

STATE OF NEW YORK  
SUPREME COURT COUNTY OF NIAGARA

PAID

FEB 06 2014

WAYNE F. JAGOW  
NIAGARA COUNTY CLERK

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

THE NONHUMAN RIGHTS PROJECT, INC., on  
behalf of KIKO,

Petitioners-Appellants,

**ORDER TO  
SETTLE RECORD**

Index No.: 151725

-against-

CARMEN PRESTI, individually and as an officer and  
director of The Primate Sanctuary, Inc., CHRISTIE E.  
PRESTI, individually and as an officer and director of  
The Primate Sanctuary, Inc., and THE PRIMATE  
SANCTUARY, INC.,

Respondents-Respondents.  
-----X

THIS MATTER having been presented to the Court by Petitioners-Appellants upon  
motion for an Order pursuant to 22 NYCRR § 1000.4(a)(1)(ii) to settle the contents of the  
complete record on appeal in the above-referenced matter, and having reviewed the  
record attached by Petitioners-Appellants, it is hereby

**ORDERED** that the motion to settle the contents of the complete record on appeal in  
the above-referenced matter is allowed.

Enter:

\_\_\_\_\_  
Honorable Ralph A. Boniello, III  
Justice of the Supreme Court

Dated:



AFFIDAVIT OF SERVICE BY MAIL

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION FOURTH DEPARTMENT

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

The Nonhuman Rights Project, Inc. on behalf of Kiko,  
Petitioners-Appellants,

-against-

Carmen Presti, individually and as an officer and director of  
The Primate Sanctuary, Inc., Christie E. Presti, individually  
and as an officer and director of The Primate Sanctuary, Inc.  
and The Primate Sanctuary, Inc.,  
Respondents-Respondents.

-----X  
STATE OF NEW YORK: COUNTY OF NASSAU

THE UNDERSIGNED BEING DULY SWORN, DEPOSES AND SAYS:

DEPONENT IS NOT A PARTY TO THE ACTION, IS OVER 18 YEARS OF AGE  
AND RESIDES IN LONG BEACH, NEW YORK.

THAT ON THIS 4 DAY OF February, 2014

SERVED 1 COPIES OF THE ATTACHED:

NOTICE OF MOTION TO SETTLE RECORD

ON:

The Primate Sanctuary, Inc.  
2764 Livingston Avenue  
Niagara Falls, New York 14303

Carmen Presti  
2764 Livingston Avenue  
Niagara Falls, New York 14303

Christie E. Presti  
2764 Livingston Avenue  
Niagara Falls, New York 14303

THE ADDRESS DESIGNATED BY SAID ATTORNEY FOR THAT PURPOSE OF  
DEPOSITING A TRUE COPY OF SAME ENCLOSED IN A POSTPAID PROPERLY  
ADDRESSED WRAPPER, IN A POST OFFICE, OR POST OFFICE BOX, OF THE  
UNITED STATES POSTAL SERVICE WITHIN THE STATE OF NEW YORK  
PURSUANT TO CPLR 2103(b)(2)

SWORN TO BEFORE ME THIS:

4 DAY OF February, 2014

Gayle Apple  
GAYLE APPLE

Victoria DeGennaro  
VICTORIA DeGENNARO  
Notary Public, State Of New York  
No. 01DE6087047  
Qualified In Nassau County  
Commission Expires February 10, 20 15

STATE OF NEW YORK  
SUPREME COURT COUNTY OF NIAGARA

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

THE NONHUMAN RIGHTS PROJECT, INC., on  
behalf of KIKO,

Petitioners-Appellants,

-against-

CARMEN PRESTI, individually and as an officer and  
director of The Primate Sanctuary, Inc., CHRISTIE E.  
PRESTI, individually and as an officer and director of  
The Primate Sanctuary, Inc., and THE PRIMATE  
SANCTUARY, INC.,

Respondents-Respondents.  
-----X

NOTICE OF MOTION  
TO SETTLE RECORD

Index No.: 151725

Hon. Ralph A. Boniello, III  
Justice of the Supreme Court

PAID

FEB 06 2014

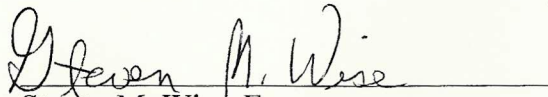
WAYNE F. JAGOW  
NIAGARA COUNTY CLERK

PLEASE TAKE NOTICE, that the Petitioners-Appellants, THE NONHUMAN RIGHTS PROJECT, INC., on behalf of KIKO, hereby move this Court for an Order settling the contents of the complete record on appeal of the above-captioned matter, as the copy of the complete record attached hereto.

PLEASE TAKE FURTHER NOTICE, that the motion is returnable on February 26, 2014, at 11 AM, which is at least 13 days from the date of service of these papers.

Dated: 1/30/2014

From: Elizabeth Stein, Esq.  
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

5195 NW 112<sup>th</sup> Terrace

Coral Springs, Florida 33076

954-648-9864

To: Niagara County Clerk  
Niagara County Courthouse  
175 Hawley Street, 1<sup>st</sup> Floor, Lockport, New York 14095-0461  
716-439-7022

Carmen Presti, individually and as an officer and director of The Primate Sanctuary, Inc.  
2764 Livingston Avenue, Niagara Falls, New York 14303  
716-284-6118

Christie E. Presti, individually and as an officer and director of The Primate Sanctuary, Inc.  
2764 Livingston Avenue, Niagara Falls, New York 14303  
716-284-6118

The Primate Sanctuary, Inc.  
2764 Livingston Avenue, Niagara Falls, New York 14303  
716-284-6118



At a Regular Term of the Supreme Court held in and for the County of Niagara at the Angelo A. DelSignore Civic Building in the City of Niagara Falls, New York on the 9th day of December, 2013.

PRESENT: Hon. Ralph A. Boniello, III, Justice Presiding

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NIAGARA

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

THE NONHUMAN RIGHTS PROJECT, INC.,  
on behalf of KIKO,

Index No. 151725

Petitioners,

ORDER

vs.

CARMEN PRESTI, individually and as an officer  
and director of The Primate Sanctuary, Inc.,  
CHRISTIE E. PRESTI, individually and as an  
officer and director of The Primate Sanctuary, Inc.  
And THE PRIMATE SANCTUARY, INC.

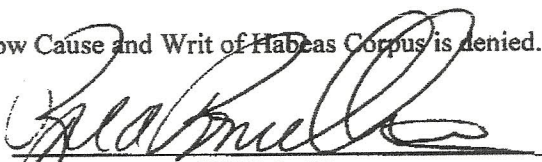
Respondents.

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A request for an Order to Show Cause and Writ of Habeas Corpus having been presented to this Court and hearing Elizabeth Stein, Esq. and Steven M. Wise, Esq., in support of the Petition for the Order to Show Cause and Writ of Habeas Corpus, it is hereby

**ORDERED** that the request for an Order to Show Cause and Writ of Habeas Corpus is denied.

Enter:

  
RALPH A. BONIELLO, III  
Justice of the Supreme Court

**GRANTED**

DEC 10 2013

BY

  
CYNTHIA A. WARREN  
COURT CLERK

STATE OF NEW YORK  
SUPREME COURT COUNTY OF NIAGARA

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

THE NONHUMAN RIGHTS PROJECT,  
INC., on behalf of KIKO,

Petitioners,

v.

CARMEN PRESTI, individually and as an  
officer and director of The Primate Sanctuary,  
Inc., CHRISTIE E. PRESTI, individually and as  
an officer and director of The Primate Sanctuary,  
Inc., and THE PRIMATE SANCTUARY, INC.

Respondents.  
\_\_\_\_\_

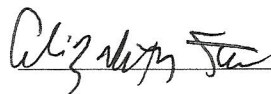
**NOTICE OF APPEAL**

Index No.: 151725

Hon. Ralph A. Boniello, III  
Justice of the Supreme Court

PLEASE TAKE NOTICE that the Petitioners, THE NONHUMAN RIGHTS PROJECT, INC., on behalf of KIKO, hereby appeal to the Appellate Division of the Supreme Court of the State of New York, Fourth Judicial Department, from a Judgment entered in the above entitled action in the office of the Clerk of the County of Niagara on December 11, 2013, denying an application for an Order to Show Cause and Writ of Habeas Corpus, and this appeal is taken from each and every part of that Judgment as well as from the whole Judgment.

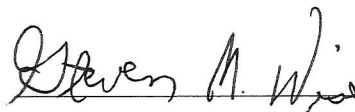
Dated: January 9, 2014



Elizabeth Stein, Esq.

Attorney for Petitioners  
5 Dunhill Road  
New Hyde Park, New York 11040  
516-747-4726

Dated: January 9, 2014

A handwritten signature in cursive script, reading "Steven M. Wise", written over a horizontal line.

Steven M. Wise, Esq.  
Attorney for Petitioners (pro hac  
vice)  
5195 NW 112<sup>th</sup> Terrace  
Coral Springs, Florida 33076  
954-648-9864

TO: Clerk of the County of Niagara  
P.O. Box 461  
Lockport, New York 14095-0461  
716-439-7022

Carmen Presti, individually and as an officer and director of The Primate Sanctuary,  
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**SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION - FOURTH DEPARTMENT**

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

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

**NOTICE OF MOTION  
FOR ADMISSION  
*PRO HAC VICE***

-against-

CARMEN PRESTI, individually and as an officer and  
director of The Primate Sanctuary, Inc., CHRISTIE E.  
PRESTI, individually and as an officer and director of  
The Primate Sanctuary, Inc., and THE PRIMATE  
SANCTUARY, INC.,  
Respondents-Respondents.

-----X  
PLEASE TAKE NOTICE, that upon the annexed affidavit of Steven M. Wise, Esq.,  
dated January 24, 2014, and the papers annexed thereto, the undersigned moves this  
Court to admit Steven M. Wise, Esq. *pro hac vice* to brief and argue the above-referenced  
appeal. Attorney Wise is highly qualified and competent in the matters of this case and  
his assistance is necessary, as set forth in the attached Affidavit. The undersigned is a  
member in good standing of the New York Bar and shall appear with Attorney Wise on  
the appeal and shall be the person upon whom all papers in connection with the cause  
shall be served.

PLEASE TAKE FURTHER NOTICE, that the motion is returnable on Monday,  
March 10, 2014 which is at least 13 days from the date of service of these papers. The  
Respondents are hereby given notice that the motion will be submitted on the papers and  
their personal appearance in opposition is neither required nor permitted.

Dated: February 19, 2014

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

To: New York State Supreme Court  
Appellate Division – Fourth Department  
Clerk's Office  
50 East Avenue, Suite 200, Rochester, New York 14604  
585-530-3115

Carmen Presti, individually and as an officer and director of The Primate Sanctuary, Inc.  
2764 Livingston Avenue, Niagara Falls, New York 14303  
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Christie E. Presti, individually and as an officer and director of The Primate Sanctuary, Inc.  
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The Primate Sanctuary, Inc.  
2764 Livingston Avenue, Niagara Falls, New York 14303  
716-284-6118

SUPREME COURT OF THE STATE OF NEW YORK  
**Appellate Division, Fourth Judicial Department**

DOCKET NO. CA 14-00357

PRESENT: SCUDDER, P. J., SMITH, CENTRA, FAHEY, AND PERADOTTO, JJ.

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IN THE MATTER OF THE NONHUMAN RIGHTS PROJECT, INC., ON  
BEHALF OF KIKO, PETITIONER-APPELLANT,

V

CARMEN PRESTI, INDIVIDUALLY AND AS AN OFFICER AND DIRECTOR  
OF THE PRIMATE SANCTUARY, INC., CHRISTIE E. PRESTI,  
INDIVIDUALLY AND AS AN OFFICER AND DIRECTOR OF THE PRIMATE  
SANCTUARY, INC. AND THE PRIMATE SANCTUARY, INC.,  
RESPONDENTS-RESPONDENTS.

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Appellant having moved for the admission pro hac vice of Steven M. Wise, Esq., for  
purposes of the appeal taken herein from an order of Supreme Court entered in the Office of the  
Clerk of the County of Niagara on December 11, 2013,

Now, upon reading and filing the affidavit of Steven M. Wise, Esq., sworn to January 24,  
2014, and the notice of motion with proof of service thereof, and due deliberation having been  
had thereon,

**It is hereby ORDERED** that the motion is granted, and Steven M. Wise, Esq., is  
admitted pro hac vice for purposes of this appeal.

Entered: March 20, 2014

FRANCES E. CAFARELL, Clerk