

1 Andrew S. Mansfield (SB No. 174556)
Mansfield Law Office, PC
2 45121 Ukiah St.
P.O. Box 2402
3 Mendocino, CA 95460
707-937-0820 / FAX 707-937-0834
4

5 Attorney for Plaintiff Mary Geddry

6 SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO
7 TEN-MILE BRANCH
8

9 MARY GEDDRY,) UNLIMITED
10)
Plaintiff,) Case No.: SCTM CVPO 02 88145
11)
vs.) **DECLARATION OF ROBERT ARBAYO**
12) **IN OPPOSITION TO MOTIONS FOR**
DON IVERSEN, DEE IVERSEN, RON) **SUMMARY JUDGMENT AND**
13) **SUMMARY ADJUDICATION BY DEE**
IVERSEN, MARLENE IVERSEN, JOHN) **IVERSEN, RON IVERSEN, MARLENE**
14) **IVERSEN, JOHN IVERSEN, MARK**
IVERSEN, MARK KALINA and BARBARA) **KALINA AND BARBARA KALINA**
15)
KALINA,) Date: August 28, 2003
16) Time: 10:00 a.m.
Defendants) Dept: Ten-Mile Branch
17)
18) **JURY TRIAL REQUESTED**
19)
_____)

20 I, ROBERT ARBAYO, do hereby declare as follows:

21 1. If called upon to testify, I can competently testify to each and every fact stated
22 herein.

23 2. I was the Director of the Mendocino Coast Human Society, located at 19691
24 Summers Lane in Fort Bragg, California until August 5, 2003. My duties included coordinating
25 the more intensive field investigations related to animal cruelty issues and potentially dangerous

1 and vicious dog attacks. I was hired for this position in November of 2000.

2 3. At the time of the shooting of Ms. Geddry's dog, I held the position of Field
3 Operations Manager in Mendocino County Animal Control. My duties included Officer training
4 and evaluation, animal code regulation, humane/ animal cruelty investigations and case
5 development, rabies control and bite investigations, shelter management.

6 4. My first experiences with animal control and animal behavior came from
7 volunteer work with the SPCA in Butte County. In 1997, I became the Chief Animal
8 Control/Animal Cruelty Investigations Officer, specializing in humane investigations for the
9 SPCA in Butte County in 1997.

10 5. After Butte County, I worked as an Animal Control officer in the County of
11 Placer until 1999. In both Butte and Placer Counties, public scrutiny of crimes against animals,
12 as well as support from groups such as the SPCA increased the public's awareness of animal
13 cruelty and neglect issues so as to prevent those crimes from occurring. In Butte County I was
14 involved in precedent setting cases in terms of animal cruelty law. In preparation for similar such
15 cases, I've attended both basic and advanced courses in Animal Investigation law.

16 6. I began working for the County of Mendocino as the Field Operations Manager
17 for the Department of Animal Control in November of 2000. In August of 2001, I was appointed
18 to the position of both Field Operations Manager as well as Shelter Manager.

19 7. During my short time working for the County of Mendocino, I had personally
20 submitted four or five cases of animal cruelty to the District Attorney's office.

21 8. My initial encounter with District Attorney Norman Vroman occurred when I
22 arrested a gentleman, Mr. Alex Tsarnas, who had refused to cooperate with a lawful order given
23 by an Animal Control officer. In this incident, Animal Control had called on the Mendocino
24 County Sheriff's Department to assist in the arrest and transport of Mr. Tsarnas. The responding
25 deputy [D. Paoli] refused to take Mr. Tsarnas into custody, citing his personal relationship with

1 the Tsarnas family, at which time I reiterated to the deputy that the arrest was being made by
2 Animal Control and that his role would only be to serve as transport to the County Jail. Rather
3 than transporting Mr. Tsarnas to the County Jail for booking, Deputy Paoli delivered Mr. Tsarnas
4 to the County Sheriff's Department, where Mr. Paoli and his direct supervisor contacted Mr.
5 Vroman who then ordered the release of Mr. Tsarnas with the argument that Animal Control did
6 not have the authority to make arrests. Mr. Vroman's assertion was incorrect, as I later informed
7 him. In the California Animal Laws Handbook, Penal Code section 830.9 states that Animal
8 Control officers, though they are not peace officers, do have the authority to utilize peace officer
9 status while on duty. This includes making arrests.

10 9. During my service with Mendocino County Animal Care & Control I worked on a
11 case against a woman named Lydia Dittmeier. It was during the course of the Dittmeier
12 investigation that District Attorney Norm Vroman personally expressed to me his opinion on
13 matters of animal cruelty and neglect.

14 10. We began investigation of Lydia Dittmeier in April of 2001. We had received
15 complaints of neglect and public nuisance from her neighbors. Ms. Dittmeier had at one time
16 upwards of thirty dogs on her one-acre property, as well as dozens of guinea pigs, rabbits, cats,
17 sheep and a donkey. Not only were her animals a nuisance, but many of them were inbred and
18 neglected. , and Ms. Dittmeier would address this problem by drowning her unwanted puppies,
19 or feeding the sick or dead smaller animals to her dogs. After legally seizing Ms. Dittmeier's
20 animals for Animal Cruelty and Neglect under PC 597 Animal Care & Control had four
21 veterinarians to treat these animals for various illnesses and injuries that resulted from the
22 deplorable conditions of their confinement.

23 11. I brought the Dittmeier case to the District Attorney and he rejected it on the basis
24 that there was insufficient evidence to try her for a crime. Mr. Vroman said that his office was
25 only interested in prosecuting for animal cruelty if an animal was "dead, dying, or bleeding."

1 12. Ms.Dittmeier threatened to kill me shortly after the case was rejected by the
2 District Attorney's Office. On the day that threat was made, I Ms. Dittmeier consult with District
3 Attorney Vroman.

4 13. The Dittmeier and Tsarnas cases were not reviewed on their merits by the office
5 of the District Attorney . Likewise, personal connections between law enforcement, the District
6 Attorney and the Iversens, as well as District Attorney Norm Vroman's antipathy toward Animal
7 Control, ensured that Mary Geddry would not receive fair treatment.

8 14. My involvement with the events that lead up to the shooting of Mary Geddry's
9 dog began in January of 2002. At that time, I overheard Susan Bottom, the lead officer at
10 Animal Control, talking with Beth Iversen about an animal dispute between Ron and Marlene
11 Iversen and Ms. Geddry. The Iversens were upset that their dog had allegedly been attacked by
12 Ms. Geddry's dog. Ron and Marlene Iversen allow their son Don Iversen, and his wife, Dee
13 Iversen, to live in a house on Ron and Marlene's property. All four of these Iversens acted like
14 they owned the two Iversen dogs, even though I understand that Ron and Marlene claimed to be
15 the legal owners. The Iversens thought that Ms. Geddry's dog was a danger to the community. I
16 was not yet involved in any further inquiry into the matter. Animal Control issued Ms. Geddry a
17 citation for a leash-law violation as a result of the incident.

18 15. In early May of 2002, Ms. Bottom brought to my attention letters that Animal
19 Control had received from Mark Kalina stating that Ms. Geddry's dog presented a threat to
20 people, especially his family. Mark Kalina is a Deputy District Attorney. He is often the only
21 Deputy District Attorney serving the entire Mendocino coastal region. It is my understanding
22 that Mr. Kalina is politically aligned with Norman Vroman. Mr. Vroman encouraged Mr. Kalina
23 to run and supported his candidacy for Superior Court Judge in the last election .

24 16. Mr. Kalina was renting a house next door to Ms. Geddry's property. Her property
25 was bounded by the Iversens on the east and the Kalinas on the west.

1 17. Mr. Kalina drafted his May 2002 letter with obvious reference to the law
2 concerning dangerous dogs, Mendocino County Code Section 10.08.010.

3 18. Upon full and proper investigation, Ms. Bottom found that while Ms. Geddry's
4 dog may have barked, snarled, or taken an aggressive posture; the dog did not in fact bite
5 anybody, and furthermore, the actions described by Kalina happened on Ms. Geddry's property.
6 I personally delivered this information to the Kalina family.

7 19. Animal Control then began to receive very consistent phone calls from the
8 Iversens that their dog was being beaten up. They claimed that their dog was viciously attacked
9 by Ms. Geddry's dog. Upon full and proper investigation, we found out that the alleged attack
10 occurred on Ms. Geddry's property. Because the Iversen dogs were trespassing on Ms. Geddry's
11 property, the attack, if it did occur, could not be held against Ms. Geddry's dog.

12 20. The most reasonable inference from the immediate escalation in calls from the
13 Iversens about Mary Geddry's dog after Mark Kalina's complaints were rejected is that the
14 Iversens and the Kalinas were communicating about their mutual concerns about Ms. Geddry's
15 dog and their intentions to have the dog taken away or destroyed. This inference is based on the
16 facts that Mark Kalina and his wife are experienced lawyers and made obvious reference to the
17 County's vicious dog regulations in their letter and that the Department of Animal Care &
18 Control received calls from both the Iversens and Kalinas at about the same time, and that the
19 families are neighbors.

20 21. The following Monday, June 3, 2002, the Department of Animal Care & Control
21 received a call from Mr. Vroman. Mr. Vroman, the District Attorney for the County of
22 Mendocino, left a message for the Department "not to worry" about the Geddry matter.
23 According to Greg Foss (the Director of AC&C), who relayed this information to me, Mr.
24 Vroman's exact statement included the phrase, "The Geddry dog matter has been taken care of."
25 At this time I was instructed by Mr. Foss to "look into" the matter. The Department of Animal

1 Care & Control then found out through the law enforcement grapevine that Ms. Geddry's dog
2 had been shot by an "as of yet unidentified" assailant. It was not until after intensive inquiry that
3 the Mendocino County Sheriff's Department released information that they had in fact
4 ascertained who the probable suspect(s) were in this matter.

5 22. I have noted from my work experience that District Attorney Vroman rarely
6 contacts the Department of Animal Care & Control. Mr. Vroman's call to the Department of
7 Animal Care & Control was extremely unusual. Even more unusual was the fact that the call
8 came early Monday morning, at the opening of the business week. The most reasonable
9 inference from this early, aggressive call from District Attorney Vroman was that he had been
10 contacted by the Iversens and/or Kalinas late Saturday or Sunday (June 1st and 2nd) and asked
11 to intervene in the matter to protect them from prosecution.

12 23. Having some idea of the ongoing dispute between the Geddrys, Iversens and
13 Kalinas I immediately suspected that Ms. Geddry's dog had, in fact, been "executed" by the
14 group of neighbors who incorrectly felt that Animal Care & Control had not done enough to
15 control Ms. Geddry's dog. The personal involvement of District Attorney Norman Vroman
16 indicates that Mark Kalina either spoke with his superior prior to the shooting or over the
17 weekend shortly after the shooting occurred.

18 24. During the course of the Animal Care & Control investigation of this matter,
19 which I personally lead, I discovered that Mark Kalina had a conversation with Sheriff's Deputy
20 Sergeant Bushnell on the evening of June 1st shortly after the shooting. In reviewing the
21 Sheriff's report, I noted that this conversation was not recorded. This is not typical law
22 enforcement procedure. In working with the Sheriff's Department, they record all interviews. If
23 , as Mark Kalina declared, he would not discuss, participate in or provide advice concerning a
24 matter such as this shooting, his statements to that effect should have been recorded in the
25 Sheriff's report.

1 25. Mark Kalina works closely with Sergeant Bushnell on a regular basis and they are
2 both based in the small Coastal Justice Center.

3 26. I noted from the Sheriff's report, during my investigation, that Mark Kalina
4 instigated and sought the filing of criminal charges against Mary Geddry for the past conduct of
5 her dog that had just been shot. Contrary to Mark Kalina's current claim that he would have no
6 involvement with the case, he produced the letter concerning Mary Geddry's dog. The claims in
7 that letter had been investigated and deemed unfounded by Animal Care & Control. The
8 Sheriff's report, which I referred to during my investigation, indicates that Sergeant Bushnell
9 accepted that letter, and in a cynical reversal of facts used it to suggest to the District Attorney's
10 Office that Mary Geddry be charged with a crime.

11 27. The most reasonable inference from these facts is that Mark Kalina provided
12 advice, direction and suggestions concerning the Mary Geddry dog shooting case, even though
13 he later admitted that he had a conflict of interest. Such advice, direction and suggestion
14 constitutes interference with an investigation by a prosecutor and occurred on June 1, 2002, and
15 June 3, 2002.

16 28. The most reasonable inference from District Attorney Norm Vroman's early
17 morning call on the Monday following the weekend shooting is that Mark Kalina discussed the
18 shooting with Mr. Vroman and provided advice, direction and suggestions concerning the
19 investigation and prosecution (or lack thereof). Mr. Vroman's subsequent phone call and
20 intended forcefulness and lack of ambiguity in his instruction to Animal Care & Control was
21 unusual.

22 29. Within a few days, I spoke with Donald Miller, the coastal regional Lieutenant for
23 the County Sheriff's department. He told me that the Geddry matter was open and shut, a "clean
24 case," because Don Iversen had killed Ms. Geddry's dog in self-defense. I stated that this
25 determination could not be made based on the limited investigation I was told had occurred.

1 30. During Animal Control’s investigation of the shooting, it was determined, based
2 in part on the Sheriff’s report, that there was no basis for Don Iversen’s claim of self-defense.
3 The case was anything but "clean." All the evidence indicated that Don Iversen shot the dog on
4 the dog owner’s property from the (public) roadway, and also that he probably shot the dog in
5 the back with a second shot as it tried to crawl to safety. The Sheriff and the District Attorney
6 had these facts from the same Sheriff’s report I was working with.

7 31. The most reasonable inference from Mr. Vroman’s conduct and the cooperation in
8 what was obviously an abuse of power and deliberate misrepresentation of the facts by the
9 Sheriff’s Department personnel was that Norm Vroman was complicit in his support of Mark
10 Kalina and the Iversen family's attempt to cover up the shooting.

11 32. In the second week of June I was informed by Lt. Don Miller that the Sheriff
12 Department's investigation into the Iversen-Geddry dog shooting incident was closed.

13 33. In the middle of June, Animal Control Officer (ACO) Bottom and I went to Ms.
14 Geddry’s property to have a look at the location of the property. Because the case had been
15 dropped, Ms. Geddry had written to Animal Control asking Animal Control to investigate. Ms.
16 Geddry showed us where the dog had been shot, and where she was standing when it happened.

17 34. During this on-site investigation, I realized the “official” conclusions arrived at by
18 the District Attorney and Sheriff's Department were incorrect. The shooting of Ms. Geddry’s
19 dog was planned carefully. It was not an act of self-defense. This was patent in that the dog had
20 been shot twice with "00" buckshot in the back by an assailant who had laid in waiting to
21 ambush the dog from a vehicle.

22 35. Upon review, the photographs and the Sheriff’s report clearly indicate that the
23 shooting occurred from the roadway of Little Lake Road and not on the Iversens’ property.

24 36. On that same day I inspected the scene of the shooting, ACO Bottom and I went
25 to the Iversens’ home to speak with them. After some discussion with Mr. Ron Iversen about

1 where Donald, the shooter, was, Marlene and Dee Iversen made it clear that they were not going
2 to cooperate with Animal Care & Control's investigation. Marlene Iversen put me on the
3 telephone with the family's attorney , Greg Petersen. Mr. Petersen stated, "The District Attorney
4 informed me that his office dropped this case. Why are you investigating it again?"

5 37. After explaining to Mr. Petersen the reason for Animal Care & Control's
6 involvement in the matter, he further indicated that his clients were not going to provide me with
7 any statements. He did agree to let my office impound the weapon used to kill the Geddry dog.

8 38. Even after the phone call with Mr. Petersen was concluded, the Iversen females
9 were extremely difficult, combative and confrontational. It was clear from their words that they
10 were afraid that ACO Bottom and I were there to arrest Don Iversen. I told them that probable
11 cause existed to take Donald into custody and that he should have been arrested on the day of the
12 shooting, but that arresting Don or John was not my intention.

13 39. Dee and Marlene Iversen were extremely agitated, angry and vitriolic. They
14 insulted ACO Bottom for her alleged incompetence in dealing with the matter and then criticized
15 the Department of Animal Care & Control for failing to prevent the death of their own dog.

16 40. The next day I received a phone call from District Attorney Norman Vroman. He
17 told me to stop my investigation. He said, "I just wanted to call you and let you know that my
18 office is conducting an investigation into this matter, and because the County Sheriff initiated the
19 primary complaint, you are out of the loop, buddy." I told Mr. Vroman that this case was a crime
20 against an animal, which falls within my jurisdiction to investigate. I told him that if he had a
21 problem with my investigation and subsequent complaint, he could take it up with my
22 supervisor, Greg Foss.

23 41. The speed and ferocity of Mr. Vroman's intervention into my investigation
24 indicates that Mark Kalina communicated with his supervisor, Mr. Vroman, and asked for
25 protection by having the Animal Care & Control investigation called off.

1 42. A few days later, I received a memo from Greg Foss telling me that I was
2 officially off the Geddry case. I went into Mr. Foss' office to find out why I was being pulled off
3 the investigation. Mr. Foss said it was because the District Attorney was taking over the case and
4 that he did not have the political clout to "go to the mat" with the DA's office over a "dog
5 shooting". He also demanded a detailed memo telling him exactly what I said to the District
6 Attorney's office.

7 43. I told Mr. Foss what I believe to this day. The handling of the Geddry matter was
8 corrupt from the outset. The corruption exhibited between the Iversens, the Kalinas and the
9 District Attorney in the matter indicates that the law was not being applied equally in Mendocino
10 County. Personal interests and the "good-ole-boy" system were being served. I told Mr. Foss
11 that Animal Care & Control should not be bullied by Mr. Vroman just because he wanted to
12 protect a subordinate or a constituent. It was clear to me that Mr. Foss feared Mr. Vroman and
13 would do only what was best for his own interests by avoiding a confrontation with the DA's
14 Office. It was at this time that I began to consider resigning my position.

15 44. The conclusions reached by the Sheriff's Department are fallacious. For example,
16 Deputy Bushnell drew conclusions and took actions in favor of Don Iversen before he consulted
17 with his subordinate deputy assigned to interview Ms. Geddry, and continued to refuse to see any
18 wrong-doing on Don and John Iversen's part despite the evidence and facts revealed in Deputy
19 Riboli's (subordinate) report, which clearly indicate that a crime had been committed by Don
20 Iversen.

21 45. The coordination of the May 2002 letter from the Kalinas and the increased phone
22 calls and complaints, both about Mary Geddry's dog, from two neighbors on either side of her
23 property, indicate to me that Mark Kalina, Barbara Kalina, Don Iversen, Dee Iversen, Ron
24 Iversen and Marlene Iversen discussed individually and/or collectively having Animal Care &
25 Control kill or remove Mary Geddry's dog prior to the shooting. When that effort failed, the

1 only inference from the facts is that there was some collusion between these individuals who
2 then planned the shooting of Mary Geddry's dog.

3 46. I issued a complaint to the District Attorney regarding the Geddry shooting on
4 June 20, 2002. In that complaint, the Department of Animal Care & Control concluded, based
5 on the evidence, that Don Iversen and John Iversen (Don's brother) shot Ms. Geddry's dog from
6 a public roadway while her dog was on Ms. Geddry's property. Animal Care & Control
7 recommended that the District Attorney prosecuted based on violations of Penal Code Sections
8 597(a)-Animal Cruelty and 374(c)-Discharging a firearm from a Public Roadway.

9 47. Based on the evidence, I have concluded that the shooting was premeditated and
10 was not done in self-defense. Ms. Geddry's account of the "stalking" Iversen vehicles and the
11 actual drive-by-style shooting of her animal coupled with the physical evidence at the shooting
12 locations indicate this was probably the case.

13 48. Ron and Marlene Iversen owned the two dogs in question, including the one
14 allegedly killed by Ms. Geddry's dog. Marlene Iversen was extremely combative and not
15 forthcoming during my investigation. She was evasive. The Iversens wanted Mary Geddry's
16 dog taken care of and felt that it was a threat to the neighborhood. In addition, Ron and Marlene
17 Iversen felt that Animal Care & Control failed in its duty.

18 49. The planning and preparation of the shooting indicates that several individuals
19 were involved.

20 50. Ron, Marlene, Don and Dee Iversen all attempted to have Animal Care & Control
21 take and/or destroy Mary Geddry's dog several times prior to the shooting.

22 51. After the shooting, Mark Kalina's personal involvement becomes clear and
23 egregious. Mr. Kalina influenced Mr. Vroman to put an end to the investigation on numerous
24 occasions. Mr. Kalina attempted to influence the Sheriff's Department. Mr. Kalina used his
25 position as Deputy District Attorney to influence, thwart and limit the investigation.

1 52. These conclusions are not speculation. First, I have carefully reviewed the facts
2 in this matter. I reviewed the investigation and report of the Sheriff's Department. I then
3 conducted a complete investigation through Animal Care & Control. Based on the facts, I have
4 presented the most reasonable inferences that any fact finder can draw from those facts. In some
5 cases, this is the only conclusion that can be drawn from the facts.

6 53. My professional expertise is in the field of animal control and the humane
7 treatment of animals. As identified above, I have special knowledge, skill, experience, training
8 and education as an Animal Control and Humane Officer. Ms. Geddry has informed me that I
9 will be called as an expert witness to so testify at trial.

10 54. Based on the interaction between Animal Care & Control and the Iversens leading
11 up the shooting, as well as the actions of Mark and Barbara Kalina (both before and after the
12 shooting), as well as the physical evidence of the shooting's layout, the wounds on the animal,
13 the dead deer at the scene of the shooting, and the cooperation and attitude of witnesses
14 following the shooting, it is my professional expert opinion that Dee Iversen, Don Iversen, Ron
15 Iversen, Marlene Iversen, John Iversen (the driver), Mark Kalina and Barbara Kalina participated
16 in, discussed, endorsed and covered-up the premeditated shooting of Mary Geddry's dog by Don
17 and John Iversen..

18 55. Attached hereto as Exhibit A is a true and correct copy of the Sheriff's report on
19 this matter. This was provided to me from the Sheriff's Department so that I could further
20 investigate the matter.

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1 56. Attached hereto as Exhibit B is a true and correct copy of the Animal Care &
2 Control report recommending criminal charges against Don and John Iversen.

3
4 Executed this ___ day of August, 2003 in _____, California, under penalty of perjury.

5
6 _____
7 Robert Arbayo