

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

PEOPLE FOR THE ETHICAL TREATMENT)
OF ANIMALS, INC.,)

Plaintiff,)

v.)

4:17-cv-00186-RLY-DML

WILDLIFE IN NEED AND WILDLIFE IN)
DEED, INC.,)
TIMOTHY L. STARK, and)
MELISA D. STARK,)

Defendants.)

**ENTRY ON MOTION FOR LEAVE TO JOIN JEFF LOWE AS A REQUIRED
DEFENDANT AND MOTION TO JOIN JEFF LOWE AS A REQUIRED
DEFENDANT**

This case concerns the treatment of certain animals under the Endangered Species Act of 1973, 16 U.S.C. § 1531, *et seq.* (“ESA”). People for the Ethical Treatment of Animals, Inc. (“PETA”) allege Melisa Stark, Tim Stark, and Wildlife in Need and Wildlife in Deed, Inc. (“Defendants”) have violated the ESA’s prohibition against harassing, harming, and wounding certain tigers, lions, and hybrids (“Big Cats”). PETA now requests leave of the court to add Jeff Lowe as a defendant. The court **GRANTS** this request.

Much of this order is background since the parties seem to agree it is now appropriate to add Mr. Lowe. Defendants own and exhibit exotic animals at its facility in Charlestown, Indiana. PETA is an animal rights organization that brought this lawsuit to prevent Defendants from violating the ESA. At the outset, the court issued an agreed-

upon preservation order that required Defendants to preserve all tangible evidence. *See People for the Ethical Treatment of Animals, Inc. v. Wildlife in Need and Wildlife in Deed, Inc. et. al*, No. 4:17-mc-00003-RLY-DML (S.D. Ind. 2017) (Filing No. 27). The court then preliminarily enjoined all Defendants from declawing any Big Cats, using any of the Big Cat Cubs in public encounters, and prematurely separating Big Cat Cubs from their mother during the pendency of this action.

In early 2019, PETA learned that Mr. Stark and Jeff Lowe planned to open a new zoo in Thackerville, Oklahoma. Mr. Lowe owns and operates Greater Wynnewood Exotic Animal Park, LLC—another zoo facility in Oklahoma. After finding out about Mr. Lowe and Mr. Stark’s plans, PETA filed a motion to clarify the preservation order and preliminary injunction on April 30, 2019. (Filing No. 201). While that motion was pending, however, Mr. Stark transferred “title” to the Big Cats to Mr. Lowe. (Filing No. 205, Defendant’s Response to PETA’s Motion for Clarification at 9). Though title was transferred, the Big Cats remained at Defendant’s facility in Indiana. (*Id.*). This resulted in PETA filing a flurry of motions, including a motion for an emergency preservation order. The court granted the emergency preservation order and ordered both Defendants and Mr. Lowe to abide by the evidence preservation order and preliminary injunction. (Filing No. 239).


PETA then requested leave of the court to add Mr. Lowe as a Defendant and sought to modify the case management plan (these are the present motions). Defendants opposed the request. They argued PETA’s motion was moot because title to the Big Cats had since been transferred back to Mr. Stark, and so there was no need to add Mr. Lowe.

Circumstances changed though while these motions were pending. On September 13, 2019, Mr. Stark notified the court that four cubs had been born in Indiana and then transferred to Oklahoma at Mr. Lowe's instructions.¹ (Filing No. 260). Things then fell through between Mr. Stark and Mr. Lowe: on October 30, 2019, Mr. Stark filed a motion requesting the court issue an order directing Mr. Lowe to return the Big Cat Cubs back to Indiana. (Filing No. 270).

All that said, PETA has shown "good cause" to modify the case management plan because it acted as fast as it could upon learning of the transfer of the four Big Cat Cubs to Oklahoma, *see* Fed. R. Civ. P. 16(b)(4), and Mr. Lowe must be added to the litigation to achieve a just adjudication since he is in possession of the four Big Cat Cubs, and both PETA and Defendants seek their return. Fed. R. Civ. P. 19(a).

PETA's Motion for Leave to Seek to Join Jeff Lowe as a Required Defendant (Filing No. 241) is therefore **GRANTED**. PETA's Motion to Join Jeff Lowe as a Required Defendant (Filing No. 242) is **GRANTED**. PETA shall send a copy of this order as well as the clarification order (Filing No. 239) to Mr. Lowe via certified mail along with all other appropriate documentation.

SO ORDERED this 17th day of January 2020.


RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

¹ This transfer is the subject of the pending motion for sanctions. (Filing No. 264).

Distributed Electronically to Registered Counsel of Record.

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