

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA**

PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS, INC.,

*Plaintiff,*

v.

MOBILE VETERINARY SERVICES  
EQUINE, INC. AND RICKY L.  
PELPHREY, DVM,

*Defendants.*

Civil Action No. 4:18-cv-163

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

**I. INTRODUCTION**

1. This is a citizen lawsuit, brought pursuant to Section 11(g)(1)(A) of the Endangered Species Act (“**ESA**”), 16 U.S.C. §§ 1531-1544, to address violations of the ESA and its implementing regulations arising out of Defendants’ provision of veterinary care to animals owned by Wildlife in Need and Wildlife in Deed, Inc. (“**Wildlife in Need**”), located in Charlestown, Indiana.

2. Wildlife in Need, which is owned and operated by Timothy L. and Melisa Stark, is an unaccredited roadside zoo that confines and exhibits numerous species of animals, including tigers, lions, and hybrids of those animals (“**Big Cats**”).

3. Plaintiff, People for the Ethical Treatment of Animals, Inc. (“**PETA**”), brings suit against Mobile Veterinary Services Equine, Inc. and its President and

principal, Dr. Ricky L. Pelphrey (collectively “**Defendants**”), for their “take” of Big Cats in violation of the ESA and its implementing regulations.

4. Specifically, Defendants (1) have illegally declawed several of the Big Cats in medically unnecessary procedures that amputate each digit at the ultimate joint, thereby wounding, harming, and harassing them; and (2) have rendered veterinary care to Big Cats negligently and in violation of the standard of care, thereby killing, wounding, harming and harassing them.

5. These practices “kill,” “wound,” “harm,” and “harass” the Big Cats in violation of the ESA’s “take” prohibition by taking their lives, causing them acute and chronic physical and psychological injury and distress, and significantly disrupting and impairing them from carrying out their natural behaviors in a manner that is likely to result in significant physical and psychological injury.

## **II. JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to the citizen suit provision of the ESA, 16 U.S.C. § 1540(g), and has federal question jurisdiction under 28 U.S.C. § 1331.

7. On June 25, 2018, PETA provided notice of its intent to file suit (“Notice of Intent”) to Defendants, the Secretary of the Interior, and the then-Acting Director of the U.S. Fish and Wildlife Service (“**FWS**”). The Notice of Intent is attached and incorporated as Exhibit A. It was served more than sixty days prior to the filing of this action. 16 U.S.C. § 1540(g)(2)(A)(i).

8. Defendants have not remedied the violations set out in the Notice of Intent.

9. The Secretary of the Interior has not commenced an action against Defendants to impose a penalty pursuant to the ESA or its implementing regulations, and the United States has not commenced a criminal prosecution against Defendants to redress a violation of the ESA or its implementing regulations. 16 U.S.C. § 1540(g)(2)(A)(ii)–(iii).

10. The Court has personal jurisdiction over the Defendants. Dr. Pelphrey committed the tortious and wrongful acts and statutory violations giving rise to this suit in Indiana and in this district. Since 1988, Dr. Pelphrey has been licensed as a veterinarian in Indiana and has systematically and continuously performed veterinary services in the state. Since 2013, Dr. Pelphrey has performed veterinary services in Indiana as the “attending veterinarian” for Wildlife in Need within the meaning of the Animal Welfare Act. *See* 9 C.F.R. §§ 1.1, 2.40. Dr. Pelphrey performs veterinary services in Indiana, including to the Big Cats at Wildlife in Need, under the auspices of Mobile Veterinary Services Equine, Inc., which he owns and of which he is President. Additionally, Defendants are doing business in Indiana and have systematically and continuously provided veterinary services to racehorses in Indiana. Therefore, Defendants have sufficient minimum contacts with, and have purposefully availed themselves of the law and protections of, the State of Indiana such that it is reasonably foreseeable that suit could be brought against them in Indiana because they are doing business in Indiana and have committed acts

subjecting them to personal jurisdiction pursuant to Ind. Trial Rule 4.4(A)(1), (2) and (3).

11. Venue is proper in the Southern District of Indiana because the violations of the ESA alleged in this Complaint have occurred, and continue to occur, within this judicial district. 16 U.S.C. § 1540(g)(3)(A). Venue is likewise proper pursuant to 28 U.S.C. § 1391(b)(2).

### **III. THE PARTIES**

12. PETA is a Virginia non-stock corporation and animal protection charity pursuant to Section 501(c)(3) of the Internal Revenue Code. Its headquarters are located in Norfolk, Virginia.

13. Defendant Mobile Veterinary Services Equine, Inc. is a Kentucky corporation located at 3737 South 4th Street, Louisville, KY 40214. Mobile Veterinary Services Equine, Inc., acting through its principal and President, Dr. Pelphrey, provides veterinary care to the Big Cats at Wildlife in Need who are the subject of this action and he has been doing so since October 2013.

14. Defendant Ricky L. Pelphrey is a resident of Kentucky. Dr. Pelphrey is and was at all relevant times the registered agent and principal of Mobile Veterinary Services Equine, Inc. Dr. Pelphrey acts on behalf of Mobile Veterinary Services Equine, Inc. by, among other things, overseeing its day-to-day operations and providing veterinary care to its clients. Dr. Pelphrey is also the attending veterinarian at Wildlife in Need.

#### IV. STATUTORY BACKGROUND

15. The ESA defines an “endangered species” as “any species which is in danger of extinction,” 16 U.S.C. § 1532(6), and a “threatened species” as “any species which is likely to become an endangered species within the foreseeable future,” *id.* § 1532(20).

16. The ESA prohibits the “take” of any endangered species within the United States. *Id.* § 1538(a)(1)(B); 50 C.F.R. § 17.21. It likewise prohibits the taking of any threatened species within the United States unless otherwise provided by a special rule. 16 U.S.C. § 1538(a)(1)(G); 50 C.F.R. §17.31(a).

17. The ESA defines the term “take” to include “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” 16 U.S.C. § 1532(19).

18. The term “harm” is defined by regulation as an act which “kills or injures” an endangered or threatened animal. 50 C.F.R. § 17.3. The term “harass” is defined by regulation to include an “intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.” *Id.* The term “wound” is not defined by the ESA or its regulations. Its New Oxford American Dictionary definition, as a verb, is “to inflict an injury on”; as a noun, wound is defined as “an injury to living tissue when caused by a cut, typically one in which the skin is cut or broken.” The term “kill” is

not defined by the ESA or its regulations. The New Oxford American Dictionary definition is to “cause the death of (a person, animal, or other living thing).”

19. The ESA authorizes the Secretary of the Interior to issue a permit for any act that is otherwise prohibited by 16 U.S.C. § 1538, but only if such act is “for scientific purposes or to enhance the propagation or survival of the affected species” and other strict requirements are met. 16 U.S.C. § 1539(a)(1)(A), (c), (d).

20. The ESA allows citizens to bring suit to enjoin “any person . . . who is alleged to be in violation” of the “take” provisions of the statute or of a regulation promulgated under the statute. *Id.* § 1540(g)(1)(A).

21. Tigers are listed as “endangered” under the ESA. 50 C.F.R. § 17.11(h). Lions are listed as either “endangered” or “threatened” depending upon their subspecies—the subspecies *Panthera leo leo* is listed as “endangered” and the subspecies *Panthera leo melanochaita* is listed as “threatened.” *Id.* §§ 17.11(h), 17.40(r). PETA does not know the subspecies of the lions at issue; however, the “take” of both subspecies is equally prohibited by the ESA. *Id.* §§ 17.21, 17.31(a), 17.40(r).

## V. FACTUAL BACKGROUND

22. Mobile Veterinary Services Equine, Inc. provides veterinary care through its principal and President, Dr. Ricky Pelphrey, for animals in Indiana and Kentucky. Dr. Pelphrey primarily provides veterinary care to racehorses and domestic small animals. Exotic or wild animals currently constitute only 0.6% of his practice. By Dr. Pelphrey’s estimation, Big Cats represent at most two-tenths of one

percent of his practice. As alleged below, Dr. Pelphrey is not competent or qualified to provide care or treatment to Big Cats.

23. Since 2013, Defendants have provided veterinary care for the animals at Wildlife in Need. Wildlife in Need confines and exhibits numerous Big Cats. Prior to being enjoined in a related action, Wildlife in Need declawed Big Cats and charged the public a fee to interact with Big Cats from infancy up to approximately twenty weeks of age, and to view juvenile and adult Big Cats confined on the premises. Wildlife in Need continues to allow the public to view Big Cats and other animals confined on the premises for a fee. Dr. Pelphrey's experience with Big Cats was "very limited" prior to his first affiliation with Wildlife in Need.

24. On information and belief, Defendants do not possess a permit from the Secretary of the Interior to "take" tigers, lions, or hybrids thereof under 16 U.S.C. § 1539(a)(1)(A).

25. Over the past six years, the U.S. Dept. of Agriculture ("**USDA**") has issued Wildlife in Need more than fifty citations for failing to meet even the most minimal requirements for proper care of the animals (including the Big Cats) under the federal Animal Welfare Act ("AWA"), 7 U.S.C. § 2143(a)(2), including several citations for failing to provide adequate veterinary care during Dr. Pelphrey's tenure as attending veterinarian. The ESA and AWA are separate statutory schemes that apply concurrently and in full to captive members of endangered species. They are distinct but complementary statutes, each with its own scope, purpose, and enforcement mechanism. Although the AWA provides minimal

protections for animals held and exhibited in captivity, the ESA provides additional, heightened protections that apply to specific animals that are endangered or threatened, including the Big Cats.

**A. DEFENDANTS WOUND, HARM, AND HARASS PROTECTED BIG CATS BY DECLAWING THEM.**

26. Defendants declaw Big Cat cubs in violation of the ESA, wounding, harming, and harassing them.

27. Declawing Big Cats is illegal because it can cause ongoing pain, discomfort, and other pathological conditions in the animals. *See* Exhibit B (USDA Animal Care Policy Manual, Policy #3, Veterinary Care (Mar. 14, 2014)); *see also* Exhibit C (USDA Information Sheet on Declawing and Tooth Removal).

28. The American Veterinary Medical Association likewise “condemns” the declawing of Big Cats because the pain and suffering associated with it may be exacerbated in wild feline species, and welfare concerns associated with declawing are heightened for Big Cats. There is no justification for performing the procedure on Big Cats, except as needed on a per-digit basis as medically necessary, which is exceedingly rare. Exhibit D (AVMA Executive Board, AVMA now condemns declawing wild and exotic cats, Dec. 31, 2012, <https://www.avma.org/news/javmanews/pages/1301151.aspx>).

29. To declaw a Big Cat, the animal’s toes are amputated at the last joint, a procedure that lacerates the animal’s skin and tissue and that can result in permanent lameness, gait abnormalities, abnormal standing conformation, arthritis, or other long-term, chronic injury, and can cause acute and chronic pain in



standing or walking. These injuries interfere with the animals' normal behavior including by inhibiting their ability to climb, scratch, and engage in other physical activities.

30. Complications from declawing may also cause death. Dr. Pelphrey stated during a March 17, 2017, USDA inspection of Wildlife in Need that a tiger whom he had declawed at the facility had a fifty percent chance of dying from complications resulting from the procedure. Indeed, this tiger cub subsequently died.

31. At least twenty wild felines on Wildlife in Need's premises at the time of the March 17, 2017, inspection, including many of the Big Cats at issue in this litigation, had been declawed. These animals included weeks-old lion and tiger cubs, juvenile tigers and lion-tiger hybrids, and two adult tigers. Dr. Pelphrey has declawed approximately twelve of the Big Cats within the last three years. The USDA cited Mr. Stark for declawing Big Cats as a failure to provide adequate veterinary care.

32. During the March 17, 2017, inspection, the USDA noted one orange and one white tiger cub, then approximately five or six weeks in age, who had been declawed by Dr. Pelphrey approximately two weeks earlier. The two tiger cubs had been initially concealed from the USDA by Mr. Stark. The two cubs were brought outside to a deck in a crate that was approximately 24 inches long by 18 inches wide. Neither animal would walk from the crate onto the wooden deck for inspection, and they had to be physically removed from the crate. Each cub had one

leg that was bandaged and Mr. Stark told inspectors that there were open wounds under the bandages. Mr. Stark readily admitted that the declawings were botched. Their affected paws were significantly swollen, spotting blood. The cubs were struggling to walk and appeared very sore.

33. Both tiger cubs were distressed, vocalizing nearly the entire time they were on the deck. The orange tiger cub immediately lay down on the deck and then, after persuasion, moved slowly for only short periods of time before resting in front of the inspectors. After each step, there were spots of blood left on the deck from the front paws. The white tiger cub was very reluctant to move, walking only when prompted, and exhibiting severe lameness—dragging a hind limb and only occasionally bearing very little weight on it. This cub consistently lay down and was suffering throughout the inspection.

34. Additional Big Cat cubs possessed by Wildlife in Need have been declawed by Dr. Pelphrey, including two lion cubs exhibited during public encounters throughout April 2017. The USDA noted the two declawed lion cubs in its March 17, 2017, inspection report.

35. Defendants declaw Big Cats for the convenience of Wildlife in Need, rather than for medical necessity. The procedures are purely elective. Furthermore, according to a March 17, 2017, USDA inspection report, Mr. Stark stated that he declaws Big Cats because he “has money,” and “it’s easier.” As noted above, declawing without medical necessity is both illegal and in violation of generally

accepted husbandry and veterinary practices, including those recognized by the American Veterinary Medical Association and USDA.

36. Defendants declawed the Big Cat cubs so that Wildlife in Need can exhibit and display them for profit during interactions with customers, including young children, at events called “Tiger Baby Playtimes.” Such exhibitions and public handling are themselves distressing experiences for the animals. Dr. Pelphrey has never voiced concerns over the effects on the Big Cat cubs from declawing or exhibition.

37. Dr. Pelphrey declawed the Big Cat cubs that are at issue in this litigation on a table in a room at Wildlife in Need, rather than at a dedicated, sterilized surgical site. No Big Cat receives pain medication following the amputations because Dr. Pelphrey falsely believes that the cats do not feel pain as humans do. After the procedure, Dr. Pelphrey assesses the well-being of the Big Cats based only on his own sense of whether the Big Cats appear playful. He did not follow up on their condition in person until the USDA mandated that he appear at Wildlife in Need on March 18, 2017.

38. Dr. Pelphrey spends only approximately twenty minutes to declaw every digit of a tiger. As a tiger has eighteen toes, he therefore spends little more than one minute per digit removing the distal phalanges.

39. The USDA ordered Mr. Stark to no longer declaw Big Cats. Despite this, Mr. Stark continued to declaw Big Cats using another veterinarian, until this Court temporarily restrained and then preliminarily enjoined declawing of Big Cats

as a violation of the ESA. Dr. Pelphrey was served with both orders barring future declawings.

40. Declawing physically wounds the Big Cats, psychologically and physically harms them, creates a likelihood of further injury or death to them, and annoys them, by significantly disrupting their normal behavioral patterns, in violation of the ESA's "take" prohibition.

**B. DEFENDANTS KILL, WOUND, HARM, AND HARASS PROTECTED BIG CATS BY PROVIDING VETERINARY CARE NEGLIGENTLY.**

41. The Defendants' incompetent and negligent provision of veterinary care to Big Cats kills, wounds, harms and harasses these animals and constitutes a "take" under the ESA.

42. Dr. Pelphrey has received no special training for the veterinary care or husbandry of Big Cats. He is not qualified by education, training, or experience to render such care. Nor has Dr. Pelphrey taken meaningful steps to educate himself on how to adequately provide care for Big Cats. He has attended no continuing education courses regarding Big Cats and has not reviewed any textbooks on their veterinary care or husbandry. Prior to becoming the attending veterinarian for Wildlife in Need and performing declawing as an elective procedure, Dr. Pelphrey had no relevant experience working with Big Cats.

43. Dr. Pelphrey lacks the requisite training or experience regarding Big Cats to serve as the attending veterinarian at Wildlife in Need, in violation of federal Animal Welfare Act regulations. *See* 9 C.F.R. § 2.40 (requiring dealers and exhibitors to have attending veterinarians who provide adequate veterinary care);

*see also id.* § 1.1 (defining attending veterinarian as someone who “has received training and/or experience in the care and management of the species being attended”).

44. Dr. Pelphrey’s services as attending veterinarian also violate the standard of care. Dr. Pelphrey only makes one regularly-scheduled visit a year to Wildlife in Need, which, under the circumstances at Wildlife in Need, including the substantial needs of Big Cats, is insufficient to provide adequate veterinary care. The representatives and owners of Wildlife in Need are understanding of the fact that Dr. Pelphrey is not readily available during racehorse season, from April until December each year, to provide necessary treatment or care for the Big Cats. Thus, Dr. Pelphrey has delegated the care and treatment of the Big Cats to Timothy Stark of Wildlife in Need. Mr. Stark has no qualifications to provide veterinary care to Big Cats. Dr. Pelphrey also commonly vacations outside the country. During these times, Dr. Pelphrey provides veterinary advice to Wildlife in Need via correspondence, typically by text message, often without direct examination of the animals in question. For example, Dr. Pelphrey was not present to examine the severely injured and medically compromised tiger cubs who were subject of the March 17, 2017, USDA inspection report in the weeks following the declawing procedure, and advised Mr. Stark regarding wound care and antifungal prescription drugs by text message even as the conditions of the cubs declined toward their ultimate deaths several weeks later. He likewise provides advice regarding the Big Cats by text when he is in Kentucky.

45. Dr. Pelphrey's general approach to preventive care for the Big Cats at Wildlife in Need is to trust his ability to look into the face of an animal and "kind of tell" if it looks happy. Dr. Pelphrey is almost never accompanied by a veterinary technician during his visits to Wildlife in Need, and relies on Mr. Stark for technical assistance. Contrasting his approach with other practices that draw blood during annual physical exams, Dr. Pelphrey's treatment approach, in concert with Mr. Stark, relies "more on our abilities to assess the situation to see if there's a problem there or not." In justifying his approach, Dr. Pelphrey believes, incorrectly, that "a lot of those cats are basically problem-free." This assessment is proven false by Wildlife in Need's USDA inspection record and the high mortality rate for Big Cats at Wildlife in Need.

46. Dr. Pelphrey's excessive (and misplaced) trust in Mr. Stark is further manifested in his indifferent approach to overseeing Mr. Stark's conduct. Dr. Pelphrey does not check whether Mr. Stark has necessary medications on-hand. Mr. Stark hid the fact that the USDA cited him for declawing Big Cats from Dr. Pelphrey, and Dr. Pelphrey knew of this concealment but continued to provide sub-standard veterinary services to the cubs and Big Cats thereafter. Despite Dr. Pelphrey's awareness that Mr. Stark is, in Dr. Pelphrey's view, credibly accused of beating an endangered leopard to death with a baseball bat, Dr. Pelphrey has not looked into the matter and is content to believe that Mr. Stark acted in a manner he felt was humane.

47. Dr. Pelphrey's negligence in providing veterinary care to the Big Cats at Wildlife in Need has resulted in takes under the ESA, and will continue to result in takes unless he is enjoined from providing sub-standard care to the Big Cats.

**1. DEFENDANTS HAVE WOUNDED, HARMED AND HARASSED PROTECTED BIG CATS BY APPLYING SPECIES-INAPPROPRIATE BANDAGES DURING ILLEGAL DECLAWING PROCEDURES.**

48. Dr. Pelphrey draws upon his experience as a racehorse veterinarian to provide inappropriate and negligent veterinary treatment to the Big Cats at Wildlife in Need. After declawing the two tiger cubs discussed in the March 17, 2017, USDA inspection reports, Dr. Pelphrey wrapped their wounds in a bandage called Animalintex, and left Mr. Stark to his own judgment as to whether the wounds needed to be re-bandaged. Animalintex is a veterinary dressing, and the manufacturer's website provides that it can be used on horses and dogs, but it is not recommended for use on cats. *See* 3M Animalintex Poultrice, 3M, [https://www.3m.com/3M/en\\_US/company-us/all-3m-products/~3M-Animalintex-Poultrice/?N=5002385+3294398431&rt=rud](https://www.3m.com/3M/en_US/company-us/all-3m-products/~3M-Animalintex-Poultrice/?N=5002385+3294398431&rt=rud) (last visited August 15, 2018) (noting under the "Details" section that this product is "[n]ot recommended for use on cats"). Dr. Pelphrey was unaware of that warning prior to selecting and applying this treatment for the Big Cats and incorrectly believed the treatment would transfer from horses to Big Cats. It did not.

49. Dr. Pelphrey now concedes that the Animalintex caused the Big Cat cubs' tissue to become necrotic and slough off. It caused or contributed to the injuries that the USDA inspectors noted in the March 17, 2017, inspection reports—

namely, significantly swollen paws, spotting blood, difficulty walking, and distress, and the cubs' ultimate death. Other likely causes are infection or improper and negligent surgical procedures by Dr. Pelphrey.

50. The application of Animalintex to the Big Cats, combined with the needless declawing procedures, wounded, harmed, and harassed and killed them within the meaning of the ESA.

**2. DEFENDANTS HAVE KILLED PROTECTED BIG CATS BY PRESCRIBING SPECIES-INAPPROPRIATE PRESCRIPTION DRUGS.**

51. Dr. Pelphrey killed the two tiger cubs that were subject to the March 17, 2017 USDA inspection report by prescribing (or recklessly permitting Mr. Stark to administer) ketoconazole to treat a ringworm infection. Ketoconazole is well known as an inappropriate antifungal medication for cats. Dr. Pelphrey was negligent and/or reckless in failing to consult any veterinary drug handbook or other appropriate resources prior to prescribing the drug for the two tiger cubs. He claims that this error or misconduct caused their deaths from hepatotoxicity—liver failure from a toxic reaction to the drug. Had Dr. Pelphrey consulted a basic veterinary drug handbook, he would have seen that ketoconazole is considered toxic to cats, and that other antifungal drugs are recommended.

52. Dr. Pelphrey's declawing, applying of Animalintex, and prescribing ketoconazole were proximate in time and proximate in a chain of causation that wounded the tiger cubs and ultimately killed them.



53. Dr. Pelphrey did not perform necropsies to determine a cause of death in either cub. He has also failed to perform any other necropsies of Big Cats despite an unacceptable level of mortality of Big Cats at Wildlife in Need.

54. Defendants have failed to fulfill their role and obligations as Wildlife in Need's attending veterinarian in violation of applicable law.

**VI. DEFENDANTS' ACTIONS HAVE FRUSTRATED PETA'S MISSION, PERCEPTIBLY IMPAIRED ITS ACTIVITIES AND PROGRAMS, AND FORCED IT TO DIVERT RESOURCES**

**A. PETA'S MISSION AND PROGRAMS**

55. PETA is dedicated to protecting animals, including protecting Big Cats, exotic animals, and other animals used in entertainment from abuse, neglect, and cruelty and from dangerous public encounters.

56. To achieve its objectives of ending the abuse and neglect of animals and Big Cats used for entertainment, PETA pursues several programs, including educating the public about the very serious harms that Big Cats suffer when declawed and not provided species-appropriate veterinary care. PETA brings this suit on its own behalf to protect its mission and programs, which have been perceptibly impaired by the Defendants' wrongful conduct in violation of the ESA.

57. By unlawfully killing, wounding, harming, and harassing federally protected Big Cats, Defendants directly frustrate PETA's mission to eliminate the abuse and neglect of animals used for entertainment. Unlawfully wounding, harming, and harassing these animals increases the number of animals subject to abuse and neglect in entertainment. If PETA prevails in this action, Defendants

will no longer be able to frustrate PETA's mission by unlawfully declawing and negligently providing veterinary services to federally protected Big Cats.

58. Defendants falsely hold themselves out as qualified to render veterinary services to wild and exotic animals such as Big Cats when, in fact, they actively kill, wound, harm, and harass Big Cats in rendering these services and thereby perpetuate the abuse and neglect of Big Cats used for entertainment. By presenting themselves as qualified to treat wild and exotic animals including Big Cats, Defendants obscure the challenges present in keeping captive wildlife and undermine the notion that exotic animals are significantly different from domestic animals, and thus require heightened protections and specialized care.

59. Continuing to wound, harm, and harass the federally protected animals at Wildlife in Need while providing negligent veterinary care without repercussion under the ESA thus creates the incorrect public impression that a general practitioner veterinarian can properly care for wild and exotic animals. In addition to creating misconceptions regarding the necessary care and inherent difficulties in taking care of Big Cats, Defendants' performance of declawing procedures gives the impression that declawing Big Cats is not only medically sound but also harmless to the animals. This frustrates PETA's mission and core programs by proliferating the abuse of animals in entertainment and making it harder to persuade the public that it should not tolerate or otherwise support these harmful practices. If PETA prevails in this action, PETA will not have to counteract

the misimpression created by Defendants or otherwise address the harms caused by their conduct.

**B. IMPAIRMENT OF PETA'S ACTIVITIES AND DIVERSION OF ITS RESOURCES**

60. By killing, wounding, harming, and harassing the threatened and endangered Big Cats at Wildlife in Need, Defendants subject animals to abuse and neglect and create the misconception that adequate veterinary care may be provided for these animals by negligent general practitioners unfamiliar with the unique needs of Big Cat species.

61. As a result, PETA has been forced to divert resources in order to try to help the animals at Wildlife in Need by educating the public regarding the harmful nature of declawing Big Cats that Defendants perpetuate and counteracting the public impression that Defendants' practices are consistent with the ESA and animal welfare. Among other activities, PETA has been and continues to be forced to: monitor the Defendants; post on the PETA.org blog and social media regarding the treatment of Big Cats that Dr. Pelphrey contributed to as an attending veterinarian at Wildlife in Need; campaign to educate the public on the harmful effects of keeping captive wildlife, including declawing and public encounters; and distribute press releases on the mistreatment of animals at Wildlife in Need caused in substantial part by Dr. Pelphrey's declawing and negligent veterinary care.

62. PETA's ongoing need to expend resources to investigate and counteract the Defendants' unlawful killing, wounding, harming, and harassment of federally protected Big Cats at Wildlife in Need has perceptibly impaired PETA's ability to

advance its mission. The Defendants' activities frustrate PETA's overall mission by taking endangered Big Cats in violation of the ESA and misleading the public about the needs of these animals and the challenges inherent in keeping them captive for entertainment purposes. Specifically, the expenses incurred identifying and counteracting the Defendants' illegal activity has forced PETA to divert resources away from campaigns on behalf of other wild animals exploited for entertainment, and from funding animal rescues, among other efforts.

63. If PETA prevails in this action, the Defendants will no longer be able to treat the Big Cats in a manner that is inconsistent with the ESA and animal welfare, and PETA will no longer have to divert resources to counteract the incorrect public impression caused by Defendants' unlawful acts or to counteract the unlawful acts themselves.

64. PETA's ongoing efforts and the resulting expenditures would not be necessary but for Defendants' unlawful taking of federally protected Big Cats.

## **VII. CLAIMS FOR RELIEF**

### **Count I—Unlawful “Take” of Protected Species**

65. PETA incorporates by reference all allegations of the Complaint.

66. The Endangered Species Act, 16 U.S.C. § 1538(a)(1)(B), (G) and its implementing regulations, 50 C.F.R. §§ 17.21, 17.31(a), prohibit the “take” of “any [listed] species” not otherwise provided for by a Section 4(d) special rule, within the United States without a permit.

67. Defendants have violated and continue to violate the ESA and its implementing regulations by taking tigers, lions, and hybrids thereof within the meaning of the ESA, without a permit.

68. This Court has the authority to issue an injunction prohibiting Defendants from committing further violations of the ESA and ordering them to refrain from declawing and providing veterinary care to Big Cats. 16 U.S.C. § 1540(g)(1)(a).

69. PETA has a substantial likelihood of succeeding on the merits.

70. The harm to the Big Cats and the Big Cat cubs from the negligent provision of veterinary care (i.e., physical and psychological health problems) is permanent and irreparable and substantially outweighs any harm to Defendants (i.e., losing revenue from treating Big Cats, which constitutes less than one percent of the Defendants' business) if immediate injunctive relief is not issued.

71. As a result of the Defendants' unlawful conduct, the Big Cats and Big Cat cubs have suffered and will continue to suffer immediate and irreparable physical and psychological harm for which there is no adequate remedy at law.

72. Defendants, on the other hand, will suffer virtually no harm by simply being ordered to comply with the ESA and enjoined from providing veterinary care to Big Cats.

73. The public interest will be served by enjoining Defendants' unlawful and improper conduct as it will prevent further violations of the ESA.

74. PETA is prepared to post any reasonable security for the relief being requested herein in an amount that this Court considers just and proper.

75. Defendants should therefore be preliminarily and permanently enjoined from declawing and from providing veterinary care to the Big Cats in the possession, custody, and control of Wildlife in Need pursuant to Fed. R. Civ. P. 65.

**Relief Requested**

WHEREFORE, PETA respectfully requests that this Court:

A. Declare that Defendants are violating the ESA by illegally taking tigers, lions, and hybrids thereof, 16 U.S.C. § 1538(a)(1)(B), (G); 50 C.F.R. §§ 17.21(c), 17.31(a), 17.40(r);

B. Preliminarily and permanently enjoin Defendants from continuing to violate the ESA and its implementing regulations with respect to tigers, lions, and hybrids thereof, including the prohibitions on taking a listed species;

C. Preliminarily and permanently enjoin Defendants from declawing and from providing veterinary care of Big Cats, including, without limitation, those Big Cats in the possession, custody, or control of Wildlife in Need;

D. Award PETA reasonable attorneys' fees and litigation costs for this action, 16 U.S.C. § 1540(g)(4); and

E. Grant PETA such other and further relief as the Court deems just and proper.

Date September 5, 2018

Respectfully submitted,  
PLAINTIFF PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS

By: /s/ Brian W. Lewis  
One of Its Attorneys

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