

**SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION - THIRD DEPARTMENT**

In the Matter of a Proceeding under Article 70 of the CPLR
for a Writ of Habeas Corpus,

Index No. 518336

THE NONHUMAN RIGHTS PROJECT, INC., on
behalf of TOMMY,
Petitioners-Appellants,

**NOTICE OF MOTION
FOR PRELIMINARY
INJUNCTION**

v.

**ORAL ARGUMENT
IS REQUESTED**

PATRICK C. LAVERY, individually and as an officer of
Circle L Trailer Sales, Inc., DIANE LAVERY, and
CIRCLE L TRAILER SALES, INC.,

Respondents-Respondents.

PLEASE TAKE NOTICE that upon the annexed affidavit of Steven M. Wise, Esq., sworn to on May 29, 2014, the undersigned moves this Court, pursuant to CPLR § 5518 and CPLR § 6301, for an order enjoining and restraining Respondents, their agents, employees, servants and all persons acting on their behalf, from removing Petitioner-Appellant Tommy from the State of New York pending the completion of this appeal or further order of the Court. As set forth in the attached affidavit of Steven M. Wise, Esq., Respondents, Patrick C. Lavery and Diane Lavery, have indicated the desire and have the ability to remove Petitioner-Appellant Tommy from the State of New York. Such transfer could raise a colorable claim of mootness of the pending appeal which could render ineffectual any judgment ultimately obtained by Petitioners-Appellants thereby causing them irreparable harm. Petitioners-Appellants further

request that this Court waive the bond requirement or impose a nominal undertaking in light of the fact that Respondents will in no way be financially harmed from issuance of this Preliminary Injunction and seek such other and further relief as may be just, proper, and equitable, together with the costs of this motion.

PLEASE TAKE FURTHER NOTICE, that the motion is returnable on Monday, June 16, 2014, which is at least 13 days from the date of service of these papers.

Dated: _____

From: _____

Elizabeth Stein, Esq.
Attorney for Petitioners-Appellants
5 Dunhill Road
New Hyde Park, New York 11040
(516) 747-4726

Steven M. Wise, Esq.
Attorney for Petitioners-Appellants
Admitted *pro hac vice*
5195 NW 112th Terrace
Coral Springs, Florida 33076
(954) 648-9864

To: New York State Supreme Court
Appellate Division – Third Department
Clerk’s Office
P.O. Box 7288
Capitol Station
Albany, New York 12224-0288
(518) 471-4777

Arthur Carl Spring, Esq.
Attorney for Respondents
10 South Market Street
Johnstown, New York 12095
(518) 762-4503