

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF SUFFOLK

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William Watkins & Marie Watkins,

Plaintiffs,

Verified Complaint

Index No.

against

Patchogue Animal Hospital, Eva Armfield, DVM,
and "John or Jane Doe 1-5"*

Defendants.

*Names being fictitious and intending to represent additional Defendants

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Plaintiffs, William Watkins & Marie Watkins, appearing by their attorney, Richard Bruce Rosenthal, Esq., as and for a complaint, states

NATURE OF THE ACTION

1. This is an action for breach of a bailment obligation, willful misconduct, breach of fiduciary duty, breach of contract, fraud in the inducement of the bailment contract, misrepresentation and deceptive trade practices.
2. As a direct result of the tortious conduct of the defendants, Taro, a dog and **eight** year pet and companion of the plaintiffs, suffered unnecessary and unjustifiable and unjustifiable trauma, pain and suffering, which was the direct cause of the resulting anguish, extreme emotional distress, and psychological trauma to her owners, the plaintiffs, William Watkins & Marie Watkins.
3. Based on the foregoing, Plaintiffs seek compensatory damages including but not limited to the monies paid to Defendants, monies paid to other veterinarians for the required subsequent veterinary care, and out of pocket expenses incurred by Plaintiffs.

4. Plaintiffs also seek punitive damages. Defendants' conduct, in addition to being intentional, willful, wanton, reckless, and a malicious disregard of Plaintiffs' rights, is demonstrably part of a long-standing pattern and practice by Defendants which has, and which continues to have, a strong adverse impact on the community generally.

THE PARTIES

5. Plaintiffs, William Watkins & Marie Watkins (hereinafter "Watkins") were, at all times material hereto, the lawful owners, guardians, custodians, possessors, and caregivers of a domesticated animal, Taro (hereinafter "Taro"), a beautiful, loving, and compassionate sentient dog, and the Watkins' constant six (8) year companion, and a loving and cherished member of their family.
6. Defendant, Patchogue Animal Hospital, (hereinafter "PAH") is, upon information and belief, a New York domestic professional service company, with its principal place of business located in 214 Medford Avenue, Patchogue, New York 11772.
7. At all times material herein, "PAH", operated its facility at 214 Medford Avenue, Patchogue, New York 11772 which held itself out to Plaintiffs and the general public as a duly licensed, veterinary facility employing **Doctor Eva Armfield, owner operator and Vet Techs** experienced specifically in handling veterinary surgical care and/or were qualified and licensed veterinary professionals skilled in the practice of veterinary medicine and/or surgical veterinary medicine and/or, as a specialist, possessing a greater degree of skill, ability, judgment and learning and knowledge than ordinarily possessed by licensed veterinarians in the State of New York who do not have such specialized training.

8. Defendant, Eva Armfield, DVM (hereinafter Armfield) is an individual who, upon information and belief, is a veterinarian, who owns and is employed by Defendant “PAH”, who provided veterinary care to Plaintiffs’ dog, Taro. At all times material hereto, Armfield held herself out as licensed veterinary professional skilled in the practice of veterinary medicine and/or as diplomate board certified specialists, possessing a greater degree of skill, ability, judgment and learning and knowledge than ordinarily possessed by licensed veterinarians in the State of New York who do not have such specialized training.
9. John Doe 1-5, (hereinafter “JOHN DOE 1-5”) is a fictitious name designating one or more persons or entities that is or may have acted, participated or otherwise provided any care or services to Taro in conjunction with or acting for or on behalf of or under the direction of Defendants “PAH”.

JURISDICTION AND VENUE

10. This Court has personal jurisdiction over the Defendant “PAH” pursuant to CPLR 301 because “PAH” is a New York domestic professional service company, registered with the New York State Department, Division of Corporations, with its principal place of business located within the State of New York.
11. This Court has personal jurisdiction over Defendant Armfield pursuant to CPLR 301 because she is an individual who resides and practices veterinary medicine and provided veterinary medical services to Plaintiffs’ dog, Taro within the State of New York.

12. Venue is proper in Suffolk County pursuant to CPLR 503(a) because Defendant “PAH” maintains its principal place of business in Suffolk County and all material acts occurred in Suffolk County.

The Facts

13. The Plaintiffs’ dog, Taro, was a sentient being capable of giving and receiving affection, expressing and responding to the emotions of the Plaintiffs, and a member of the animal kingdom who experienced pain and suffering in a way extremely similar, if not identical to, the human experience of pain and suffering. Plaintiffs were acutely aware of these facts and thus greatly empathized with Taro’s suffering, which greatly affected them, and caused them pain and suffering as well.

14. As Taro’s owners, guardians, custodians, possessors, and caregivers, Plaintiffs also felt responsible for the pain and suffering which Defendants caused to Taro as a result of their having chosen to take Taro to the defendants for care.

15. As trained veterinarians, Defendant Armfield knew or should have known of Taro’s capacity to experience pain, suffering and emotions similar to humans, and also knew or should have known of the extreme emotional distress that their actions would cause the Plaintiffs. Accordingly, Defendant Armfield breached their fiduciary duties of care as bailees for hire and caregivers to Taro and to the Plaintiffs in their care and treatment of Taro.

16. Defendant Armfield failed to treat Taro as the loving, sentient, member of the Plaintiff’s family that she was, thus causing her unnecessary and unjustifiable and unjusti-

fiable pain and suffering and thus failed to exercise the degree of care and concern towards Taro required of bailees for hire.

17. Defendant Armfield without seeing or examining Taro intentionally prescribed and required plaintiff Marie Watkins to administer powerful prescription sedative drugs to the Plaintiffs' dog, Taro, in the amount in a excess of the recommended and accepted dosage based upon the weight and condition of the dog, in sufficient quantity as to cause the dog Taro to become incapacitated and require emergency care. As a veterinary specialist, Defendant Armfield knew or should have known that this would cause Taro to suffer needless and unjustifiable pain and suffering leading to her death.
18. After prescribing and requiring plaintiff to administer such drugs to Taro, Defendant Armfield showed callous indifference toward both the Plaintiffs and the dog.
19. Defendant intentionally caused Taro to become incapacitated to such an extent that the dog lost all motor control and could not walk causing her system to shut down.
20. Defendant Armfield, upon incapacitating Taro, abandoned care of Taro, in direct violation of her fiduciary obligation to her patient and in violation of NYS law, by having her assistants drag Taro out to Plaintiffs' car and leave her on the back seat facedown, quivering and unresponsive, entirely unattended by the veterinary staff.
21. When plaintiffs called back into defendant PAH requesting that she deal with their dying dog, defendant Armfield refused to attend to her dying patient, despite having been called and informed of **her** condition, right outside the door to "PAH", laughing at plaintiffs' agitation and instructing plaintiff to "just take her home".

22. This callous indifference on the part of the Defendant caused even greater emotional distress and harm to the Plaintiffs and greater debilitation of Taro. This further deprived William Watkins & Marie Watkins of Taro's special, intrinsic and sentimental value to them. Defendants' actions as alleged in the common allegations were intentional, willful, wanton, reckless, and a malicious disregard of Plaintiffs' rights evincing an entire want of care or great indifference to the property of Plaintiffs.
23. William and Marie Watkins still have not forgiven themselves for believing Dr. Armfield because it caused Taro to experience continuing unnecessary and unjustifiable and unjustifiable pain and suffering leading to her death.
24. Defendants' actions as alleged in the common allegations were intentional, willful, wanton, reckless, and a malicious disregard of Plaintiffs' rights evincing an entire want of care or great indifference to Taro, the property of the Plaintiffs.

**THE SUBSTANDARD CARE ADMINISTERED TO TARO IS
TYPICAL OF "PAH"'S PRACTICE**

25. After the awful care provided to Taro, Plaintiffs investigated "PAH" and were horrified by the results.
26. A simple Internet search revealed dozens of allegations of "PAH" treatment of previous animals they treated includes providing the wrong drugs resulting in death of animals, or further illness without cure, performing unnecessary and unjustifiable surgery on animals, and overbilling of clients for procedures and tests that were not medically required.

**AS AND FOR A FIRST CAUSE OF ACTION:
BREACH OF A BAILMENT FOR HIRE**

27. Plaintiffs repeat and reallege each and every allegation contained in paragraphs "1" through "26" hereof as if set forth in full herein.
28. On _____, Plaintiffs entered into a contract with "PAH" and its veterinary care providers including but not limited to Defendant Armfield, acting as bailees for hire and within the course and scope of their employment, pursuant to which Plaintiffs agreed to pay for veterinary services to treat the condition(s) of their dog and companion, Taro. In consideration for this payment, "PAH" and its staff were bailees for hire of the Plaintiffs' dog, Taro and agreed to provide reasonable care for Taro and return her in a good, recovered and healthy condition.
29. "PAH", through its employees, breached this agreement by failing to provide reasonable care and return Taro to the plaintiffs in a good, recovered and healthy condition, as more fully set out in various paragraphs throughout this complaint, and realleged herein by reference as if fully set out herein.
30. NY Agriculture & Markets Law§ 350(2) defines:
- "Torture" or "cruelty" includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.
31. As veterinary specialists, Defendants knew that the course of treatment they were providing for Taro would cause the dog to suffer needless and unjustifiable pain and suffering when there was no realistic possibility of recovery.
32. Because the conduct of the defendants in causing Taro unnecessary and unjustifiable pain and suffering would constitute a crime, a violation of NYS Agriculture & Markets Law§ 353---Overdriving, torturing and injuring animals-such conduct cannot, by definition, be reasonable.

33. As a further result of “PAH”’s breach of contract, Plaintiffs had to witness this painful and extended suffering of their friend and companion Taro, while they watched helplessly unable to do anything to alleviate her suffering.
34. Defendants intentional prescribing and administration of powerful sedative drugs to Taro without examining him or otherwise determining her physical condition or ability to tolerate such drugs and then abandoning her care while he was incapacitated at her hand and unable to stand or move about and preying on the plaintiffs’ love and attachment to Taro to induce them to administer the drugs to Taro that would cause the dog to suffer needless and unjustifiable pain and suffering when there was no realistic possibility of recovery was a failure to exercise reasonable care under the circumstances.
35. As veterinary specialists, Defendants knew or should have known that this would cause the dog to suffer more needless and unjustifiable pain from the surgery, and more post-surgery suffering while ultimately leading to the death of Taro.
36. Defendants have therefore, as a matter of law, breached the bailment and are liable to the Plaintiffs for the unjustifiable physical pain, suffering and death of their beloved dog, Taro.
37. As the conduct that constitutes the breach of the bailment is specifically defined by the Legislature as the causing of unjustifiable physical pain, suffering or death, Plaintiffs are entitled to recover compensatory damages consisting of: (a) the veterinary expenses paid to Defendants for treatment given to Taro; (b) the unjustifiable physical pain, suffering and death suffered by Taro from the actions of the Defendants and (d) the loss of their companion a dog, Taro.

38. As the conduct that constitutes the breach of the bailment also constitutes an intentional act, exemplary damages are both warranted and recoverable.
39. As a result of the Defendants breach of the bailment for hire Plaintiffs demand judgment for compensatory damages incurred for the treatment of Taro in the sum of \$10,000.00; plus \$10,000.00 for the time and lost wages suffered by William Watkins a result thereof, for which they are entitled to recover the reasonable value of their time and efforts in providing such services; plus \$25,000.00 for the conscious pain and suffering suffered by the Taro, along with the sum of \$5,000.00 representing the fair and reasonable value of the dog plus exemplary damages of \$250,000.00.

AS AND FOR A SECOND CAUSE OF ACTION:
BREACH OF A BAILMENT FOR HIRE
FRAUD IN THE INDUCEMENT OF THE BAILMENT

40. Plaintiffs repeat, restate and reallege each of the allegations contained in paragraphs numbered “1” through “39” of the complaint as if set forth at length herein in full.
41. At no time prior to ordering plaintiff to administer the sedatives to Taro did Dr. Armfield advise the Plaintiffs that Taro’s condition might not allow her to tolerate the drugs and that he might not recover and suffer the extreme pain and suffering as a result of Dr. Armfield’s treatment of Taro.
42. Despite the clear statements by Defendants “PAH”, including but not limited to Defendant Armfield that they would provide reasonable care for Taro and return her in a good, recovered and healthy condition, defendants knew that such promises were false and untrue and that prescribing Taro the powerful sedative drugs in Taro’s condition would cause Taro to suffer needless and unjustifiable pain and suffering.
43. The acts as alleged herein constitute a breach of the bailment for hire and said conduct was willful, intentional, wanton, reckless, fraudulent and a malicious disregard

of Plaintiffs' rights evincing an entire want of care or great indifference to the Taro as the dog or property of Plaintiffs.

44. As a direct result of the breach of the bailment for hire by fraudulently inducing the plaintiffs to agree to the drugging of Taro, Plaintiffs suffered additional veterinary expenses and pain and suffering as a result of the unnecessary and unjustifiable pain and suffering of Taro, their 8 year companion. In addition, Taro's special, intrinsic, sentimental, peculiar value to the Plaintiffs as well as the quality of her companionship was destroyed, and plaintiffs demand judgment for compensatory damages incurred for the treatment of Taro in the sum of \$10,000.00; plus \$10,000.00 for the time and lost wages suffered by William Watkins as a result thereof, for which they are entitled to recover the reasonable value of their time and efforts in providing services; plus \$25,000.00 for the conscious pain and suffering suffered by the dog, Taro as a result thereof; along with the sum of \$5,000.00 representing the fair and reasonable value of the dog, Taro and for punitive damages in the sum of \$250,000.00

**AS AND FOR A THIRD CAUSE OF ACTION:
TRESPASS TO CHATTEL/CONVERSION BY DEFENDANTS**

45. Plaintiffs repeat, restate and reallege each of the allegations contained in Paragraphs numbered "1" through "45" of the complaint as if set forth at length herein in full.
46. Based on the defendants' knowing, intentional and fraudulent scheme to prey on the plaintiffs' love and emotional attachment to their dog Taro in order to induce them to follow a course of treatment including the illegal prescription and administration of powerful sedative drugs to Taro without any examination or consideration as to whether he could tolerate such drugs by defendants, all of which caused unjustifiable pain and suffering to Taro, defendants trespassed upon the chattel of the plaintiffs and converted such property.

47. The injury and/or destruction of property can amount to exercising possession over property and therefore amount to conversion. “[A]s ... explicitly stated in 1 Restatement (Second), Torts 226: ‘One who intentionally destroys a chattel or so materially alters its physical condition as to change its identity or character is subject to liability for conversion to another who is in possession of the chattel or entitled to its immediate possession.’
48. Defendants’ intentional trespass and/or conversion of the chattel Taro as above described constitutes an intentional tort.
49. Materially altering the physical condition of chattel so as to change its identity or character states a claim and that “permanent deprivation” of possession is not a necessary condition for conversion. *Loman v. Freeman*, 375 Ill. App. 3d 445, 314 Ill. Dec. 446, 874 N.E.2d 542 (4th Dist. 2006).
50. The Supreme Court of Illinois affirmed, stating that the permanent incapacitation of a horse through an unauthorized procedure constituted conversion even where possession of the horse was not withheld. *Loman v. Freeman*, 229 Ill. 2d 104, 126, 321 Ill. Dec. 724, 890 N.E.2d 446, 234 Ed. Law Rep.207 (2008).
51. As a direct result of the trespass and/or conversion of the chattel Taro by Defendants, Taro suffered permanent injuries, including but not limited to unjustifiable and unnecessary extreme pain and suffering.
52. These acts constitute a trespass to plaintiffs’ chattel and conversion, and said conduct was knowing, intentional, willful, wanton, reckless, and a malicious disregard of Plaintiffs’ rights evincing an entire want of care or great indifference to the property of Plaintiffs.
53. As a direct result of the trespass and/or conversion of the chattel Taro by Defendants, Plaintiffs suffered additional veterinary expenses and pain and suffering at the suffering of Taro, their 8 year companion. In addition, Taro’s special, intrinsic, sentimental, peculiar value to the Plaintiffs as well as the quality of her companionship

was destroyed, and plaintiffs demand judgment for compensatory damages incurred for the treatment of Taro in the sum of \$10,000.00; plus \$10,000.00 for the time and lost wages suffered by William Watkins a result thereof, for which they are entitled to recover the reasonable value of their time and efforts in providing such services; plus \$25,000.00 for the conscious pain and suffering suffered by the Taro, along with the sum of \$5,000.00 representing the fair and reasonable value of the dog plus exemplary damages of \$250,000.00.

AS AND FOR A FOURTH CAUSE OF ACTION:
VICARIOUS LIABILITY BY DEFENDANT “PAH”
FOR CONDUCT OF ITS EMPLOYEES

54. Plaintiffs repeat, restate and reallege each of the allegations contained in paragraphs numbered “1” through “54” of the complaint as if set forth at length herein in full.
55. Defendant Armfield in her treatment of Taro was, at all times material hereto, employees of “PAH” and were acting in the course and scope of her employment.
56. Defendant “PAH” is vicariously liable for the acts of “PAH” employees in the course and scope of their employment.
57. As a direct result of the actions of Defendant Armfield , employees of “PAH” acting within the scope of their employment, as previously alleged above, Plaintiffs suffered additional veterinary expenses and pain and suffering as a result of the unnecessary and unjustifiable pain and suffering of Taro, their 7 year companion. In addition, Taro’s special, intrinsic, sentimental, peculiar value to the Plaintiffs as well as the quality of her companionship was destroyed, and plaintiffs demand judgment for

compensatory damages incurred for the treatment of Taro in the sum of \$10,000.00; plus \$10,000.00 for the time and lost wages suffered by William Watkins as a result thereof, for which they are entitled to recover the reasonable value of their time and efforts in providing services; plus \$25,000.00 for the conscious pain and suffering suffered by the dog, Taro as a result thereof; along with the sum of \$5,000.00 representing the fair and reasonable value of the dog, Taro and for punitive damages in the sum of \$250,000.00

AS AND FOR A FIFTH CAUSE OF ACTION:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

58. Plaintiffs repeat, restate and reallege each of the allegations contained in paragraphs numbered “1” through “57” of the complaint as if set forth at length herein in full.
59. The actions of Defendants as alleged herein constitute a breach of the bailment for hire and said conduct was willful, intentional, wanton, reckless, fraudulent and a malicious disregard of Plaintiffs’ rights evincing an entire want of care or great indifference to the Taro as the dog or property of Plaintiffs. This intentional conduct was undertaken solely for Dr. Armfield’s convenience and to secure a larger veterinary fee. Their disregard of their duty to exercise reasonable care and subsequent abandonment of treatment of Taro while he was incapacitated, solely out of greed and for pecuniary gain was intentional with a malicious intent.
60. Given the peculiar, special and sentimental value of Taro to the Plaintiffs, it was reasonably foreseeable to the Defendants that Plaintiffs would suffer great mental distress, pain and suffering as a result of the intentional, fraudulent and malicious conduct of the Defendants.
61. Defendants were aware that Taro was a conscious, loving and sentient being who experienced pain, physical suffering, emotional joy and emotional suffering in a manner similar to that of humans, and therefore they knew that the pain and suffering which

- they would cause Taro, by their intentional wrongdoing would also cause extreme emotional distress to Plaintiffs as well.
62. As a direct and proximate result of Defendants' malicious breach of the bailment for hire through their intentional misconduct, Plaintiffs suffered emotional distress as they had to helplessly witness the slow and agonizing pain and suffering of their beloved companion Taro, with the knowledge that it was their reliance upon the veterinary care of the Defendants which caused her the agonizing pain and suffering.
 63. Taro also suffered extreme physical and emotional pain and distress and suffering, which was vicariously experienced by the Plaintiffs. Due to their training and education in the veterinary profession, it was reasonably foreseeable to Defendants that Plaintiffs would suffer extreme emotional distress.
 64. The actions of Defendants were extreme and outrageous and beyond the bounds of what should be accepted in a civilized society. Defendants held themselves out as competent veterinary practitioners to the Plaintiffs but violated the "Hippocratic Oath" which maintains as a basic canon the principle "Do no harm".
 65. After breaching the bailment for hire by causing unnecessary and unjustifiable and unjustifiable pain and suffering, Defendants abandoned care of Taro and failed to properly and compassionately respond to the harm that they had caused Taro and the Plaintiffs causing further emotional distress to the Plaintiffs.
 66. Defendants' conduct was a willful, wanton, reckless, malicious disregard of Plaintiffs' rights evincing an entire want of care or great indifference to the property of Plaintiffs.
 67. Defendants' fraudulently inducing plaintiffs to enter as previously alleged herein, constitutes intentional fraud and a breach of the bailment for hire, in that said conduct was a willful, wanton, reckless, malicious disregard of Plaintiffs' rights evincing an entire want of care or great indifference to the property of Plaintiffs.

68. As a direct result of Defendants' breach of the bailment for hire through their intentional acts and/or acts constituting a willful, wanton, reckless, malicious disregard of Plaintiffs' rights evincing an entire want of care or great indifference to the property of Plaintiffs as previously alleged herein, Taro suffered extreme pain and suffering,
69. As a direct result of the actions of defendants in intentionally causing plaintiffs to suffer extreme emotional distress, as previously alleged above, Plaintiffs suffered additional veterinary expenses and pain and suffering as a result of the unnecessary and unjustifiable pain and suffering of Taro, their **eight** year companion. In addition, Taro's special, intrinsic, sentimental, peculiar value to the Plaintiffs as well as the quality of her companionship was destroyed, and plaintiffs demand judgment for \$10,000.00 for the time and lost wages suffered by William Watkins as a result thereof, for which they are entitled to recover the reasonable value of their time and efforts in providing services; plus \$250,000.00 for the extreme and intense emotional pain and suffering suffered by the plaintiffs as a result thereof; and for punitive damages in the sum of \$250,000.00

WHEREFORE, Plaintiffs demand judgment against the defendants in the amounts as set forth above for each cause of action set forth, all with interest from _____; and the costs and disbursements of this action. .

Dated: Huntington Station, NY
November , 2020

Richard Bruce Rosenthal, Esq.
Attorneys for Plaintiffs
545 E. Jericho Turnpike
Huntington Station, NY 11746
(631) 629-8111

Verification

State of New York :

County of Suffolk ss.:
:

William Watkins, being duly sworn, deposes and says:

I have read and know the contents of the foregoing amended complaint. The same is true to my knowledge, except as to those matters therein stated to be alleged upon information and belief and as to those matters, I believe them to be true.

William Watkins

Sworn to before me on this
___ day of November, 2020

Notary Public

Rich- Where applicable, I changed or inserted in red, correct dates and gender
Paragraph 17

For a full understanding, yes correct, Armfield did not examine taro prior to her exam however Armfield did see Taro on

6/12/2020

7 /3/2020

7/21/2020

7/30/2020 and finally on

8/20/2020

Note 1- 6/12/2020- First office visit

Allergy screen test, Blood work, Cytoint Injection, Claro ear Medication, Prescribed Gabapentin, Hexole ear wash, KetoHex spray for her skin, was able to look in her ear WITH NO MEDS, and we were told it was very infected.

7/03/2020- Added Trazodone to her meds. Armfield wanted her more medicated.

Each and EVERY subsequent visit Armfield complained to Marie that she wanted Taro to have ALL the medication she prescribed. On the last visit on 8/20/2020 Marie trusted Armfield and gave her all the medication.

Full chronological list to follow

Paragraph 28- The last visit was 8/20/2020

Paragraph 34 and 46 refer to note 1

Paragraph 35 There was no surgery; she went for a simple look in her ear. Who needs this paralyzing medication for an ear check

Paragraph 46- Possibly leave out the word examination???