose to entertain humans. This frustrates
15 PETA’s programs by making it harder to persuade the public that it should not tolerate the use of animals
16 in entertainment.

17 16. PETA’s efforts, such as its investigation and monitoring of Monterey Zoo, requests to
18 CDFW to investigate Defendants’ illegal elephant handling methods, and appeals to Defendants to retire
19 Butch and Buffy, could have rendered the present litigation unnecessary.

20 17. If PETA prevails in this action, it will no longer need to expend resources to end
21 Defendant’s illegal use of canes and direct contact methods with elephants or counteract the incorrect
22 public impression caused by Defendants’ unlawful acts. Granting relief would further allow PETA to
23 redirect resources currently spent combating Defendants’ violations of law to other activities that would
24 advance its mission.

25 18. Defendant Monterey Zoological Society, Inc. (“Monterey Zoo”) is registered as a
26 charitable organization with the State of California. Monterey Zoo is located at 400 River Road, Salinas,
27 California, 93908, and offers various elephant encounter experiences.

1 25. The “use” prohibited “includes brandishing, exhibiting, or displaying the devices in the
2 presence of an elephant.” (*Ibid.*)

3 26. Any person who violates this law is subject to a civil penalty for each violation, and the
4 restricted species permit for the elephant is subject to immediate suspension or revocation by CDFW. (*Id.*
5 at § 2128, subd. (b).)

6 27. In free contact facilities, elephants are indoctrinated to fear and obey bullhook-wielding
7 trainers when they are infants. Typically, elephant calves are forcefully torn from their mothers as babies,
8 chained for days or months until their wills are broken, and then poked, jabbed, and beaten with bullhooks,
9 and shocked with electric prods, until they learn to “behave.” This abuse is designed to elicit total
10 compliance through terror, and eliminate an elephant’s free choice.

11 28. Eventually, even the sight of a bullhook—or anything that resembles one, such as a cane—
12 elicits fear, which remains with an elephant for his or her entire life and keeps the animal subservient.

13 29. Free contact management of elephants depends upon negative reinforcement and physical
14 punishment through the use of bullhooks. However, sometimes elephants rebel against this dominance
15 and lash out, often without warning. When this happens, it is impossible to control these multi-ton animals
16 with a bullhook. In fact, the negative reinforcement and acts of violence that are essential for free contact
17 management are likely to spark acts of aggression in retaliation.

18 30. Of the seven facilities in California that house elephants, Monterey Zoo is the only facility
19 that still manages elephants in free contact and the only facility that still uses a bullhook to control
20 elephants.

21 31. Because of the inherent cruelty and safety risks associated with managing elephants with
22 bullhooks in free contact, modern facilities care for elephants in a protected contact system, where
23 elephants and humans are protected from one another by a barrier. Trainers do not attempt to establish a
24 position of dominance over the elephants. Elephants can choose whether to participate in training or walk
25 away if they are uncomfortable, and they learn using rewards instead of physical punishment. Elephants
26 are often calmer in protected contact settings because they are not nervous about enduring physical
27 punishment and pain.

1 32. Due to the animal welfare and occupational safety issues inherent to free contact
2 management, the vast majority of facilities that manage and care for elephants do so using protected
3 contact, an industry-wide shift that began decades ago and has continued. For instance, the Oakland Zoo
4 has had a policy prohibiting the use of bullhooks for approximately thirty years. The Performing Animal
5 Welfare Society’s (PAWS) ARK 2000 sanctuary in California has also cared for elephants for
6 approximately thirty years without the use of bullhooks. Moreover, such devices are not even allowed on
7 PAWS’ property because the mere sight of one would elicit fear in the elephants, even those who have
8 not seen a bullhook in years. The Association of Zoos and Aquariums (“AZA”), the largest zoo accrediting
9 organization in North America, announced a policy in 2010 requiring accredited facilities to prohibit staff
10 and elephants from managing elephants in free contact by 2014, with limited exceptions for “crises or
11 medical emergencies,” to protect both the elephants and the staff. In 2019, the AZA also began
12 implementing a policy to phase out the use of bullhooks for daily management of elephants at accredited
13 facilities by 2021.

14 ***COSH Act General Duty Clauses and Injury and Illness Prevention Program Requirement***

15 33. Under the general duty clauses of the California Occupational Safety and Health Act
16 (“COSH Act”), California employers have a duty to “furnish employment and a place of employment that
17 is safe and healthful for the employees therein.” (Lab. Code, § 6400, subd. (a).) Also, “[e]very employer
18 shall furnish and use safety devices and safeguards”; “shall adopt and use practices, means, methods,
19 operations, and processes which are reasonably adequate to render such employment and place of
20 employment safe and healthful”; and “shall do every other thing reasonably necessary to protect the life,
21 safety, and health of employees.” (*Id.* § 6401.) “No employer shall fail or neglect to do any of the [above]”;
22 “[n]o employer shall require, or permit any employee to go or be in any employment or place of
23 employment which is not safe and healthful”; and “[n]o employer shall occupy or maintain any place of
24 employment that is not safe and healthful.” (*Id.* §§ 6402-6404.)

25 34. In addition, California employers must establish, in writing, “an effective Illness and Injury
26 Prevention Program” that “[i]nclude[s] methods and/or procedures for correcting unsafe or unhealthy
27 conditions, work practices and work procedures in a timely manner based on the severity of the hazard.”
28 (8 CCR § 3203, subd. (a)(6); *see also* Lab. Code, § 6401.7.)

1 35. OSHA has described protected contact with elephants as the industry standard and has
2 repeatedly deemed free contact with elephants and other large, wild animals to be a serious hazard within
3 the meaning of the federal general duty clause, 29 U.S.C section 654(a)(1), which requires employers to
4 provide a place of employment “free from recognized hazards that are causing or are likely to cause death
5 or serious physical harm.”

6 36. In North America, from 1987 to present, there have been approximately seventeen human
7 deaths and over fifty-five reported human injuries related to captive elephants involving both elephant
8 trainers and members of the general public engaging in free contact with elephants. For instance, in
9 September 2015, a zookeeper at the Fort Worth Zoo in Texas was hospitalized after entering an elephant
10 enclosure and being attacked, sustaining a 6-to 8-inch gash in her thigh and a laceration to her eye. In
11 September 2014, the co-founder of the facility Hope Elephants in Hope, Maine, died after an elephant
12 stepped on him when he fell in the elephant barn. In January 2011, a keeper at the Knoxville Zoo in
13 Tennessee was crushed to death by an 8,000 pound African elephant while she was feeding the animal. In
14 July 2010, a zookeeper in Toledo, Ohio, suffered two punctured lungs and several fractured ribs, requiring
15 a month-long stay at the hospital, after the elephant the keeper had raised since birth charged the keeper,
16 pinning him against the wall of the elephant’s enclosure.

17 **GENERAL ALLEGATIONS**

18 37. Defendants allow members of the public to interact directly with elephants. For example,
19 Defendants’ website offers the opportunity, for hundreds of dollars, to have a “hands-on full-contact
20 experience with our African Elephants,” sometimes without any kind of barrier between the public and
21 the elephant.

22 38. In June 2018, during a “breakfast with the elephants” event held by Defendants, at which
23 members of the public could rent bungalows and interact with and feed the elephants, two Monterey Zoo
24 employees were walking two African elephants, Paula and Kristy, to the event.

25 39. When Paula refused to keep walking, one employee took aggressive action with her. In
26 turn, Paula thrashed and threw the employee in the air, breaking the employee’s back and ankle. The
27 second employee attempted to stop the attack by beating Paula with a cane.

1 40. Paula died within seven months of the attack. Kristy, the second elephant, died not long
2 after Paula.

3 41. On information and belief, Monterey Zoo never reported the attack to CDFW, as required
4 by law. (14 CCR § 671.1, subd. (c)(3)(I)(3).)

5 42. Following the elephant attack, in a notice dated October 26, 2018, CAL/OSHA cited
6 Monterey Zoo on two bases: 1.) for failure to immediately report to CAL/OSHA the serious injury “of an
7 employee occurring in a place of employment or in connection with any employment,” (18 CCR § 342,
8 subd. (a)) and 2.) for failure to “establish, implement and maintain an effective Injury and Illness
9 Prevention Program” (18 CCR § 3203, subd. (a)). Monterey Zoo appealed and settled the case with
10 CAL/OSHA in 2019.

11 43. Defendants continue to use wooden canes to control the remaining elephants, Butch and
12 Buffy, in violation of the statutory ban on such devices. (Fish & Game Code § 2128.)

13 44. Defendants continue to require keepers to manage elephants in free contact, putting them
14 at risk of serious injury or death, in violation of COSH Act. (Lab. Code, §§ 6400–6404.)

15 45. Defendants continue to lack an effective illness and injury prevention program, in violation
16 of COSH Act’s regulations. (18 CCR § 3203, subd. (a).)

17 46. Defendants continue to directly profit from these illegal practices by charging people
18 hundreds of dollars for free contact encounters with elephants. The encounters are only possible because
19 of these illegal practices.

20 **CAUSE OF ACTION**

21 ***Violations of Business & Professional Code Section 17200 et seq. (Unfair Competition)***

22 47. Paragraphs 1-45 are incorporated herein by reference as though fully set forth.

23 48. In using, authorizing, and allowing canes for the purpose of training or controlling the
24 behavior of elephants and by brandishing, exhibiting, and/or displaying the canes in the presence of the
25 elephants, Defendants are acting in violation of Business & Professions Code section 17200 *et seq.* by
26 conducting unlawful business practices in violation of Fish & Game Code section 2128.

27 49. In authorizing and allowing free contact with elephants, Defendants are acting in violation
28 of Business & Professions Code section 17200 *et seq.*, by conducting unlawful business practices in

1 violation of Labor Code section 6400 *et seq.*, requiring employers to provide a safe place of employment,
2 and Code of Regulations, title 8, section 3203, subd. (a)(6), requiring employers to establish an illness and
3 injury prevention program.

4 50. Plaintiff has no adequate remedy at law because Defendants, unless enjoined by this Court,
5 will continue to engage in unfair competition, as alleged herein, in violation of Business & Professions
6 Code section 17200 *et seq.*

7 51. Defendants' actions, as alleged above, violate California's Unfair Competition Law,
8 Business & Professions Code section 17200 *et seq.*, which authorizes enjoining any unlawful business act
9 or practice.

10 **REQUEST FOR RELIEF**

11 WHEREFORE, Plaintiff seeks judgment as follows:

12 1. For preliminary injunctive relief prohibiting Defendants from engaging in public
13 encounters with the elephants at Monterey Zoo;

14 2. For preliminary injunctive relief prohibiting Defendants from engaging in the use or
15 exhibition of canes or other instruments that violate California's bullhook ban, except as necessary to
16 provide sufficient husbandry and care of the elephants at Monterey Zoo;

17 3. For permanent injunctive relief terminating all of Defendants' ownership and possessory
18 rights in the remaining elephants at Monterey Zoo;

19 4. For permanent injunctive relief removing the remaining elephants from Monterey Zoo and
20 placing them at an accredited sanctuary;

21 5. Appointment of a special master or guardian ad litem to identify reputable wildlife
22 sanctuaries and to determine the most appropriate placement for the forfeited elephants, consistent with
23 the elephants' best interests;

24 6. For permanent injunctive relief prohibiting Defendants and any other organization in which
25 Defendant Charlie Sammut has an ownership interest, or with which Charlie Sammut is associated, from
26 owning or exhibiting any elephants in the future;

27 7. For costs of suit incurred herein pursuant to Code of Civil Procedure section 1032;
28

1 8. For an award of reasonable attorneys' fees pursuant to Code of Civil Procedure section
2 1021.5; and

3 9. For such other further relief as this Court may deem appropriate.
4

5 Date August 11, 2020

Respectfully submitted,

6 [/s/ Caitlin Hawks](#)

7 Caitlin Hawks (Bar No. 260417)
8 James Erselius (Bar No. 303026)
9 Caitlin Zittkowski (Bar No. 290108)
10 PETA Foundation
11 2154 West Sunset Boulevard
12 Los Angeles, CA 90026
13 Tel: (661) 644-5398
14 Fax: (213) 484-1648
15 caitlinh@petaf.org
16 jamese@petaf.org
17 caitlinz@petaf.org

18 *Attorneys for Plaintiff People for the Ethical*
19 *Treatment of Animals, Inc.*
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