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7  
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9 and Jose Alvarado  
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11  
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF LOS ANGELES**  
14

15 ARGELIA ALVARADO, an individual, and

16 JOSE ALVARADO, an individual,

17 Plaintiffs,

18 v.

19 CITY OF LOS ANGELES, and

20 DOES 1 through 10,

21 Defendants.  
22

Case No. 21STCV27837

**COMPLAINT FOR DAMAGES**

- 1. Negligence Per Se based on Public Animal Shelter's Violation of Mandatory Statutory Duty to Disclose Dog's Known Bite History and Circumstances Related to the Bite;
- 2. Negligent Failure to Warn Adopter of Dog's Known Bite History and Circumstances Related to the Bite;
- 3. Negligent Failure of to Evaluate Whether Dog With History of Unjustified Biting of a Person Was Adoptable;
- 4. Loss of Consortium of Spouse.

Unlimited Case.

23  
24 COME NOW Plaintiffs Argelia Alvarado and Jose Alvarado, by their attorney of  
25 record Kenneth M. Phillips, and for their Complaint against Defendant City of Los Angeles  
26 and Does 1 through 10 allege the following.

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1 **FIRST CAUSE OF ACTION:**

2 **NEGLIGENCE PER SE BASED ON PUBLIC ANIMAL SHELTER'S**  
3 **VIOLATION OF MANDATORY STATUTORY DUTY TO DISCLOSE DOG'S**  
4 **KNOWN BITE HISTORY AND CIRCUMSTANCES RELATED TO THE BITE**  
5 **(Plaintiff Argelia Alvarado against Defendant City of Los Angeles)**  
6

7 1. Plaintiff Argelia Alvarado ("Argelia") is an adult individual with legal capacity  
8 to bring this action.

9 2. Plaintiff Jose Alvarado ("Jose") is an adult individual with legal capacity to  
10 bring this action.

11 3. Defendant City of Los Angeles ("City") is a "public entity" as such term is  
12 defined in Government Code section 811.2.

13 4. On information and belief, Does 1 through 10 are individuals whose names  
14 are unknown to Plaintiffs, but who are liable for the damages prayed for herein as a result  
15 of the facts alleged. Each such defendant performed the acts attributed to one or more of  
16 the other defendants, and each alleged fact involved each such defendant.

17 5. Defendant City by its animal control department known as Los Angeles  
18 Animal Services maintains, owns and operates East Valley Shelter, which shall be referred  
19 to herein as the Shelter. At all times relevant hereto, the Shelter was an "animal shelter"  
20 as defined in California Food & Agricultural Code section 30526.

21 6. A male pit bull dog which was approximately three years of age was brought  
22 to the Shelter on May 25, 2020 after it attacked a jogger, biting both of his arms. The attack  
23 was unprovoked, the dog acted in an aggressive and vicious manner, and the injuries it  
24 inflicted were severe. The owner of the pit bull was unknown. The name of the victim in that  
25 incident also is unknown to Plaintiffs at this time and therefore he shall be referred to  
26 herein as "the Jogger."

27 7. The dog was put into rabies quarantine on May 25, 2020, given the name  
28 "O'Gee," and details about the attack on the Jogger were entered into the Shelter's

1 records, including the circumstances related to the bite, the nature and extent of the  
2 injuries that O’Gee inflicted on the Jogger, and the absence of legal justification for the  
3 attack.

4 8. On June 13, 2020, a supervisor at the Shelter approved putting O’Gee in the  
5 main kennels. The Shelter supervisor who did this was an employee of Defendant City who  
6 was acting in the course and scope of his employment. This person's name is unknown to  
7 Plaintiffs, so this Shelter supervisor will be referred to herein as "Supervisor 1."

8 9. On June 14, 2020, a different Shelter supervisor approved adopting-out  
9 O’Gee to “regular adopters” meaning the public. He was an employee of Defendant City  
10 who was acting in the course and scope of his employment. The first name of this  
11 supervisor was "Shawn" but his last name is unknown to Plaintiffs, for which reason he will  
12 be referred to herein as "Supervisor 2."

13 10. Defendant City publicized the availability of O’Gee for adoption by the public  
14 by posting on the Internet the dog's photograph and description with no mention of the  
15 attack on the Jogger, the circumstances related to the bite, the nature and extent of the  
16 injuries that O’Gee inflicted on the Jogger, or the absence of legal justification for the  
17 attack.

18 11. Brent Alvarado ("Brent"), a son of the Plaintiffs, saw the photograph and  
19 publicity about O’Gee on the Internet and contacted the Shelter by telephone about O’Gee,  
20 about which he had no other information.

21 12. On or about Saturday, June 20, 2020, Brent adopted O’Gee, accompanied  
22 by his 14-year-old daughter. Nobody informed him about the circumstances of O’Gee's  
23 attack on the Jogger, the nature and extent of the injuries that O’Gee inflicted on him, or  
24 the absence of legal justification for the attack. Brent would not have adopted O’Gee had  
25 he been warned of those things.

26 13. On Saturday, September 26, 2020, 99 days after Brent took possession of  
27 O’Gee, it brutally attacked his mother, Plaintiff Argelia, at their home, 6610 Rubio Avenue,  
28

1 Van Nuys, California 91406. On that date she was 70 years of age, having been born on  
2 February 10, 1950. There was neither warning of nor provocation for the attack.

3 14. The attack lasted at least 20 minutes and was a savage mauling in which  
4 both of Plaintiff Argelia's arms were brutally shredded, with her right arm broken into pieces  
5 and almost entirely severed above her elbow.

6 15. An animal control officer employed by Defendant City captured O'Gee after  
7 the mauling and brought it back to the Shelter.

8 16. The Shelter did not return O'Gee to Brent but euthanized the dog the same  
9 day.

10 17. Plaintiff Argelia's right arm was amputated because of this pit bull attack, and  
11 her left arm was severely injured, resulting in permanent disability of the left arm and the  
12 whole body. She also sustained numerous additional injuries in the attack.

13 18. As a sole proximate result of the facts alleged herein, Plaintiff Argelia  
14 sustained grave, permanent bodily injuries to her nervous system and person, and has  
15 suffered, and will continue to suffer, substantial general damages. The amount of said  
16 damages is subject to proof at trial.

17 19. As a further, sole proximate result of the facts alleged herein, Plaintiff Argelia  
18 will require the services of doctors, physical therapists and other professionals, and  
19 different prosthetics to substitute for her right arm. For these services and prosthetics, and  
20 similar things she will need in the future, she has incurred, and will continue to incur in the  
21 future, substantial medical treatment costs and other costs, losses and expenses related  
22 to her injuries, disability, care and quality of life. The full amount of all such damages is not  
23 known at this time and therefore is subject to proof at trial.

24 20. Defendant City was given notice of this claim on January 29, 2021, and gave  
25 it Claim Number C21-02963.

26 21. Before selling, giving away, or otherwise releasing O'Gee to Brent, Defendant  
27 City and its employees ("employees of the Shelter") knew that O'Gee, at the age of four  
28

1 months or older, had bitten a person and broke that person's skin, thus requiring a state-  
2 mandated bite quarantine.

3 22. At all times relevant hereto, California Food & Agricultural Code section  
4 30526 subsection (b) provided:

5 If an animal shelter or rescue group knows, to the best of the  
6 knowledge of the shelter or rescue group, that a dog, at the age of four  
7 months or older, bit a person and broke that person's skin, thus requiring a  
8 state-mandated bite quarantine, the animal shelter or rescue group shall,  
9 before selling, giving away, or otherwise releasing the dog, do both of the  
10 following:

11 (1) Disclose in writing to the person to whom the dog is sold, given  
12 away, or transferred, the dog's known bite history and the circumstances  
13 related to the bite.

14 (2) Obtain a signed acknowledgment from the person to whom the  
15 dog is sold, given away, or transferred that the person has been provided  
16 information about the dog as required by this section. The animal shelter or  
17 rescue group shall provide the person with a copy of the signed  
18 acknowledgment and retain the original copy in its files.

19  
20 23. Before selling, giving away, or otherwise releasing O'Gee to Brent, Defendant  
21 City did not do either of the things set forth in section 30526 subsection (b), to wit:

22 (1) Defendant City and its employees did not disclose in writing to Brent  
23 O'Gee's known bite history and the circumstances related to the bite inflicted on the  
24 Jogger.

25 (2) Defendant City and its employees did not obtain a signed  
26 acknowledgment from Brent that he was provided information about O'Gee as required by  
27 section 30526 subsection (b), and *a priori* did not provide Brent with a copy of the signed  
28 acknowledgment or retain the original copy in its files.

1           24. By reason of the facts alleged herein, Defendant City violated California Food  
2 & Agricultural Code section 30526.

3           25. California Food & Agricultural Code section 30526 was designed to prevent  
4 the very harm that Plaintiff Argelia sustained.

5           26. Plaintiff Argelia was a member of the class of persons that the law alleged  
6 herein was intended to protect. It was foreseeable that adopting-out a dog having a known  
7 bite history to one member of a family without providing the information set forth in  
8 California Food & Agricultural Code section 30526 subsection (b) would pose a risk of  
9 bodily injuries to not just the adopter but also other members of the family residing with the  
10 adopter.

11           27. The violation alleged herein was the sole proximate cause of Plaintiff  
12 Argelia's injuries, losses and damages as alleged in this Complaint.

13           28. In committing the acts and omissions alleged in this Cause of Action,  
14 Defendant City and its employees did not do what might reasonably be expected of a  
15 governmental entity or person of ordinary prudence, acting under similar circumstances,  
16 who desired to comply with the law.

17           29. California Food & Agricultural Code section 30526 created a mandatory duty  
18 on the part of Defendant City which it failed to discharge, making Defendant City liable for  
19 Plaintiff Argelia's injuries pursuant to Government Code section 815.6.  
20

21   **SECOND CAUSE OF ACTION:**

22                   **NEGLIGENT FAILURE TO WARN ADOPTER OF DOG'S KNOWN BITE HISTORY**

23                                   **AND CIRCUMSTANCES RELATED TO THE BITE**

24                   **(Plaintiff Argelia Alvarado against Defendant City and DOES 1 through 10)**

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26           30. Plaintiff Argelia incorporates and repleads the allegations set forth in  
27 paragraphs 1 through and including 23 hereof.  
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1           31.    The decision to authorize employees of the Shelter to adopt-out O'Gee to the  
2 public was made by Supervisor 2 as alleged in paragraph 9 of this Complaint. For the  
3 purpose of only this Cause of Action, Plaintiff alleges *arguendo* that this decision was  
4 reached by weighing the risks and benefits of such adoption, and thus was a discretionary  
5 act for which Shelter supervisors are immune from liability pursuant to Government Code  
6 section 820.2.

7           32.    After Supervisor 2 authorized employees of the Shelter to adopt-out O'Gee  
8 to the public, they carried out a series of routine steps in the adoption process such as  
9 adding the dog's photograph and description to the Shelter website, arranging for O'Gee  
10 to be microchipped and vaccinated against rabies, scheduling one or more appointments  
11 for members of the public to meet O'Gee, filling out paperwork, making entries in Shelter  
12 records, and collecting the adoption fee. The steps in the adoption process of O'Gee were  
13 ministerial not discretionary.

14          33.    Employees of Defendant City who carried out the adoption process of O'Gee,  
15 including but not limited to those Shelter employees who interacted with Brent during the  
16 steps of the adoption process, knew or should have known the circumstances of the bite  
17 the Jogger sustained from O'Gee, the nature and extent of the injuries that O'Gee inflicted  
18 on him, and the absence of legal justification for the attack.

19          34.    Employees of Defendant City who carried out the adoption process of O'Gee,  
20 including but not limited to those Shelter employees who interacted with Brent during the  
21 steps of the adoption process, had a duty to warn him about O'Gee, specifically to inform  
22 Brent about the circumstances of the bite the Jogger sustained, the nature and extent of  
23 the injuries that O'Gee inflicted on him, and the absence of legal justification for the attack.

24          35.    It was of critical importance to inform Brent about the circumstances of the  
25 bite the Jogger sustained, the nature and extent of the injuries that O'Gee inflicted on him,  
26 and the absence of legal justification for the attack, because such information is essential  
27 for the proper, safe placement of a dog in a new home, and for the protection of the  
28 adopter, members of the adopter's family, people who reside in and near the adopter's

1 home, and people in the community where the dog will live, all of whom will come into  
2 contact with the dog, which might therefore need to be muzzled around people, prevented  
3 from interacting with certain people such as small children, or securely confined in a  
4 special manner.

5 36. Defendant City and its employees breached the duty alleged herein by not  
6 informing Brent about the circumstances of the bite the Jogger sustained, the nature and  
7 extent of the injuries that O'Gee inflicted on him, and the absence of legal justification for  
8 the attack.

9 37. Brent did not know, and had no way of learning, about the circumstances of  
10 the bite the Jogger sustained, the nature and extent of the injuries that O'Gee inflicted on  
11 him, or the absence of legal justification for the attack.

12 38. Had Brent, prior to or during the adoption process, learned about the  
13 circumstances of the bite the Jogger sustained, the nature and extent of the injuries that  
14 O'Gee inflicted on him, and the absence of legal justification for the attack, Brent would not  
15 have adopted O'Gee.

16 39. Brent agreed to adopt O'Gee based on the following factors: (1) the dog was  
17 offered to the public by the Shelter which was a governmental agency whose duties include  
18 ridding the jurisdiction of vicious dogs and placing "adoptable" dogs in suitable new  
19 households, (2) the advertised description of O'Gee did not state or imply that the dog had  
20 bit a person, (3) the verbal comments about the dog which employees of the Shelter made  
21 to Brent gave him the impression that O'Gee was a safe, friendly companion dog without  
22 a history of vicious attacks on people, (4) Brent felt pressure to take O'Gee because the  
23 Shelter emasculated the dog after just one or two phone calls with Brent, before he saw  
24 the dog, and (5) when he saw O'Gee for the first and only time at the Shelter, Brent was  
25 with his 14-year-old daughter and assumed that if O'Gee was inappropriate in a family  
26 setting the Shelter employees would tell him so.

27 40. The acts and omissions of the Shelter employees during the adoption  
28 process of O'Gee induced a false sense of security on Brent's part which would not have



1 existed had Shelter employees warned him about the circumstances of the bite the Jogger  
2 sustained, the nature and extent of the injuries that O’Gee inflicted on him, and the  
3 absence of legal justification for the attack.

4 41. The acts and omissions of the Shelter employees during the adoption  
5 process of O’Gee occurred in the course and scope of their employment.

6 42. The decision as to what warning to give Brent about O’Gee did not constitute  
7 the type of basic policy decision that Government Code section 820.2 insulates from  
8 liability. After the decision to adopt-out O’Gee to the public, the determination as to whether  
9 to warn the adopter, Brent, of the latent danger facing him and his family presents no  
10 reason for immunity, and to the extent that the Shelter employees consciously considered  
11 pros and cons in deciding what information, if any, to give Brent, such determination was  
12 made at the lowest, ministerial rung of official action.

13 43. By reason of the ministerial acts and omissions of the Shelter employees  
14 alleged in this Cause of Action, O’Gee was accepted into and made a resident of the home  
15 which Brent shared with Plaintiff Argelia and Plaintiff Jose and other members of the  
16 Alvarado family, none of whom were aware of the circumstances of the bite the Jogger  
17 sustained from O’Gee, the nature and extent of the injuries that O’Gee inflicted on him, and  
18 the absence of legal justification for the attack.

19 44. The ministerial acts and omissions of the Shelter employees alleged in this  
20 Cause of Action were the sole proximate cause of Plaintiff Argelia's injuries, losses and  
21 damages as alleged in this Complaint.

22 45. Defendant City is liable to Plaintiff Argelia for her injuries, losses and  
23 damages pursuant to Government Code section 815.2(a) by reason of the facts alleged  
24 in this Cause of Action.

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1 **THIRD CAUSE OF ACTION:**  
2 **NEGLIGENT FAILURE TO EVALUATE WHETHER DOG WITH HISTORY OF**  
3 **UNJUSTIFIED BITING OF A PERSON WAS ADOPTABLE**  
4 **(Plaintiff Argelia Alvarado against Defendant City of Los Angeles and Does 1 - 10)**

5  
6 46. Plaintiff Argelia incorporates and repleads the allegations set forth in  
7 paragraphs 1 through and including 21 hereof.

8 47. Supervisor 2 and any other employee of Defendant City who was involved  
9 in authorizing the adopting-out of O'Gee knew or should have known that O'Gee attacked  
10 and inflicted severe injuries on the Jogger in an aggressive manner without warning,  
11 provocation or legal justification.

12 48. Supervisor 2 and any other employee of Defendant City who was involved  
13 in authorizing the adopting-out of O'Gee knew or should have known that, by virtue of  
14 having attacked and inflicted severe injuries on the Jogger in an aggressive manner without  
15 warning, provocation or legal justification, O'Gee manifested a clear sign of a behavioral  
16 or temperamental defect that could pose a health or safety risk or otherwise make the  
17 animal unsuitable for placement as a pet.

18 49. Supervisor 2 and any other employee of Defendant City who was involved  
19 in authorizing the adopting-out of O'Gee knew or should have known that, by virtue of  
20 having attacked and inflicted severe injuries on the Jogger in an aggressive manner without  
21 warning, provocation or legal justification, O'Gee was a "vicious dog" as that term was  
22 defined in Food and Agricultural Code section 31603, to wit: "'Vicious dog' means ... [a]ny  
23 dog that, when unprovoked, in an aggressive manner, inflicts severe injury on ... a human  
24 being."

25 50. By reason of the foregoing, Supervisor 2 and each other Shelter supervisor  
26 who was involved in authorizing the adopting-out of O'Gee had a duty to make an  
27 evaluation, to wit, to consciously exercise discretion by balancing the risks and advantages  
28 of adopting-out O'Gee to an ordinary member of the public as opposed to other available

1 options, such as euthanizing O'Gee or adopting-out O'Gee to a nonprofit rescue  
2 organization which could humanely and safely house a potentially dangerous or vicious  
3 dog.

4 51. Supervisor 2 and any other employee of Defendant City who was involved  
5 in authorizing the adopting-out of O'Gee breached their duty alleged herein by failing to  
6 make an evaluation to determine whether O'Gee was adoptable to an ordinary member of  
7 the public as opposed to other available options, such as euthanizing O'Gee or  
8 adopting-out O'Gee to a nonprofit rescue organization which could humanely and safely  
9 house a potentially dangerous or vicious dog. Said Shelter supervisors did not abuse their  
10 discretion but failed to exercise it.

11 52. The failure to make the evaluation described herein was negligent.

12 53. The failure to make the evaluation described herein was an extreme  
13 departure from what a reasonably careful person would do in the same situation to prevent  
14 harm to oneself or others because (a) O'Gee was a pit bull, (b) pit bull type dogs that  
15 become aggressive toward people inflict the most frequent, most severe, most costly and  
16 most deadly injuries on human beings as compared with other types and breeds of dog,  
17 (c) when pit bull type dogs kill a human being, approximately 50% of the decedents are the  
18 pit bull's owner or a member of the owner's family, (d) O'Gee was in the custody of  
19 Defendant City because O'Gee had actually attacked and inflicted severe injuries on the  
20 Jogger in an aggressive manner without warning, provocation or legal justification, and (e)  
21 the records of Defendant City stated clearly that O'Gee had attacked and inflicted severe  
22 injuries on the Jogger in an aggressive manner without warning, provocation or legal  
23 justification.

24 54. By reason of the facts alleged in this Cause of Action, the acts and omissions  
25 of Supervisor 2 and any other employee of Defendant City who was involved in authorizing  
26 the adopting-out of O'Gee constituted gross negligence.

27 55. By reason of the facts alleged in this Cause of Action, the acts and omissions  
28 of Supervisor 2 and any other employee of Defendant City who was involved in authorizing

1 the adopting-out of O'Gee but did not make the required evaluation were not protected by  
2 the "discretionary acts" immunity provisions of Government Code section 820.2 and each  
3 of them is responsible for their own negligence pursuant to Government Code section  
4 820.8.

5 56. Defendant City is liable to Plaintiff Argelia for her injuries, losses and  
6 damages pursuant to Government Code section 815.2(a) by reason of the facts alleged  
7 in this Cause of Action.

8  
9 **FOURTH CAUSE OF ACTION:**

10 **LOSS OF CONSORTIUM OF SPOUSE**

11 **(Plaintiff Jose Alvarado against Defendant City of Los Angeles and Does 1 - 10)**

12  
13 57. Plaintiff Jose incorporates and repleads all of the allegations set forth in this  
14 Complaint.

15 58. Plaintiff Jose is the lawfully married husband of Plaintiff Argelia and has been  
16 married to her and lived with her for many years and has fathered children with her.

17 59. Plaintiff Argelia was tortiously injured and disabled as alleged throughout this  
18 Complaint.

19 60. As a sole proximate result of Plaintiff Argelia's injuries and disabilities, and  
20 continuously from the day thereof, Plaintiff Jose has suffered and will continue to suffer a  
21 loss or impairment of her support, services, love, companionship, comfort, affection,  
22 society, the moral support each spouse gives the other through the triumphs and despairs  
23 of life, and the deprivation of her physical assistance in operating and maintaining the  
24 family home.

25 61. Defendant City was given notice of this claim on January 29, 2021.

26 62. By reason of the facts alleged herein, Defendant City is liable to Plaintiff Jose  
27 for the payment of damages to compensate him for his loss of consortium in an amount  
28 to be proved at trial.

1 WHEREFORE Plaintiffs pray judgment against Defendants as follows:

2 1. For compensatory and general damages according to proof;

3 2. For past and future medical, incidental and service expenses related to  
4 Plaintiff Argelia according to proof;

5 3. For pre-judgment and post-judgment interest on all damages as allowed by  
6 law;

7 4. For costs of suit incurred herein; and,

8 5. For such other and further relief as the Court may deem just and proper.

9  
10 Respectfully submitted,

11 The Law Offices of  
12 Kenneth Morgan Phillips

13  
14 By:



15 **Kenneth M. Phillips**  
16 Attorney for Plaintiffs