

O'Grady

IN THE FRANKLIN COUNTY MUNICIPAL COURT
CIVIL DIVISION
FRANKLIN COUNTY, OHIO

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FRANKLIN COUNTY
MUNICIPAL COURT
LOUISIANA TYACK

Veronica Wagner Covatch, *et al.*, :
Plaintiffs : CASE NO.: 2014-CVF-024571
-vs.- : Judge: O'Grady
Central Ohio Sheltie Rescue, Inc., *et al.*, :
Defendants :

**JOINT ANSWER OF DEFENDANTS, CENTRAL OHIO SHELTYE RESCUE, INC.,
PENNY SANDERBECK, AND JUDY A. COLGROVE TO "AMENDED COMPLAINT"**

Now come the Defendants in the above-captioned action, Central Ohio Sheltie Rescue, Inc., hereinafter referred to individually as, "Defendant COSR," Penny Sanderbeck, hereinafter referred to individually as, "Defendant Sanderbeck," and Judy Colgrove, hereinafter referred to individually as, "Defendant Colgrove," collectively hereinafter referred to as, "these Answering Defendants," and by and through their undersigned attorney, they say as follows for their Answer to the Amended Complaint filed by the Plaintiffs herein on December 26, 2014, hereinafter referred to as "Plaintiffs' Amended Complaint":

1. These Answering Defendants ADMIT that the Plaintiffs are citizens of the United States of America, and they DENY each and every one of the other the matters alleged in the paragraph numbered one (1) of the Plaintiffs' Amended Complaint.
2. These Answering Defendants ADMIT the matters alleged in the paragraph numbered two (2) of the Plaintiffs' Amended Complaint;

3. These Answering Defendants ADMIT that Defendant Sanderbeck is an agent, director or officer of Defendant COSR, and they DENY each and every one of the other matters alleged in the paragraph numbered three (3) of the Plaintiffs' Amended Complaint;
4. These Answering Defendants ADMIT the matters alleged in the paragraph numbered four (4) of the Plaintiffs' Amended Complaint;
5. These Answering Defendants ADMIT the matters alleged in the paragraph numbered five (5) of the Plaintiffs' Amended Complaint;
6. These Answering Defendants ADMIT the matters alleged in the paragraph numbered six (6) of the Plaintiffs' Amended Complaint;
7. These Answering Defendants ADMIT that Defendant Deborah L. Finelli is the director of the Franklin County Dog Shelter, and they DENY each and every one of the other matters alleged in the paragraph numbered seven (7) of the Plaintiffs' Amended Complaint;
8. These Answering Defendants DENY the matters alleged in the paragraph numbered eight (8) of the Plaintiffs' Amended Complaint and they further DENY those alleged matters for lack of sufficient information to form a belief as to the truth or falsity of the alleged matters;
9. These Answering Defendants DENY the matters alleged in the paragraph numbered nine (9) of the Plaintiffs' Amended Complaint;
10. These Answering Defendants ADMIT that the dog known as "Piper," mentioned in the Plaintiffs' Amended Complaint has an implanted microchip, and they DENY each and every one of the other matters alleged in the paragraph numbered ten (10) of the Plaintiffs' Amended Complaint;
11. These Answering Defendants ADMIT the matters alleged in the paragraph numbered eleven

- (11) of the Plaintiffs' Amended Complaint;
12. These Answering Defendants DENY the matters alleged in the paragraph numbered twelve (12) of the Plaintiffs' Amended Complaint;
 13. In response to the allegations contained in the paragraph numbered thirteen (13) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through twelve (12) of this Answer;
 14. These Answering Defendants ADMIT the matters alleged in the paragraph numbered fourteen (14) of the Plaintiffs' Amended Complaint;
 15. These Answering Defendants DENY the matters alleged in the paragraph numbered fifteen (15) of the Plaintiffs' Amended Complaint and they further DENY those alleged matters for lack of sufficient information to form a belief as to the truth or falsity of the alleged matters;
 16. These Answering Defendants ADMIT that at some time on or after April 21, 2014, Defendant COSR took possession of a Shetland Sheepdog ("Sheltie") from the Franklin County (Ohio) Animal Shelter, where the dog had been duly impounded as an unregistered stray, but these Answering Defendants DENY each and every other one of the matters alleged in the paragraph numbered sixteen (16) of the Plaintiffs' Amended Complaint;
 17. These Answering Defendants ADMIT each and every one of the matters alleged in the paragraph numbered seventeen (17) of the Plaintiffs' Amended Complaint.
 18. These Answering Defendants ADMIT that Plaintiff Covatch contacted Defendant Sanderbeck on or about April 22, 2014, but these Answering Defendants DENY each and every other one of the matters alleged in the paragraph numbered eighteen (18) of the Plaintiffs' Amended Complaint, and they specifically and expressly DENY:

A. that the dog referenced in the Plaintiffs' Amended Complaint, or any other dog in the possession of either of these Answering Defendants, belongs to either of the Plaintiffs in this action; and,

B. that either Plaintiff ever provided "undisputed documentation and proof" of ownership of the said dog to any of the Defendants;

19. These Answering Defendants ADMIT that these Answering Defendants have not returned the dog referenced in the Plaintiffs' Amended Complaint, or any other dog in the possession of either of these Answering Defendants, to either of the Plaintiffs, but these Answering Defendants DENY each and every other one of the matters alleged in the paragraph numbered nineteen (19) of the Plaintiffs' Amended Complaint, and they specifically and expressly DENY that the Plaintiffs are "owners" or "co-owners" of the said dog (but these Answering Defendants do not answer nor speak for Defendant John W. Sanderbeck);

20. These Answering Defendants DENY each and every one of the matters alleged in the paragraph numbered twenty (20) of the Plaintiffs' Amended Complaint, except only that they ADMIT that:

A. Defendants Sanderbeck and COSR took possession of the dog referenced in the Plaintiffs' Amended Complaint;

B. the Plaintiffs have demanded the return of the said dog; and,

C. Defendants Sanderbeck and COSR have refused to turn the referenced dog over to the Plaintiffs;

21. These Answering Defendants DENY the matters alleged in the paragraph numbered twenty-one (21) of the Plaintiffs' Amended Complaint;

22. These Answering Defendants ADMIT that Defendants Sanderbeck and COSR are in possession of the dog referenced in the Plaintiffs' Amended Complaint, but these Answering Defendants DENY each and every other one of the matters alleged in the paragraph numbered twenty-two (22) of the Plaintiffs' Amended Complaint (but these Answering Defendants do not answer nor speak for Defendant John W. Sanderbeck);

23. These Answering Defendants ADMIT that an Affidavit is attached to the Plaintiffs' Amended Complaint, but they DENY each and every other one of the matters alleged in the paragraph numbered twenty-three (23) of the Plaintiffs' Amended Complaint and they DENY any and all matters alleged in the said Affidavit;
24. These Answering Defendants DENY the matters alleged in the paragraph numbered twenty-four (24) of the Plaintiffs' Amended Complaint;
25. In response to the allegations contained in the paragraph numbered twenty-five (25) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through twenty-four (24) of this Answer;
26. These Answering Defendants DENY the matters alleged in the paragraph numbered twenty-six (26) of the Plaintiffs' Amended Complaint (but these Answering Defendants do not answer nor otherwise speak for Defendant John W. Sanderbeck);
27. These Answering Defendants DENY the matters alleged in the paragraph numbered twenty-seven (27) of the Plaintiffs' Amended Complaint (but these Answering Defendants do not answer nor otherwise speak for Defendant John W. Sanderbeck);
28. These Answering Defendants DENY the matters alleged in the paragraph numbered twenty-eight (28) of the Plaintiffs' Amended Complaint (but these Answering Defendants do not answer nor otherwise speak for Defendant John W. Sanderbeck);
29. These Answering Defendants DENY the matters alleged in the paragraph numbered twenty-nine (29) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants DENY that the Plaintiffs in this action have suffered any "loss of companionship * * *, severe and intense emotional and physical distress, injury and mental anguish" [or]

incurred any legal fees or expenses or any other type of loss or damages, and further, in the event that the Plaintiffs in this action did suffer any loss of companionship * * *, severe and intense emotional and physical distress, injury and mental anguish or incurred any legal fees or expenses or any other type of loss or damage, these Answering Defendants DENY that any such events were directly and/or proximately caused by any act or omission of any of these Answering Defendants, and these Answering Defendants DENY that any legal fees incurred or paid by the Plaintiffs are "reasonable" attorney fees;

30. In response to the allegations contained in the paragraph numbered thirty (30) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through twenty-nine (29) of this Answer;
31. These Answering Defendants ADMIT each and every one of the matters alleged in the paragraph numbered thirty-one (31) of the Plaintiffs' Amended Complaint;
32. These Answering Defendants ADMIT that the Franklin County Dog Shelter and Defendant Finelli have adopted certain policies, procedures, rules and regulations, and that excerpts from those documents are attached to the Plaintiffs' Amended Complaint, but they DENY each and every other one of the matters alleged in the paragraph numbered thirty-two (32) of the Plaintiffs' Amended Complaint;
33. These Answering Defendants DENY the matters alleged in the paragraph numbered thirty-three (33) of the Plaintiffs' Amended Complaint;
34. These Answering Defendants DENY the matters alleged in the paragraph numbered thirty-four (34) of the Plaintiffs' Amended Complaint for lack of sufficient information to form a belief as to the truth or falsity of the matters therein alleged;

35. These Answering Defendants DENY the matters alleged in the paragraph numbered thirty-five (35) of the Plaintiffs' Amended Complaint;
36. These Answering Defendants DENY the matters alleged in the paragraph numbered thirty-six (36) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants DENY that the Plaintiffs in this action have suffered any damages, and further, in the event that the Plaintiffs in this action did suffer any damages, these Answering Defendants DENY that any such events were directly and/or proximately caused by any act or omission of any of these Answering Defendants or of the Defendants mentioned in the said paragraph numbered thirty-six (36);
37. In response to the allegations contained in the paragraph numbered thirty-seven (37) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through thirty-six (36) of this Answer;
38. These Answering Defendants DENY the matters alleged in the paragraph numbered thirty-eight (38) of the Plaintiffs' Amended Complaint;
39. These Answering Defendants DENY the matters alleged in the paragraph numbered thirty-nine (39) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants DENY that the Plaintiffs in this action have suffered any damages, and further, in the event that the Plaintiffs in this action did suffer any damages, these Answering Defendants DENY that any such events were directly and/or proximately caused by any act or omission of any of these Answering Defendants or of the Defendants mentioned in the said paragraph numbered thirty-nine (39);

40. In response to the allegations contained in the paragraph numbered forty (40) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through thirty-nine (39) of this Answer;
41. These Answering Defendants ADMIT that they work to protect dogs from cruelty and abuse and toward the goal of finding suitable homes for dogs impounded in animal shelters, but they DENY each and every one of the other matters alleged in the paragraph numbered forty-one (41) of the Plaintiffs' Amended Complaint, and, further answering, these Answering Defendants do not answer nor otherwise speak for any Defendant(s) other than Defendant COSR, Defendant [Penny] Sanderbeck and Defendant Colgrove;
42. These Answering Defendants ADMIT that they receive donations from members of the general public to help fund their activities described in the preceding paragraph numbered of this Answer, but they DENY each and every one of the other matters alleged in the paragraph numbered forty-two (42) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants do not answer nor speak for any Defendant(s) other than Defendant COSR, Defendant [Penny] Sanderbeck and Defendant Colgrove;
43. These Answering Defendants DENY the matters alleged in the paragraph numbered forty-three (43) of the Plaintiffs' Amended Complaint;
44. These Answering Defendants DENY the matters alleged in the paragraph numbered forty-four (44) of the Plaintiffs' Amended Complaint;
45. These Answering Defendants DENY the matters alleged in the paragraph numbered forty-five (45) of the Plaintiffs' Amended Complaint, and further answering, these Answering

Defendants DENY that the Plaintiffs in this action have suffered any damages, and further, in the event that the Plaintiffs in this action did suffer any damages, these Answering Defendants DENY that any such events were directly and/or proximately caused by any act or omission of any of these Answering Defendants or of the Defendants mentioned in the said paragraph numbered forty-five (45);

46. In response to the allegations contained in the paragraph numbered forty-six (46) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through forty-five (45) of this Answer;
47. These Answering Defendants DENY the matters alleged in the paragraph numbered forty-seven (47) of the Plaintiffs' Amended Complaint;
48. These Answering Defendants DENY the matters alleged in the paragraph numbered forty-eight (48) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants DENY that the Plaintiffs in this action have suffered any damages, and further, in the event that the Plaintiffs in this action did suffer any damages, these Answering Defendants DENY that any such events were directly and/or proximately caused by any act or omission of any of these Answering Defendants or of the Defendants mentioned in the said paragraph numbered forty-eight (48);
49. In response to the allegations contained in the paragraph numbered forty-nine (49) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through forty-eight (48) of this Answer;

50. These Answering Defendants DENY the matters alleged in the paragraph numbered fifty (50) of the Plaintiffs' Amended Complaint;
51. These Answering Defendants DENY the matters alleged in the paragraph numbered fifty-one (51) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants DENY that the Plaintiffs in this action have suffered any damages, and further, in the event that the Plaintiffs in this action did suffer any damages, these Answering Defendants DENY that any such events were directly and/or proximately caused by any act or omission of any of these Answering Defendants or of the Defendants mentioned in the said paragraph numbered fifty-one (51);
52. In response to the allegations contained in the paragraph numbered fifty-two (52) of the Plaintiffs' Amended Complaint, these Answering Defendants incorporate by reference the responses, admissions and denials contained in the preceding paragraphs numbered one (1) through fifty-one (51) of this Answer;
53. These Answering Defendants DENY the matters alleged in the paragraph numbered fifty-three (53) of the Plaintiffs' Amended Complaint, and further answering, they aver that Defendant COSR is a properly constituted and operated corporation under the laws of the State of Ohio, with its own identity, and that said corporation has maintained all required books and records, and taken all appropriate actions to create and preserve its identity as a legal entity separate from any other person(s) or entity;
54. These Answering Defendants DENY the matters alleged in the paragraph numbered fifty-four (54) of the Plaintiffs' Amended Complaint;

55. These Answering Defendants DENY the matters alleged in the paragraph numbered fifty-five (55) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants do not answer nor otherwise speak for any Defendant(s) other than Defendant COSR, Defendant [Penny] Sanderbeck and Defendant Colgrove;
56. These Answering Defendants DENY the matters alleged in the paragraph numbered fifty-six (56) of the Plaintiffs' Amended Complaint, and further answering, these Answering Defendants DENY that the Plaintiffs in this action have suffered any damages, and further, in the event that the Plaintiffs in this action did suffer any damages, these Answering Defendants DENY that any such events were directly and/or proximately caused by any act or omission of any of these Answering Defendants or of the Defendants mentioned in the said paragraph numbered fifty-six (56);
57. These Answering Defendants DENY each and every other one of the mattersd alleged in the plaintiffs' Amended Complaint, excepting only those matters that are specifically and expressly admitted herein.

FIRST AFFIRMATIVE DEFENSE

58. The Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

59. The Plaintiffs' Amended Complaint fails to comply with Rule 9(B) of the Ohio Rules of Civil Procedure inasmuch as the Plaintiffs' Amended Complaint contains averments of fraud in the paragraph numbered twenty-six of the Plaintiffs' Amended Complaint, but "the circumstances constituting fraud" were not "stated with particularity."

THIRD AFFIRMATIVE DEFENSE

60. The Plaintiffs lack standing to assert the claims in the Plaintiffs' Amended Complaint, inasmuch as they are not the owners of the dog, nor legally entitled to possession of the dog.

FOURTH AFFIRMATIVE DEFENSE

61. The Plaintiffs' claims, if any, against these Answering Defendants are barred by the failure to mitigate damages by Plaintiffs.

FIFTH AFFIRMATIVE DEFENSE

62. The Plaintiffs' claims, if any, against these Answering Defendants are barred by the failure to join one or more necessary parties without whom complete relief cannot be afforded the parties already joined in this action.

SIXTH AFFIRMATIVE DEFENSE

63. The Plaintiffs' claims, if any, against these Answering Defendants, sounding in conversion or replevin are barred by the fact that the property in question is a "fungible" item and the Plaintiffs can be made whole by damages in the amount of the reasonable market value of a pure-bred Shetland Sheepdog ("Sheltie") which value, upon information and belief, is between Five-Hundred Dollars (\$500.00) and One-Thousand Dollars (\$1,000.00).

SEVENTH AFFIRMATIVE DEFENSE

64. The Plaintiffs' claims, if any, against these Answering Defendants, sounding in equity or seeking any equitable remedy, are barred by the Plaintiffs' unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

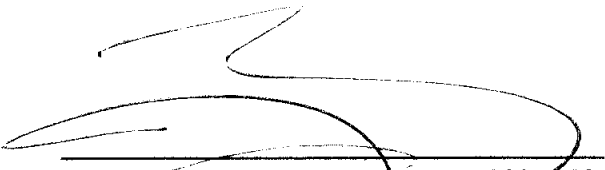
65. The Plaintiffs' claims, if any, against these Answering Defendants are subject to set-off against damages done to these Answering Defendants in tort, by the Plaintiffs and agents or employees of the Plaintiffs, as will be set forth in detail in the Counterclaim and Third Party Complaint which will be filed separately by these Answering Defendants.

NINTH AFFIRMATIVE DEFENSE

66. The "Fourth Claim" of the Plaintiffs' Amended Complaint specifically fails to state a claim upon which relief can be granted in that the "due process" clauses of the Ohio and United States Constitutions have no application against private individuals and private corporations.

WHEREFORE: Having fully answered the Plaintiffs' Amended Complaint, these Answering Defendants pray that this Honorable Court dismiss the Plaintiffs' Amended Complaint at the Plaintiffs' costs or enter final Judgment in favor of these Answering Defendants and against the Plaintiffs.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I hereby certify that on this twenty-ninth (29th) day of January 2015, I have served a true copy of the foregoing JOINT ANSWER OF DEFENDANTS, CENTRAL OHIO SHELTY RESCUE, INC., PENNY SANDERBECK, AND JUDY A. COLGROVE TO "AMENDED COMPLAINT" upon counsel for the Plaintiffs by placing it in regular U.S. Mail, first class postage fully prepaid, addressed to:

Mr. James H. Banks, Esq., and
Ms. Nina M. Najjar, Esq,
P. O. Box 40
Dublin, Ohio 43017-0040



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