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PART 12

At I.A.S Part _____ of the
Supreme Court of the State of
New York, held in and for the
County of New York, at the
Courthouse thereof, 80 Centre
Street, New York, NY, on the
_____ day of _____, 201_

PRESENT: HON. _____
Justice of the Supreme Court

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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 TOMMY,

Petitioner,

-against-

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

Respondents

ORDER TO SHOW CAUSE &
WRIT OF HABEAS CORPUS

Index No.:

162358/2015

DECLINED TO SIGN
REASON

TO THE ABOVE NAMED RESPONDENTS:

PLEASE TAKE NOTICE, That upon the annexed Verified Petition of Elizabeth Stein,
Esq. and Steven M. Wise, Esq. (subject to *pro hac vice* admission), with Exhibits and
Memorandum of Law, dated December 2, 2015, and upon all pleadings and proceedings herein,
let the Respondents PATRICK C. LAVERY, individually and as an officer of Circle L Trailer
Sales, Inc., DIANE LAVERY and CIRCLE L TRAILER SALES, INC., or their attorneys,

SHOW CAUSE at I.A.S. Part _____, Room _____, of this Court to be held at the Courthouse located at 80 Centre Street, New York, New York 10013, on the _____ day of _____, 201_ at _____ o'clock in the _____ of that day, or as soon thereafter as counsel can be heard, why an Order should not be entered granting Petitioner, The Nonhuman Rights Project, Inc. ("NhRP"), the following relief:

- A. Upon a determination that Tommy is being unlawfully detained, ordering his immediate discharge and transfer forthwith to an appropriate primate sanctuary;
- B. Awarding the NhRP the costs and disbursements of this action; and
- C. Such other and further relief as this Court deems just and proper.

It is THEREFORE:

ORDERED THAT, Sufficient cause appearing therefore, let service of a copy of this Order and all other papers upon which it is granted upon PATRICK C. LAVERY, individually and as an officer of Circle L Trailer Sales, Inc., DIANE LAVERY and CIRCLE L TRAILER SALES, INC. and upon Arthur Carl Spring, Esq., attorney for Respondents, by personal delivery, on or before the _____ of _____, 201_, be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date fixed above.

IT IS FURTHER ORDERED, that answering affidavits, if any, must be received by Elizabeth Stein, Esq., 5 Dunhill Road, New Hyde Park, New York 11040, and electronically filed with the NYSCEF system, no later than the _____ of _____, 201_.

Dated: _____

New York, New York

Honorable

ENTER:

**DECLINED TO SIGN
REASON**

Declined, to the extent that the courts in the Third Dept. determined the legality of Tommy's detention, an issue best addressed there, ² & absent any allegation or ground that is sufficiently distinct from those set forth in the first petition. ^(Pur) 12/23/15