

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

DOCKET NO.: _____

DIVISION: _____

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS

VERSUS

BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY and
THOMAS C. GALLIGAN, INDIVIDUALLY AND IN HIS CAPACITY AS PRESIDENT OF
LOUISIANA STATE UNIVERSITY

FILED: _____

DEPUTY CLERK

PETITION FOR WRIT OF MANDAMUS, DECLARATORY JUDGMENT,
AND INJUNCTIVE RELIEF PURSUANT TO THE LOUISIANA PUBLIC RECORDS ACT

People for the Ethical Treatment of Animals (“PETA”) files this petition for writ of mandamus, declaratory judgment, and injunctive relief against the Board of Supervisors of Louisiana State University and Thomas C. Galligan, individually and in his capacity as President of Louisiana State University (collectively, “LSU”), to enforce its rights under the Louisiana Public Records Act.

INTRODUCTION

1. “Under Louisiana law, the right to access public records is a fundamental right protected by the constitution and by statute.” *Krielow v. Louisiana State University Board of Supervisors*, 2019-0176 (La. App. 1 Cir. 11/15/15), 290 So. 3d 1194, 1200 (citation omitted). The Louisiana Constitution provides that “[n]o person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.” La. Const. Art. XII, § 3. “The legislature, in the Louisiana Public Records Act, La. Rev. Stat. § 44:1, *et seq.* [(“PRA”)], sought to guarantee, in the most expansive and unrestricted way possible, the right of the public to inspect and reproduce those records that the laws deem to be public.” *Krielow*, 290 So. 3d at 1200.

2. PETA files this petition for writ of mandamus, declaratory judgment, and injunctive relief against LSU to vindicate this fundamental right to access.

3. In 2018, PETA learned that Dr. Christine Lattin, who had previously trapped and experimented on wild birds at other universities, was joining the faculty of LSU. PETA notified East Baton Rouge Parish Animal Control (“EBRPAC”) that Lattin’s activities, which at her former posts had included catching wild birds and then, among other things, feeding them crude oil and causing them stress by confining them to small bags and rolling them on carts so they could not perch, would likely violate the bird-protection ordinance of Baton Rouge and East Baton Rouge Parish. The director of EBRPAC then met with Lattin and advised her not to trap birds in Baton Rouge. After seeing listserv messages in which Lattin wrote an online bird-enthusiast group to ask members with birdfeeders to let her and her students trap wild birds in their yards, expressing her particular interest in Baton Rouge, and noting that she had had success after a prior plea, PETA informed EBRAC’s director of the messages in October 2019. He responded that he had met with Lattin and LSU administration and explained the prohibitions of the bird-protection ordinance; he later informed PETA that he had met with Lattin on three separate occasions to advise her that trapping and killing birds in East Baton Rouge Parish was illegal.¹

4. Considering LSU’s apparent disregard for the local ordinance that had prohibited trapping and killing wild birds, and as part of its ongoing efforts to educate the public about and to hold LSU accountable for cruel and abusive experiments on birds by or in the laboratory of its employee, PETA submitted seven requests for public records to LSU from May 30, 2019 to June 9, 2020 relating to Lattin’s activities (collectively, the “Requests”).

5. Following PETA’s scathing exposés of Lattin’s sordid experiments and its complaints to EBRPAC and—upon information and belief—to prevent additional cruel activities from coming to light, LSU failed to respond to the Requests fully and completely, as required by the PRA.

PARTIES

6. PETA is a Virginia non-stock corporation and an animal protection charity dedicated to protecting animals—including those used in experiments—from neglect, abuse, and

¹ Ultimately, the parish council amended the bird-protection ordinance to provide an exemption that covers Lattin’s activities. Code of Ordinances of Baton Rouge and East Baton Rouge Parish Sec. 14:401(2).

all forms of cruelty. PETA undertakes these efforts through investigations, research, animal rescues, legislation, and public education.

7. The Board of Supervisors of Louisiana State University is a “public body” as that term is defined by the PRA at La. Rev. Stat. § 44:1(A)(1). The Louisiana Constitution gives it the authority to “supervise and manage” Louisiana State University, a public land-grant research university in Baton Rouge, Louisiana. La. Const. art. VIII, § 7.

8. Thomas C. Galligan is Interim President of Louisiana State University and its designated records “custodian,” as that term is defined by the PRA at La. Rev. Stat. § 44:1(A)(3).

9. LSU has custody or control of certain “public records,” as that term is defined in the PRA at La. Rev. Stat. § 44:1(A)(2), responsive to the Requests described below.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action and power to grant the requested relief pursuant to La. Rev. Stat. § 44:35(A), which expressly provides for relief by way of writ of mandamus, injunctive and declaratory relief: “Any person who has been denied the right to inspect, copy, reproduce, or obtain a copy or reproduction of a record under the provisions of this Chapter, either by a determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his in-person, written, or electronic request without receiving a determination in writing by the custodian or an estimate of the time reasonably necessary for collection ... may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney fees, costs and damages as provided for by this Section, in the district court for the parish in which the office of the custodian is located.”

11. Venue is proper in this district pursuant to La. Rev. Stat. § 44:35(A), because the office of the custodian is located in East Baton Rouge Parish.

STATEMENT OF FACTS

12. On May 30, 2019, PETA made a public records request of LSU for veterinary care records for birds held in Lattin’s laboratory and disposition records for birds used in Lattin’s laboratory (“First Request,” attached as **Exhibit A** to affidavit of Kathy Guillermo).

13. LSU asserted that it had no records responsive to the First Request.

14. On August 5, 2019, PETA made a public records request of LSU (“Second Request,” attached as **Exhibit B** to affidavit of Kathy Guillermo) that sought the same type of records as the First Request, but those that came into existence after the date of the First Request.

15. An LSU employee emailed: “It is doubtful that anything has changed but I will follow up with Dr. Lattin’s office and let you know.”

16. LSU never asserted that any statute exempts or prohibits disclosure in whole or in part any specific information or records responsive to the First and Second Requests.

17. After PETA did not receive any further formal or informal response, PETA initially understood LSU’s non-response to mean that LSU had no records responsive to the Second Request.

18. Upon further investigation, it became apparent to PETA that LSU did not conduct an adequate search in response to the First and Second Requests, and that there was reason to believe that records responsive to those Requests should have been produced.

19. On May 1, 2020, PETA alerted LSU to the fact that its responses to the First and Second Requests were likely deficient. (E-mail, attached as **Exhibit C** to affidavit of Kathy Guillermo).

20. On May 7, 2020, an LSU employee responded: “I will reach out to our IT team to re-run searches and also set up a time to discuss with Dr. Lattin and other administrators regarding your questions. I will keep you apprised of any developments.” (*Id.*)

21. To date, LSU has not provided any further information or formal response, or any records, in response to the First or Second Requests.

22. On March 17, 2020, PETA made a public records request of LSU for veterinary care records of birds held by Lattin and acquisition and disposition records of birds used by Lattin from September 1, 2018 (“Third Request,” attached as **Exhibit D** to affidavit of Kathy Guillermo).

23. LSU never asserted that any statute exempts or prohibits disclosure in whole or in part any specific information or records responsive to the Third Request.

24. To date, LSU has not provided any records or formal response to the Third Request.

25. On April 15, 2020, PETA made a public records request of LSU for veterinary care and disposition records of birds used in protocols naming Lattin and particular Ph.D. students from January 1, 2020 (“Fourth Request,” attached as **Exhibit E** to affidavit of Kathy Guillermo).

26. LSU never asserted that any statute exempts or prohibits disclosure in whole or in part any specific information or records responsive to the Fourth Request.

27. To date, LSU has not provided any records or formal response to the Fourth Request.

28. On May 5, 2020, PETA made a public records request of LSU for correspondence from September 1, 2018, forward relating to prospective or planned trapping of or experimentation on birds (“Fifth Request,” attached as **Exhibit F** to affidavit of Kathy Guillermo).

29. LSU never asserted that any statute exempts or prohibits disclosure in whole or in part any specific information or records responsive to the Fifth Request.

30. To date, LSU has not provided any records or formal response to the Fifth Request.

31. On May 12, 2020, PETA made a public records request of LSU for videographic records and inventories, indexes, or catalogues of photographic and videographic records relating to Lattin’s experiments from September 1, 2019, forward (“Sixth Request,” attached as **Exhibit G** to affidavit of Kathy Guillermo).

32. LSU never asserted that any statute exempts or prohibits disclosure in whole or in part any specific information or records responsive to the Sixth Request.

33. To date, LSU has not provided any records or formal response to the Sixth Request.

34. On June 9, 2020, PETA made a public records request of LSU for communications and other records pertaining to the amendment of the bird-protection ordinance of Baton Rouge and East Baton Rouge Parish (“Seventh Request,” attached as **Exhibit H** to affidavit of Kathy Guillermo).

35. LSU never asserted that any statute exempts or prohibits disclosure in whole or in part any specific information or records responsive to the Sixth Request.

36. To date, LSU has not provided any records or formal response to the Seventh Request.

CLAIMS

COUNT ONE

37. PETA repeats the allegations of ¶¶ 1-36 above as if fully set forth herein.

38. LSU violated the PRA by failing to provide all records responsive to the First Request. Having no justification, it did so arbitrarily and capriciously.

39. PETA seeks (a) a judgment that LSU has violated the PRA by wrongfully withholding public records in response to the First Request; (b) mandamus directing LSU to promptly provide all records responsive to the First Request; (c) an award of all reasonable attorney fees and other costs of litigation incurred in connection with this action and efforts to obtain the records in accordance with La. Rev. Stat. § 44:35(D), as well as any civil penalties to which PETA

is entitled pursuant to § 44:35(E)(1), in amounts to be determined after subsequent briefing and argument; and (d) an award of such other relief as the Court deems just and proper.

COUNT TWO

40. PETA repeats the allegations of ¶¶ 1-39 above as if fully set forth herein.

41. LSU violated the PRA by failing to provide all records responsive to the Second Request. Having no justification, it did so arbitrarily and capriciously.

42. PETA seeks (a) a judgment that LSU has violated the PRA by wrongfully withholding public records in response to the Second Request; (b) mandamus directing LSU to promptly provide all records responsive to the Second Request; (c) an award of all reasonable attorney fees and other costs of litigation incurred in connection with this action and efforts to obtain the records in accordance with La. Rev. Stat. § 44:35(D), as well as any civil penalties to which PETA is entitled pursuant to § 44:35(E)(1), in amounts to be determined after subsequent briefing and argument; and (d) an award of such other relief as the Court deems just and proper.

COUNT THREE

43. PETA repeats the allegations of ¶¶ 1-42 above as if fully set forth herein.

44. LSU violated the PRA by failing to provide all records responsive to the Third Request. Having no justification, it did so arbitrarily and capriciously.

45. PETA seeks (a) a judgment that LSU has violated the PRA by wrongfully withholding public records in response to the Third Request; (b) mandamus directing LSU to promptly provide all records responsive to the Third Request; (c) an award of all reasonable attorney fees and other costs of litigation incurred in connection with this action and efforts to obtain the records in accordance with La. Rev. Stat. § 44:35(D), as well as any civil penalties to which PETA is entitled pursuant to § 44:35(E)(1), in amounts to be determined after subsequent briefing and argument; and (d) an award of such other relief as the Court deems just and proper.

COUNT FOUR

46. PETA repeats the allegations of ¶¶ 1-45 above as if fully set forth herein.

47. LSU violated the PRA by failing to provide all records responsive to the Fourth Request. Having no justification, it did so arbitrarily and capriciously.

48. PETA seeks (a) a judgment that LSU has violated the PRA by wrongfully withholding public records in response to the Fourth Request; (b) mandamus directing LSU to promptly provide all records responsive to the Fourth Request; (c) an award of all reasonable

attorney fees and other costs of litigation incurred in connection with this action and efforts to obtain the records in accordance with La. Rev. Stat. § 44:35(D), as well as any civil penalties to which PETA is entitled pursuant to § 44:35(E)(1), in amounts to be determined after subsequent briefing and argument; and (d) an award of such other relief as the Court deems just and proper.

COUNT FIVE

49. PETA repeats the allegations of ¶¶ 1-48 above as if fully set forth herein.

50. LSU violated the PRA by failing to provide all records responsive to the Fifth Request. Having no justification, it did so arbitrarily and capriciously.

51. PETA seeks (a) a judgment that LSU has violated the PRA by wrongfully withholding public records in response to the Fifth Request; (b) mandamus directing LSU to promptly provide all records responsive to the Fifth Request; (c) an award of all reasonable attorney fees and other costs of litigation incurred in connection with this action and efforts to obtain the records in accordance with La. Rev. Stat. § 44:35(D), as well as any civil penalties to which PETA is entitled pursuant to § 44:35(E)(1), in amounts to be determined after subsequent briefing and argument; and (d) an award of such other relief as the Court deems just and proper.

COUNT SIX

52. PETA repeats the allegations of ¶¶ 1-51 above as if fully set forth herein.

53. LSU violated the PRA by failing to provide all records responsive to the Sixth Request. Having no justification, it did so arbitrarily and capriciously.

54. PETA seeks (a) a judgment that LSU has violated the PRA by wrongfully withholding public records in response to the Sixth Request; (b) mandamus directing LSU to promptly provide all records responsive to the Sixth Request; (c) an award of all reasonable attorney fees and other costs of litigation incurred in connection with this action and efforts to obtain the records in accordance with La. Rev. Stat. § 44:35(D), as well as any civil penalties to which PETA is entitled pursuant to § 44:35(E)(1), in amounts to be determined after subsequent briefing and argument; and (d) an award of such other relief as the Court deems just and proper.

COUNT SEVEN

55. PETA repeats the allegations of ¶¶ 1-54 above as if fully set forth herein.


56. LSU violated the PRA by failing to provide all records responsive to the Seventh Request. Having no justification, it did so arbitrarily and capriciously.

57. PETA seeks (a) a judgment that LSU has violated the PRA by wrongfully withholding public records in response to the Seventh Request; (b) mandamus directing LSU to promptly provide all records responsive to the Seventh Request; (c) an award of all reasonable attorney fees and other costs of litigation incurred in connection with this action and efforts to obtain the records in accordance with La. Rev. Stat. § 44:35(D), as well as any civil penalties to which PETA is entitled pursuant to § 44:35(E)(1), in amounts to be determined after subsequent briefing and argument; and (d) an award of such other relief as the Court deems just and proper.

WHEREFORE, pursuant to La. Rev. Stat. § 44:1, *et seq.*, PETA prays that this Honorable Court:

- (a) pursuant to La. Code of Civ. Proc. article 3865 and La. Rev. Stat. § 44:35, immediately and upon filing of this Petition, issue an Alternative Writ of Mandamus directing LSU to immediately make the information identified above available for inspection and copying, or show cause to the contrary;
- (b) pursuant to La. Code of Civ. Proc. article 3782 and La. Rev. Stat. § 44:35, set a date for the hearing of this matter not less than two (2) days, nor more than ten (10) days from the date of service of the Alternative Writ of Mandamus to be issued upon the filing of this Petition, and require LSU to show cause at that hearing why the Alternative Writ of Mandamus to be issued upon the filing of this Petition should not be made permanent and peremptory;
- (c) alternatively, issue a declaratory judgment that the requested information is subject to disclosure under the PRA, and that no valid exemption justifies LSU's failure to provide the requested information;
- (d) alternatively, issue injunctive relief requiring LSU to provide the requested information immediately;
- (e) award PETA reasonable attorney fees and all costs, pursuant to La. Rev. Stat. § 44:35(D)(1);
- (f) award PETA damages and civil penalties, pursuant to La. Rev. Stat. § 44:35(E)(1); and
- (g) award PETA all other legal and equitable relief to which it is entitled.

Respectfully submitted,



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