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FRESNO'S CHAFFEE ZOO
13 CORPORATION and JON FORREST DOHLIN

14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF FRESNO**

17 NONHUMAN RIGHTS PROJECT, INC.,
18 on behalf of Amahle, Nolwazi, and Vusmusi,
19 individuals,

20 Petitioner,

21 v.

22 FRESNO'S CHAFFEE ZOO
CORPORATION, and JON FORREST
DOHLIN, in his official capacity as Chief
23 Executive Officer & Zoo Director of the
Fresno Chaffee Zoo,

24 Respondents.
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Case No. 22CECG02471

**OPPOSITION TO PETITIONER'S
NOTICE OF MOTION AND MOTION
FOR AN ORDER RETURNING MATTER
TO SAN FRANCISCO COUNTY
SUPERIOR COURT; DECLARATION OF
DAVID C. CASARRUBIAS**

Assigned for All Purposes to the
Hon. Mark Cullers

Date: Sept. 14, 2022
Time: 8:30 AM
Dept: 404

Action Filed: May 3, 2022

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I. INTRODUCTION

Writs of habeas corpus, and the related Rules of Court, have no application to elephants residing in a zoo. Nonetheless, attempting to connect the most relevant procedural principles to this case, Respondents moved the San Francisco Superior Court for an order transferring Petitioner Nonhuman Rights Project's ("NHRP") writ petition to this Court on the ground that the petition generally challenges the conditions of three elephants nominal confinement at the Fresno Chaffee Zoo, located in Fresno County. (NHRP's Motion ("Mot."), Ex. B, p. 2:8-15, citing Cal. Rules of Court, rule 4.552(b)(2)(B) ["Transfer may be ordered . . . If the petition challenges the conditions of an inmate's confinement, it may be transferred to the county in which the petitioner is confined."].) The San Francisco Superior Court agreed, correctly ruling that "[t]he allegations in the petition certainly challenge the elephants' confinement and the matter should therefore be heard by the Fresno County Superior Court." (Mot. Ex. A, pp. 2-3.)

NHRP immediately sought appellate review of that order, filing a petition for a writ of mandate with the First District Court of Appeal. In that petition, it argued that the San Francisco Superior Court mischaracterized their claims as challenging the conditions of the elephants' confinement rather than the legality of their imprisonment itself and erred in transferring the petition as a result. (Casarrubias Decl. Ex. B, p. 9 ¶ 10; see also pp. 12-13.) The Court of Appeal summarily denied the writ petition. (*Id.* Ex. C.)

Notwithstanding this history, NHRP has filed the present motion to transfer the case back to San Francisco, raising the same arguments that the superior and appellate courts previously rejected. This Court should deny the motion for three reasons.

First, the notice of motion and supporting papers were not timely served, and Respondents were accordingly not provided the statutory minimum time to prepare a response. *Second*, and alternatively, the San Francisco Superior Court provided an applicable reason for transferring the case, and NHRP cannot attack that order collaterally by a motion to this Court. *Third*, and also in the alternative, even if this Court were to reconsider the transfer order, as NHRP requests, it should conclude that the San Francisco Court reached the correct result; to the extent this case belongs in any county, it belongs in Fresno County. The Court should deny NHRP's motion.

II. ARGUMENT

A. The Court should deny NHRP's motion because it was not timely served.

As a threshold matter, the Court should deny NHRP's motion because it was not timely served. "Unless otherwise ordered or specifically provided by law, all moving and supporting papers *must* be served and filed in accordance with Code of Civil Procedure section 1005 and, when applicable, the statutes and rules providing for electronic filing and service." (Cal. Rules of Court, rule 3.1300(a), emphasis added.) Code of Civil Procedure, section 1005, subdivision (b), provides that all moving and supporting papers must be served and filed "at least 16 court days before the hearing." Additionally, Code of Civil Procedure, section 1010.6, subdivision (a)(4)(B), prescribes that any period of notice shall be extended after service by electronic means "by two court days." In sum, an electronically served notice of motion and supporting papers must be served on the party opponent at least eighteen-court days prior to the scheduled hearing.

NHRP's transfer motion is currently noticed for hearing on September 14, 2022. Eighteen court days prior to the hearing is Thursday, August 18, 2022. (See <https://www.lacourt.org/courtdatecalculator/ui/> [-18 court day(s) from 09/14/2022 is 08/18/2022].) Thus, the last day to electronically serve notice of NHRP's transfer motion and supporting papers was Thursday, August 18, 2022. Here NHRP served its notice of motion and transfer motion on Monday, August 22, 2022. (See Mot. pp. 11-12 [NHRP's Proof of Service attesting that NHRP's notice of motion and motion was served on August 22, 2022 by e-mail or electronic transmission].) Because NHRP did not serve its motion on August 18, 2022, the motion was not timely served on Respondents.

NHRP's untimely motion invites reversible error. In *Delgado v. Superior Court* (1977) 74 Cal.App.3d 560, 562-563, a party seeking a transfer of venue from Sacramento to Yolo County did so without providing the party opponent adequate notice of the grounds for its motion. Notwithstanding, the party opponent filed an opposition one day before the scheduled hearing. (*Id.* at p. 563.) Subsequently, the trial court issued an order transferring the case. (*Ibid.*) On appeal, the court held that "because inadequate notice was given" the trial court's order transferring venue for the reasons stated in the untimely motion could not be upheld. (*Ibid.*) The appellate court reached

1 this conclusion despite the fact that the opponent actually filed an opposition. Here, as in *Delgado*,
2 an order granting NHRP's motion will be subject to reversal on the ground that Respondents were
3 not given the statutorily required notice of the grounds underlying the transfer motion to prepare
4 and file an opposition. Accordingly, the Court should deny NHRP's motion on this ground alone.

5 In the interest of conserving judicial and party resources, Respondents sent NHRP's
6 counsel a meet and confer communication on August 25, 2022, asking that NHRP withdraw its
7 untimely motion. (Casarrubias Decl. Ex. A.) Respondents further requested that NHRP extend
8 Respondents' counsel the courtesy of confirming availability for an alternative hearing date, if
9 NHRP decided to re-notice its motion. (*Ibid.*) NHRP ignored Respondents' request. (*Ibid.*; see also
10 *id.* ¶ 2.) Thus, Respondents were left with no choice but to raise this issue directly with the Court.
11 (*Id.* ¶ 4.) Lack of timely notice is sufficient reason alone to deny this motion.

12 **B. Alternatively, the Court should deny NHRP's motion because the San Francisco**
13 **Superior Court provided an applicable reason for transfer, namely, that the petition**
14 **challenges conditions of confinement in Fresno County.**

15 NHRP's motion is based solely on California Rules of Court, rule 4.552(b)(4) which states:
16 "If the receiving court determines that the reason for transfer is inapplicable, the receiving court
17 must, within 30 days of receipt of the case, order the case returned to the transferring court."
18 However, rule 4.552(b)(4)'s return provision does not apply because the San Francisco Superior
19 Court's stated reason for transferring the case was not "inapplicable." Thus, for this separate
20 reason, the motion should be denied.

21 In interpreting the language of the Rules of Court, courts apply traditional rules of statutory
22 interpretation. (*Webster v. Superior Court of San Bernardino County* (2020) 51 Cal.App.5th 676,
23 680.) A court's primary goal is to determine the drafter's intent in order to give effect to the rule's
24 purpose. (*Ibid.*) The first step of the interpretive process is to look to the words of the rules
25 themselves. (*Ibid.*) If the statutory language is clear and unambiguous, the court's task is at an end
26 and there is no need for judicial construction. (*Ibid.*)

27 Rule 4.552(b)(3) requires that "[t]he transferring court must specify in its order the reason
28 for the transfer." Relatedly, rule 4.552(b)(2) provides three circumstances where transfer may be
ordered:

1 (A) If the petition challenges the terms of a judgment, the matter may be transferred
2 to the county in which judgment was rendered.

3 (B) If the petition challenges the conditions of an inmate's confinement, it may be
4 transferred to the county in which the petitioner is confined. [. . .]

5 (C) If the petition challenges the denial of parole or the petitioner's suitability for
6 parole and is filed in a superior court other than the court that rendered the underlying
7 judgment, the court in which the petition is filed should transfer the petition to the
8 superior court in which the underlying judgment was rendered.

9 Here, the San Francisco Superior Court—the “transferring court”—specified in its order the
10 reason for the transfer, namely, that “[t]he allegations in the petition certainly challenge the
11 elephants’ confinement” as described in rule 4.552(b)(2)(B), “and the matter should therefore be
12 heard by the Fresno County Superior Court.” (Mot. Ex. A, pp. 2-3.)

13 Plainly, the San Francisco Superior Court’s “reason for transfer” was its finding—correct
14 as discussed below—that the petition challenges conditions of confinement. That is indisputably
15 one of the three, applicable reasons for transfer under rule 4.552(b)(2). (Black’s Law Dictionary
16 (11th ed. 2019), applicable [“1. Capable of being applied; fit and right to be applied. 2. (Of a rule,
17 regulation, law, etc.) affecting or relating to a particular person, group, or situation; having direct
18 relevance.”].) Consequently, NHRP has not demonstrated that the specified reason for transfer is
19 “inapplicable” under rule 4.552(b)(2)(4). As a result, NHRP has failed to provide this Court with
20 any justification for returning this matter to the San Francisco Superior Court.

21 Respondents anticipate that NHRP will argue that rule 4.552(b)(4) allows this Court to
22 consider, de novo, whether the allegations in its complaint challenge conditions of confinement
23 such that transfer is appropriate under rule 4.552(b)(2)(B), under the guise of determining whether
24 the San Francisco Court’s reasons for transferring the case were “inapplicable.” That argument is
25 flawed.

26 *First*, reading rule 4.552(b)(4) as allowing this Court to conduct a de novo review of the
27 findings and ruling of the San Francisco Superior Court would run afoul of Code of Civil
28 Procedure section 1008’s limitation on reconsideration requests. The Rules of Court cannot
supersede or contradict the Code of Civil Procedure. (See, e.g., *Iverson v. Superior Court* (1985)
167 Cal.App.3d 544, 547-548.) And the expansive reading of rule 4.552 apparently advocated by

1 NHRP would create an impermissible conflict. With this statutory background, the Rules of Court
2 simply cannot be read to countenance having one Superior Court judge second guessing another.

3 Further, “[s]ection 1008’s purpose is to conserve judicial resources by constraining
4 litigants who would endlessly bring the same motions over and over, or move for reconsideration
5 of every adverse order and then appeal the denial of the motion to reconsider.” (*Even Zohar*
6 *Construction & Remodeling, Inc. v. Bellaire Townhouses, LLC* (2015) 61 Cal.4th 830, 839-840
7 (*Even Zohar*)). Here, NHRP was unable to convince the San Francisco Superior Court that its
8 reason for transfer under rule 4.552(b)(2)(B) was “inapplicable.” (Mot. Ex. C.) Then NHRP
9 sought appellate review, raising the same exact arguments, and again was unable to convince the
10 reviewing court to take up its writ petition. (Casarrubias Decl., Ex. B.) Now, NHRP *again* presents
11 the same exact arguments previously raised and adjudicated by the San Francisco Superior Court,
12 and disregarded by the First District Court of appeal. (Compare Mot. *passim*, with Mot. Ex. C and
13 Casarrubias Decl., Ex. B.) This repetitive litigation tactic flouts section 1008’s clear legislative
14 directive to conserve judicial resources. (*Even Zohar, supra*, 61 Cal.4th at pp. 839-840.)

15 *Second*, the power of this Court to nullify the San Francisco Superior Court’s findings and
16 ruling supporting its transfer order—a decision that not even the Court of Appeal would disturb—
17 is limited. (*In re Alberto* (2002) 102 Cal.App.4th 421, 427 [holding that “the power of one judge
18 to vacate an order made by another judge is limited.”].) “For one superior court judge, no matter
19 how well intended, *even if correct as a matter of law*, to nullify a duly made, erroneous ruling of
20 another superior court judge places the second judge in the role of a one-judge appellate court.”
21 (*Ibid.* emphasis added.) The *In re Alberto* Court went on to explain:

22 This principle is founded on the inherent difference between a judge and a court and
23 is designed to ensure the orderly administration of justice. If the rule were otherwise,
24 it would be only a matter of days until we would have a rule of man rather than a rule
25 of law . . . [and] would lead to forum shopping, since if one judge should deny relief,
[the losing party] would try another and another judge until finally they found one
who would grant what they are seeking. Such a procedure would instantly breed a
lack of confidence in the integrity of the courts.

26 (*Ibid.*) Here, Judge Ulmer of the San Francisco Superior Court found that “[t]he allegations in the
27 petition certainly challenge the elephants’ confinement” as described in rule 4.552(b)(2)(B). (Mot.
28 Ex. A, p. 2.) Under the principles announced in *In re Alberto*, this Court has limited power to

1 nullify Judge Ulmer’s findings and ruling that rejected NHRP’s identical arguments.

2 The Court’s only task under rule 4.552(b)(4) is ministerial: to determine whether the
3 transferring court specified an “inapplicable” reason for transfer. In other words, this Court must
4 order the case returned to the San Francisco Superior Court *only if* it finds that the San Francisco
5 Court failed to specify an applicable reason for transfer. Because the San Francisco Superior Court
6 specified an applicable reason for transfer under rule 4.552(b)(2)(B), this Court cannot order the
7 case returned to San Francisco.

8 **C. Alternatively, the Court should deny NHRP’s motion because the San Francisco**
9 **Superior Court’s order correctly concluded that this case belongs in Fresno County.**

10 As it did before, NHRP contends that rule 4.552(b)(2)(B) does not apply because it is not
11 challenging the conditions of the elephants’ confinement, but rather the legality of their
12 “imprisonment” itself, and seeks the discharge of the elephants from the zoo. (Mot. p. 6.) In
13 support, NHRP points to a single allegation in its petition to show that it does not challenge
14 conditions of confinement. (*Id.* p. 5:10-14, citing Pet. ¶ 17.) This allegation—pretty apparently
15 written to protect NHRP’s inexplicable choice to file in San Francisco County—is nothing more
16 than a legal conclusion, belied by the factual allegations in the petition, and can be disregarded.
17 (*Wexler v. California Fair Plan Association* (2021) 63 Cal.App.5th 55, 70 [“We disregard legal
18 conclusions in a complaint; they are just a lawyer’s arguments.”].)

19 As Respondents have successfully demonstrated before, NHRP actually does generally
20 challenge the conditions of the elephants’ confinement at Fresno’s Chaffee Zoo, and therefore the
21 San Francisco Superior Court had discretion to consider whether transfer was appropriate under
22 rule 4.552(b)(2)(B). “If the challenge is to conditions of the inmate’s confinement, then the
23 petition should be transferred back to the superior court of the county wherein the inmate is
24 confined if that court is a different court from the court where the petition was filed.” (*Griggs v.*
25 *Superior Court* (1976) 16 Cal.3d 341, 347; accord, Cal. Rules of Court, rule 4.552(b)(2)(B).)
26 Here, of course, there are no “inmates” and no “confinement” in the sense used by the Penal Code
27 or Rules of Court. Still, accepting NHRP’s theory for the sake of procedural analysis, the petition
28 can best be understood as challenging the conditions of the elephants’ nominal confinement. As

1 stated in the petition:

2 The elephants' imprisonment at the Fresno Zoo deprives them of their physical and
3 psychological needs, including the need to exercise autonomy. "Their lives are
4 nothing but a succession of boring and frustrating days, damaging to their bodies and
5 minds, and punctuated only by interaction with their keepers." There is no
6 opportunity for the elephants to use their extraordinary complex cognitive capacities
7 to explore, appropriately forage, problem solve, communicate over distance, or
8 employ their wide-ranging vocalizations. The elephants spend at least half of each
9 day (if not more) in a barn standing on concrete, and when allowed outside they are
10 unable to walk more than 100 yards in any direction. Their acute hearing is
11 bombarded by continuous auditory disturbances "from major transportation arteries
12 on all four sides of their enclosure."

13 (Pet., pp. 115:11-116:3, footnotes omitted.)

14 The petition describes the elephants' conditions of confinement at the zoo in order to
15 convince the Court that the conditions should be improved by moving the elephants to a different
16 location. Indeed, the remedy NHRP seeks is to transfer the elephants to a different place of
17 "confinement" with allegedly better conditions, *i.e.* an elephant sanctuary. (Pet. pp. 62-64, 112-
18 116.) Consistently, and applying the rule that a court's determination on whether to transfer a
19 habeas corpus petition must be "based on the allegations of the petition" (Cal. Rules of Court, rule
20 4.552(b)(1)), the San Francisco Superior Court appropriately exercised its discretion to transfer
21 this matter to this Court under rule 4.552(b)(2)(B). (Mot. Ex. A p. 2 [finding "little distinction
22 between 'conditions' of confinement and 'legality' of confinement in this case."].)

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DATED: August 31, 2022

By: s/ David C. Casarrubias
PAUL B. MELLO
ADAM W. HOFMANN
SAMANTHA D. WOLFF
DAVID C. CASARRUBIAS
Attorneys for Respondents
FRESNO'S CHAFFEE ZOO
CORPORATION and JON FORREST DOHLIN

DECLARATION OF DAVID C. CASARRUBIAS

I, David C. Casarrubias, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am an associate with Hanson Bridgett LLP, attorneys of record for Respondents FRESNO'S CHAFFEE ZOO CORPORATION and JON FORREST DOHLIN. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

2. In the interest of conserving judicial and party resources, I sent Nonhuman Rights Project's ("NHRP") counsel a meet and confer communication on August 25, 2022, asking that NHRP withdraw its untimely Notice of Motion and Motion for an Order Returning Matter to San Francisco County Superior Court. I further requested that should NHRP seek to re-notice its motion, NHRP first extend the courtesy of confirming counsel's availability for the hearing date before scheduling the hearing with the Court. NHRP's counsel ignored my request.

3. Attached hereto as **Exhibit A** is a true and correct copy of my August 25, 2022 email to NHRP's counsel with the attached correspondence.

4. Because NHRP's counsel never responded to my email correspondence, Respondents were left with no choice but to raise the untimeliness issue directly with the Court, while alternatively addressing the merits as best they could despite the inadequate time to prepare a complete response.

5. Attached hereto as **Exhibit B** is a true and correct copy of NHRP’s July 27, 2022 Petition for Writ of Mandate to the First District Court of Appeal. To avoid larding the docket with duplicate filings, I have omitted the writ petition’s Exhibits A-F which are already part of the court file.

6. Attached hereto as **Exhibit C** is a true and correct copy of the First District Court of Appeal's August 3, 2022 order summarily denying NHRP's request for an immediate stay and petition for writ of mandate.

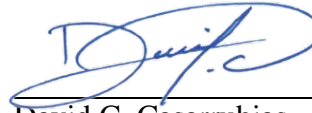
I declare under penalty of perjury under the laws of the State of California that the

1 foregoing is true and correct.

2 Executed on this 31st day of August, 2022, at San Francisco, California.

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David C. Casarrubias

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EXHIBIT A

EXHIBIT A

David C. Casarrubias

From: David C. Casarrubias
Sent: Thursday, August 25, 2022 9:18 PM
To: mmiller@nonhumanrights.org; wiseboston@aol.com; Jake Davis
Cc: Adam W. Hofmann; Paul B. Mello; Samantha Wolff; Doug Larsen
Subject: Nonhuman Rights Project, Inc. v. Fresno's Chaffee Zoo Corp., et al., San Francisco County Superior Court Case No. CPF-22-517751: Meet & Confer Communication
Attachments: 2022-08-25 LTO OPC re Petitioners Untimely Motion for an Order Returning Matter to SF Sup. Ct..pdf; 3bclean-control.bin

Dear Counsel,

Please see attached correspondence regarding Petitioner's Motion for an Order Returning Matter to the San Francisco Superior Court.

Best,

-David

David C. Casarrubias

Associate

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The foregoing applies even if this notice is embedded in a message that is forwarded or attached.

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E-MAIL dcasarrubias@hansonbridgett.com



August 25, 2022

MEET & CONFER COMMUNICATION
VIA ELECTRONIC MAIL ONLY

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E-Mail: wiseboston@aol.com

Jake Davis
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1911 W. Elk Pl
Denver, CO 80211
E-Mail: jdavis@nonhumanrights.org

Re: *Nonhuman Rights Project, Inc. v. Fresno's Chaffee Zoo Corporation et al.*
Fresno County Superior Court Case No. 22CECG02471
Petitioner's Untimely Motion for an Order Returning Matter to San Francisco County Superior Court
Our File No. 32357.2

Dear Counsel:

Respondents Fresno's Chaffee Zoo Corporation et al. ask that Petitioner withdraw its "Notice of Motion and Motion for an Order Returning Matter to San Francisco County Superior Court" on the ground that the motion was not timely served on Respondents. Should Petitioner seek to re-notice its motion to provide for adequate notice, Respondents request that Petitioner first extend the courtesy of confirming counsel's availability for the hearing date *before* scheduling the hearing with the Court.

Code of Civil Procedure, section 1005, subdivision (b), provides that all moving and supporting papers must be served and filed "at least 16 court days before the hearing." Additionally, Code of Civil Procedure, section 1010.6, subdivision (a)(4)(B), prescribes that any period of notice shall be extended after service by electronic means "by two court days." In sum, an electronically served notice of motion must be served on the party opponent at least 18 court days prior to the scheduled hearing.

Petitioner's transfer motion is currently noticed for hearing on September 14, 2022. Eighteen court days prior to the hearing is Thursday, August 18, 2022. (See <https://www.lacourt.org/courtdatecalculator/ui/> [-18 court day(s) from 09/14/2022 is 08/18/2022].) Thus, the last day to electronically serve notice of Petitioner's transfer motion was Thursday, August 18, 2022. Here, Petitioner served its notice of motion and transfer motion on Monday, August 22, 2022. Because Petitioner did not serve its motion on August 18, 2022, the motion was not timely served on Respondents.

MEET & CONFER COMMUNICATION

Monica L. Miller

Steven M. Wise

Jake Davis

August 25, 2022

Page 2

In *Delgado v. Superior Court* (1977) 74 Cal.App.3d 560, 562-563, a party seeking a change of venue from Sacramento County to Yolo County did so without providing the party opponent adequate notice of the grounds for its motion. Notwithstanding, the party opponent filed an opposition one day before the hearing. (*Id.* at p. 563.) Subsequently, the trial court issued an order transferring the case. (*Ibid.*) On appeal, the court held that “because inadequate notice was given” the trial court’s order transferring venue for the reasons stated in the untimely motion could not be upheld. (*Ibid.*) The appellate court reached this conclusion despite the party opponent having filed an opposition to the transfer motion one day before the hearing.

Here, as in *Delgado*, should Petitioner refuse to withdraw its motion, any resulting order will be subject to reversal on the grounds that Respondents were not given adequate notice of the grounds underlying the transfer motion to prepare and file an opposition. Indeed, even if Respondents were to file an opposition despite the deficient notice, any resulting transfer order based on Petitioner’s inadequately noticed motion would result in a reversible error. (See *Delgado*, p. 563.) As such, and in the interest of conserving judicial and party resources, Respondents ask that Petitioner withdraw its untimely motion.

Based on the foregoing please confirm no later than close of business on **Friday, August 26, 2022**, that Petitioner will withdraw its transfer motion and request that the Court vacate the hearing currently scheduled for September 14, 2022. (See Fresno County Superior Court, Local Rule 2.2.2.C.) Separately, should Petitioner seek to re-notice its motion, Respondents request that Petitioner first extend the courtesy of confirming counsel’s availability for the hearing date *before* scheduling the hearing with the Court.

Very truly yours,

s/ David C. Casarrubias

David C. Casarrubias

Associate

DCC

cc: Paul B. Mello
Adam W. Hofmann
Samantha D. Wolff
Doug Larsen

EXHIBIT B

EXHIBIT B

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE 1ST APPELLATE DISTRICT
DIVISION _____**

NONHUMAN RIGHTS PROJECT,
INC., on behalf of Amahle, Nolwazi,
and Vusmusi, individuals,

Petitioner,

v.

Superior Court of the State of California
for the County of San Francisco,

Respondent,

FRESNO'S CHAFFEE ZOO
CORPORATION, and JON FORREST
DOHLIN, in his official capacity as
Chief Executive Officer & Zoo Director
of the Fresno Chaffee Zoo,

Real Parties in Interest.

No. _____

Petition for Writ of Mandate

San Francisco County Superior Court No. CPF-22-517751

Honorable Richard B. Ulmer, Jr.

Department No. 302

Telephone No. 415-551-3723 / 3823

**[IMMEDIATE] STAY REQUESTED
Order Transferring Habeas Corpus Proceeding to Fresno County Superior
Court on July 11, 2022, and/or all proceedings in the case**

Document received by the CA 1st District Court of Appeal.

NONHUMAN RIGHTS PROJECT

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NONHUMAN RIGHTS PROJECT

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Document received by the CA 1st District Court of Appeal.

COURT OF APPEAL FIRST APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: 288343 NAME: MONICA L. MILLER, ESQ. FIRM NAME: NONHUMAN RIGHTS PROJECT, INC. STREET ADDRESS: 448 IGNACIO BLVD #284 CITY: NOVATO STATE: CA ZIP CODE: 94949 TELEPHONE NO.: 415-302-7364 FAX NO.: E-MAIL ADDRESS: mmiller@nonhumanrights.org ATTORNEY FOR (name): Petitioner	SUPERIOR COURT CASE NUMBER: CPF-22-517751
APPELLANT/ NONHUMAN RIGHTS PROJECT, INC. PETITIONER: RESPONDENT/ SAN FRANCISCO COUNTY SUPERIOR COURT / REAL PARTY IN INTEREST: FRESNO'S CHAFFEE ZOO CORPORATION, et al.	
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS (Check one): <input checked="" type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE	
Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.	

1. This form is being submitted on behalf of the following party (name): NONHUMAN RIGHTS PROJECT, INC.

2. a. ☐ There are no interested entities or persons that must be listed in this certificate under rule 8.208.

b. ☒ Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (Explain):
(1) FRESNO'S CHAFFEE ZOO CORPORATION	REAL PARTY IN INTEREST
(2) JON FORREST DOHLIN	REAL PARTY IN INTEREST
(3) SAN FRANCISCO SUPERIOR COURT	RESPONDENT
(4)	
(5)	

☐ Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: 07/27/2022

MONICA L. MILLER
 (TYPE OR PRINT NAME)

 /s/ Monica L. Miller
 (SIGNATURE OF APPELLANT OR ATTORNEY)

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE 1ST APPELLATE DISTRICT
DIVISION _____

NONHUMAN RIGHTS PROJECT,
INC., on behalf of Amahle, Nolwazi,
and Vusmusi, individuals,

Petitioner,

v.

Superior Court of the State of
California for the County of San
Francisco,

Respondent,

FRESNO'S CHAFFEE ZOO
CORPORATION, and JON
FORREST DOHLIN, in his official
capacity as Chief Executive Officer
& Zoo Director of the Fresno
Chaffee Zoo,

Real Parties in Interest.

No. _____

INTRODUCTION

This writ addresses an important issue concerning the nature of habeas corpus. In a habeas corpus proceeding, there is a difference between a challenge to the “conditions of confinement” and a challenge to the legality of the imprisonment itself, for purposes of determining whether a petition should be transferred from one superior court to another pursuant to Cal. Rules of Court 4.552(b)(2)(B). The court below misunderstood this difference and mischaracterized the nature of this case.

Document received by the CA 1st District Court of Appeal.

PETITION FOR WRIT OF MANDATE

Petitioner, the Nonhuman Rights Project, Inc. (hereafter NhRP), petitions this Court for a writ of mandate directed to Respondent Superior Court of the State of California for the County of San Francisco (hereafter San Francisco Superior Court) and by this verified petition alleges:

1. The NhRP is the petitioner in a habeas corpus proceeding now pending in San Francisco Superior Court, entitled “Nonhuman Rights Project, Inc., on behalf of Amahle, Nolwazi, and Vusmusi, individuals v. Fresno’s Chaffee Zoo Corporation, and Jon Forrest Dohlin, in his official capacity as Chief Executive Officer & Zoo Director of the Fresno Chaffee Zoo,” and being action No. CPF-22-517751. As petitioner in this action, the NhRP is a beneficially interested person.
2. On May 3, 2022, the NhRP filed a petition for a common law writ of habeas corpus (hereafter Petition) in San Francisco Superior Court, alleging that three African elephants—Amahle, Nolwazi, and Vusmusi—are being unlawfully imprisoned at the Fresno Zoo. A true and correct copy of the Petition is attached as Exhibit A.
3. Fresno’s Chaffee Zoo Corporation and Jon Forrest Dohlin (hereafter Real Parties), respondents in the Petition, are named as the real parties in interest in this petition for a writ of mandate.
4. Respondent Court is the San Francisco Superior Court, and at all times mentioned in this petition has exercised its judicial function in connection with the above-named action.
5. On June 14, 2022, Real Parties moved to transfer the matter to Fresno County Superior Court (hereafter Fresno Superior

Court), which the NhRP opposed. A true and correct copy of Real Parties' Motion, the NhRP's Opposition, and Real Parties' Reply are attached as Exhibits B-D.

6. Real Parties' Motion came on regularly for hearing on July 11, 2022, before the Honorable Richard B. Ulmer, Jr. of San Francisco Superior Court. Oral and written argument was presented in support of and in opposition to the Motion, which Judge Ulmer granted on July 11, 2022. A true and correct copy of San Francisco Superior Court's transfer order (hereafter Order) is attached as Exhibit E.
7. On July 11, 2022, the Order was noticed by Real Parties. A true and correct copy of the noticed order (hereafter Noticed Order) is attached as Exhibit F.
8. Pursuant to Code Civ. Proc. § 400, the NhRP seeks review of Judge Ulmer's Order.
9. As this petition is served within 20 days of the Noticed Order, it is timely pursuant to Code Civ. Proc. § 400: "When an order is made by the superior court granting or denying a motion to change the place of trial, the party aggrieved by the order may, within 20 days after service of a written notice of the order, petition the court of appeal for the district in which the court granting or denying the motion is situated for a writ of mandate requiring trial of the case in the proper court."
10. Judge Ulmer's Order is erroneous and invalid since the proper county for hearing and resolving the Petition is San Francisco Superior Court. The Order failed to provide a "substantial reason" for transferring the Petition, as required under *In re Roberts* (2005) 36 Cal.4th 575, 583 (hereafter *Roberts*), being based on the mischaracterization of the Petition as challenging the conditions of the elephants' confinement rather than the legality of their imprisonment itself.
11. Unless prohibited and restrained by this Court, the Petition will be transferred to Fresno Superior Court, contrary to law, and Amahle, Nolwazi, and Vusmusi will suffer irreparable

harm if the Petition is denied pursuant to Cal. Rules of Court 4.551(a)(4)(B) without the issuance of an order to show cause, which is now more likely given the San Francisco Superior Court's mischaracterization of the Petition.

12. The NhRP has no plain, speedy or adequate remedy other than by this proceeding by a writ of review. See *Hennigan v. Boren* (1966) 243 Cal.App.2d 810, 815.
13. Pending such review, it is necessary to immediately stay further proceedings in this case because the Fresno Superior Court could outright deny the Petition at any time.

WHEREFORE, the NhRP prays that this Appellate Court:

1. Issue a peremptory writ of mandate directing Respondent San Francisco Superior Court to vacate its Order granting Real Parties' motion to transfer venue to Fresno Superior Court and enter a new and different order denying their motion;
2. Alternatively, issue an alternative writ of mandate commanding Respondent San Francisco Superior Court to vacate its Order and deny Real Parties' motion to transfer venue to Fresno Superior Court, or to show cause, at a time and place to be specified by this Court, why it has not done so and why a peremptory writ should not issue.
3. That all further proceedings be immediately stayed pending final disposition of the writ of mandate; and
4. Grant such other and further relief as may be just and proper.

Date: July 27, 2022
Nonhuman Rights Project, Inc.
By: /s/ Monica Miller
Monica M. Miller
Attorney for Petitioner

VERIFICATION OF PARTY

I, Monica Miller, declare as follows:

1. I am an attorney admitted to practice law in the State of California, and one of the attorneys representing Amahle, Nolwazi, and Vusmusi in this action. I have my office in Novato, California. I am making this verification on behalf of Amahle, Nolwazi, and Vusmusi under the California Code of Civil Procedure section 446(a) because, as nonhuman animals, Amahle, Nolwazi, and Vusmusi are not able to verify this Petition for Writ of Mandate.
2. I have read this Petition for Writ of Mandate. I verify that the facts alleged in this Petition are true of my own personal knowledge and belief.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on July 27, 2022.

/s/ Monica Miller
Monica L. Miller

Document received by the CA 1st District Court of Appeal.

MEMORANDUM OF POINTS AND AUTHORITIES

I. CLAIMED ERROR FOR WHICH WRIT RELIEF IS SOUGHT

The basis of Real Parties' Motion and the resulting Order is Cal.

Rules of Court 4.552(b)(2), which provides in relevant part:

(2) If the superior court in which the petition is filed determines that the matter may be more properly heard by the superior court of another county, it may nonetheless retain jurisdiction in the matter or, without first determining whether a prima facie case for relief exists, order the matter transferred to the other county. Transfer may be ordered in the following circumstances:

. . . (B) If the petition challenges the conditions of an inmate's confinement, it may be transferred to the county in which the petitioner is confined.

According to Real Parties, the Petition challenges the conditions of Amahle, Nolwazi, and Vusmusi's confinement at the Fresno Zoo and therefore Cal. Rules of Court 4.552(b)(2)(B) authorizes transfer of the matter. (Exhibit B, pp. 5-6). However, the NhRP has consistently argued that the Petition does *not* challenge the conditions of the elephants' confinement, but rather the legality of their imprisonment itself. (Exhibit C, pp. 3-4). Agreeing with Real Parties, the San Francisco Superior Court erroneously ruled:

Respondents argue, however, that the petition "devotes a considerable amount of time to explain

the elephants' conditions of confinement, arguing why they are ... unacceptable." (Mot., 6:5-7; Pet., ¶¶ 87-92.) The Court agrees and finds little distinction between "conditions" of confinement and "legality" of confinement in this case. Petitioner alleges that any condition of confinement in a zoo is improper for elephants and argues that an elephant sanctuary is the only acceptable location for elephants. (Pet., sec. IV(b) ["Zoo captivity is physically and psychologically harmful to elephants"], ¶¶ 80-86; sec. IV(d), ¶¶ 93-95.)

Furthermore, Rule 4.552(b)(2)(B) requires the Court to make this determination "based on the allegations in the petition," not based on the relief sought (i.e., release from custody or alteration of conditions of confinement). The allegations in the petition certainly challenge the elephants' confinement and the matter should therefore be heard by the Fresno County Superior Court.

(Exhibit E).

The NhRP seeks (1) an immediate stay of all proceedings in the case, and (2) a writ of mandate requiring the San Francisco Superior Court to hear and resolve the Petition.

II. LEGAL STANDARD

While orders granting or denying a motion for change venue are generally reviewed for abuse of discretion, questions of law are reviewed de novo. See *California Gun Rights Foundation v. Superior Court of Los Angeles County* (2020) 49 Cal.App.5th 777, 785; *State Bd.*

of Equalization v. Superior Court (2006) 138 Cal.App.4th 951, 956.

The Order must be reviewed de novo as the issue here presents a question of law: Does the Petition challenge the conditions of Amahle, Nolwazi, and Vusmusi's confinement at the Fresno Zoo, or the legality of their imprisonment itself?

III. ARGUMENT

A. This Court should issue an immediate stay of all proceedings in the case because Amahle, Nolwazi, and Vusmusi could suffer irreparable harm

“The court of appeal may stay all proceedings in the case, pending judgment on the [writ of mandate] petition becoming final.” Code Civ. Pro. § 400. Judge Ulmer's mischaracterization of the Petition as challenging the elephants' “conditions of confinement” increases the likelihood of an outright denial of the Petition since acceptance by the Fresno Superior Court of that mischaracterization would prejudice the merits of the NhRP's case. As explained below, the heart of the NhRP's prima facie case turns on challenging the legality of the elephants' imprisonment itself, not their conditions of confinement. Absent an immediate stay, Amahle, Nolwazi, and Vusmusi could therefore suffer irreparable harm since the reviewing judge in the Fresno Superior Court

could deny the Petition pursuant to Cal. Rules of Court 4.551(a)(4) (B) without issuing an order to show cause.

Further, as the Petition was filed on May 3, 2022, it is now beyond the 60-day deadline required under Cal. Rules of Court 4.551(a)(3)(A) for a ruling. The Fresno Superior Court could therefore deny the Petition at any time absent an immediate stay.

B. A writ of mandate is warranted because the erroneous Order could cause Amahle, Nolvazi, and Vusmusi irreparable harm if allowed to stand

For the same reason why irreparable harm could result if an immediate stay is not granted, this Court must grant this petition for a writ of mandate. See *City of Half Moon Bay v. Superior Court* (2003) 106 Cal.App.4th 795, 803 (“Here, in the absence of writ relief, irreparable harm could result.”).

It is well-settled that habeas corpus petitions should generally be resolved in the court in which the petition is filed. See *Roberts* 36 Cal.4th at 583 (“[W]hen a petitioner has complied with pertinent rules, the superior court in which the petition is presented should file and review the allegations of the petition in order to determine whether it states a prima facie case for relief.”); Cal. Rules of Court 4.552(a)

(“Except as stated in (b), the petition should be heard and resolved in the court in which it is filed.”).

The only exception to the general rule is when “a substantial reason exists for such transfer.” *Roberts*, 36 Cal.4th at 583. Substantial reasons include those mentioned in Cal. Rules of Court 4.552(b)(2), which provides:

(A) If the petition challenges the terms of a judgment, the matter may be transferred to the county in which judgment was rendered. (B) If the petition challenges the conditions of an inmate's confinement, it may be transferred to the county in which the petitioner is confined (C) If the petition challenges the denial of parole or the petitioner's suitability for parole and is filed in a superior court other than the court that rendered the underlying judgment, the court in which the petition is filed should transfer the petition to the superior court in which the underlying judgment was rendered.

Judge Ulmer’s Order, based on Cal. Rules of Court 4.552(b)(2)(B), erroneously holds that the Petition challenges the conditions of Amahle, Nolwazi, and Vusmusi’s confinement. However, the “Petition does not challenge . . . the conditions of Amahle, Nolwazi, and Vusmusi’s imprisonment. Rather, it challenges the legality of the elephants’ imprisonment itself and seeks their discharge from the Fresno Zoo.”

(Exhibit A, ¶ 17). Therefore, Cal. Rules of Court 4.552(b)(2)(B) does not provide a “substantial reason” for transferring the Petition.

A superior court’s determination on whether to transfer a habeas corpus petition must be “based on the allegations of the petition.” Cal. Rules of Court 4.552(b)(1). In this case, the Petition’s core allegation states: “Respondents’ imprisonment of Amahle, Nolwazi, and Vusmusi violates their common law right to bodily liberty protected by habeas corpus and is therefore unlawful because it deprives the elephants of their ability to meaningfully exercise their autonomy and extraordinary cognitive complexity, including the freedom to choose where to go, what to do, and with whom to be.” (Exhibit A, ¶ 5). This allegation forms the basis of the NhRP’s entire *prima facie* case. (Exhibit A, ¶¶ 96-104). As Real Parties conceded below, this allegation does *not* challenge the conditions of the elephants’ confinement.¹

Judge Ulmer’s Order claims there is “little distinction between ‘conditions’ of confinement and ‘legality’ of confinement in this case,” yet cites various paragraphs in the Petition that support the distinction.

¹ Real Parties stated in their Reply: “Petitioner points to a single allegation that Petitioner does not challenge the conditions of confinement.” (Exhibit D).

(Exhibit E) (citing Pet. ¶¶ 87-92). Those paragraphs explain that the Fresno Zoo is an unacceptable place for elephants because it deprives the elephants of their ability to meaningfully exercise their autonomy and extraordinary cognitive complexity, and therefore violates their common law right to bodily liberty protected by habeas corpus. In other words, those paragraphs establish the core allegation in the Petition (contained in ¶ 5) on which the NhRP’s prima facie case rests.

In a similar habeas corpus case the NhRP brought on behalf of an Asian elephant named Happy, who is currently imprisoned at the Bronx Zoo, the Hon. Jenny Rivera of the New York Court of Appeals understood the NhRP’s “core argument” was that “Happy’s confinement at the Zoo was a violation of her right to bodily liberty as an autonomous being, regardless of the care she was receiving.” *Matter of Nonhuman Rights Project, Inc. v. Breheny* (2022) 2022 NY Slip Op 03859, *1, *39 (Rivera, J., dissenting), <https://bit.ly/3IPMmdL>. In other words, “[a] gilded cage is still a cage. Happy may be a dignified creature, but there is nothing dignified about her captivity.” *Id.* at *36. Thus, as in the instant case, the NhRP did not challenge the conditions of Happy’s imprisonment but the legality of the imprisonment itself:

Captivity is anathema to Happy because of her cognitive abilities and behavioral modalities—because she is an

autonomous being. Confinement at the Zoo is harmful, not because it violates any particular regulation or statute relating to the care of elephants, but because an autonomous creature such as Happy suffers harm by the mere fact that her bodily liberty has been severely—and unjustifiably—curtailed.

Id. at *41. The same is true here.

Judge Ulmer’s Order also erroneously suggests that determining whether a transfer is warranted under Cal. Rules of Court 4.552(b)(2)(B) cannot “be based on the relief sought (i.e., release from custody or alteration of conditions of confinement).” (Exhibit E). This ignores the fact that the relief sought here is directly related to the allegations in the Petition, specifically the core allegation that Amahle, Nolwazi, and Vusmusi’s imprisonment at the Fresno Zoo violates their common law right to bodily liberty protected by habeas corpus. Only discharge and release to an appropriate sanctuary can remedy the violation of the elephants’ right to bodily liberty.

Generally, the nature of the challenge in habeas corpus proceedings is directly related to the relief. In cases challenging the conditions of confinement, the remedy is improvements to the conditions, while in cases challenging the legality of confinement itself, the remedy is discharge from particular custody. See *People v. Romero* (1994) 8 Cal.4th 728, 743 (“[I]n habeas corpus proceedings, relief is

granted . . . by an order or judgment directing the petitioner's release from custody or alteration of the conditions of the petitioner's confinement.") (emphasis added). For example, in *Inmates of the Riverside County Jail v. Clark* (1983) 144 Cal.App.3d 850, a petition alleged that "the petitioners' detention was illegal in that the conditions of confinement violated [constitutional] standards." The challenged conditions were described as follows:

[O]vercrowding [that] made it necessary for inmates to sleep on mattresses on the floors of the dayrooms and in the shower areas, that clean clothing and linen were difficult if not impossible to obtain for many inmates, that plumbing and fixtures were in a severe state of disrepair, that garbage built up on the floor of dayrooms, that fungus and mildew persisted in the shower areas, that the air conditioning units had broken down for extended periods, that there were insect infestations, and that requests for medical attention went unanswered.

Id. at 854-55. In finding for petitioners, the superior court issued a remedial order directing the correction of the illegal conditions, not discharge from the jail. *Id.* at 863-67. By comparison, the petitioner in *Ex parte McGuire* (1902) 135 Cal. 339, who was duly sentenced to serve his term in state prison, successfully challenged the legality of his confinement in county jail. The court made no mention of the county jail's conditions since they were not at issue, and concluded that the

petitioner's illegal confinement warranted discharge from the county jail, so he could be placed in the proper custody of the state prison: "his sentence for the misdemeanor is unwarranted and illegal, but it does not follow . . . that he should be set at liberty. . . . It is therefore ordered that he be remanded to the custody of the sheriff for the purpose of delivery forthwith to the warden of the state prison." *Id.* at 343.

Had the NhRP intended to challenge the conditions of Amahle, Nolwazi, and Vusmusi's confinement, rather than the legality of their imprisonment itself, the Petition would have sought to improve the conditions at the Fresno Zoo—such as those relating to the elephant enclosure's size, cleanliness, plumbing, odor, temperature, pest control, or medical care.² But the Petition does no such thing. Instead, the Petition seeks the elephants' "discharge from the Fresno Zoo and placement in an appropriate elephant sanctuary where they can exercise their autonomy and extraordinary cognitive complexity to the greatest extent possible." (Exhibit A, ¶ 17) (emphasis added). Accordingly, this is not a "conditions of confinement" case and therefore Judge Ulmer's

² Real Parties falsely stated in their Reply: "The petition describes the elephants' conditions of confinement at the zoo in order to convince the Court that the conditions should be improved." (Exhibit D) (emphasis added).

Order failed to provide a “substantial reason,” as required under *Roberts*, for transferring the Petition to Fresno Superior Court.

IV. Conclusion

For the foregoing reasons, the NhRP respectfully submits that this Court issue an immediate stay of all proceedings and grant the NhRP’s petition for a writ of mandate.

DATED: July 27, 2022

Nonhuman Rights Project, Inc.

By: /s/ Monica Miller

MONICA M. MILLER

STEVEN M. WISE

JAKE DAVIS

Attorneys for Petitioner

Nonhuman Rights Project, Inc. on behalf of Amahle, Nolwazi, and
Vusmusi

Document received by the CA 1st District Court of Appeal.

CERTIFICATE OF WORD COUNT

I certify that the foregoing Petition for Writ of Mandate is in compliance with the requirements of California Rules of Court, rule 8.204(c)(1). The petition contains approximately 3358 words, calculated employing the Microsoft Word word count function, including footnotes and excluding table of contents, table of authorities and this certification page.

DATED: July 27, 2022

Nonhuman Rights Project, Inc.

By: /s/ Monica Miller

MONICA M. MILLER

STEVEN M. WISE

JAKE DAVIS

Attorneys for Petitioner

Nonhuman Rights Project, Inc. on behalf of Amahle, Nolwazi, and
Vusmusi

Document received by the CA 1st District Court of Appeal.

PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action; my business address is: 811 Wilshire Blvd., Ste 900, Los Angeles, CA 90017. On June 27, 2022 I served **PETITION FOR WRIT OF MANDATE AND EXHIBITS** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follow and also I electronically served this document on the interested parties with the listed emails in this action by electronic service Pursuant to CRC 2.251. Based on the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed below for each party.

Paul B. Mello: pmello@hansonbridgett.com
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Chaffee Zoo Corporation and Jon Forrest Dohlin

SAN FRANCISCO SUPERIOR COURT
Hon. Richard B. Ulmer, Jr., Judge
400 McAllister St., Dept. 302
San Francisco, CA 94102-4515
(personal delivery)

Document received by the CA 1st District Court of Appeal.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 27, 2022, at Los Angeles, California.

Fernando Mercado
PRINT NAME

/s/ Fernando Mercado
SIGNATURE

Document received by the CA 1st District Court of Appeal.

EXHIBIT A
PETITION FOR A COMMON LAW
WRIT OF HABEAS CORPUS
FILED 05/03/2022

Document received by the CA 1st District Court of Appeal.

EXHIBIT B
RESPONDENTS NOTICE OF MOTION AND MOTION FOR AN ORDER
TRANSFERRING MATTER TO FRESNO COUNTY SUPERIOR COURT
Filed 06/14/2022

Document received by the CA 1st District Court of Appeal.

EXHIBIT C
PETITIONER’S OPPOSITION TO RESPONDENTS’ MOTION FOR
AN ORDER TRANSFERRING MATTER TO FRESNO COUNTY
SUPERIOR COURT
FILED ON 06/27/2022

Document received by the CA 1st District Court of Appeal.

EXHIBIT D
RESPONDENTS' REPLY IN SUPPORT OF MOTION FOR AN
ORDER TRANSFERRING MATTER TO FRESNO COUNTY
SUPERIOR COURT
DATED 07/01/2022

Document received by the CA 1st District Court of Appeal.

EXHIBIT E
ORDER TRANSFERRING MATTER TO FRESNO COUNTY
SUPERIOR COURT – GRANTED
FILED 07/11/2022

Document received by the CA 1st District Court of Appeal.

EXHIBIT F
NOTICE OF ENTRY OF ORDER
FILED ON 07/11/2022

Document received by the CA 1st District Court of Appeal.

EXHIBIT C

EXHIBIT C

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

NONHUMAN RIGHTS PROJECT

Petitioner,

v.

SUPERIOR COURT OF SAN
FRANCISCO COUNTY,

Respondent.

FRESNO'S CHAFFEE ZOO CORP.,
et al.,

Real Parties in Interest.

A165693

(San Francisco County Sup. Ct.
No. CPF-22-517751)

BY THE COURT:

The request for immediate stay and petition for writ of mandate are
denied.

Dated: 08/03/2022 Stewart, J. Acting P.J.

1 **PROOF OF SERVICE**

2 **NonHuman Rights Project, Inc., et al. v. Fresno's Chaffee Zoo Corporation, and Jon Forrest**
3 **Dohlin, et al.**

4 **Fresno Superior Court, Case No. 22CECG02471**

5 **STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA**

6 At the time of service, I was over 18 years of age and not a party to this action. I am
7 employed in the County of Contra Costa, State of California. My business address is 1676 N.
8 California Blvd., Suite 620, Walnut Creek, CA 94596.

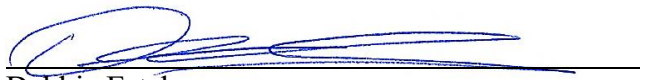
9 On August 31, 2022, I served true copies of the following documents described as
10 **OPPOSITION TO PETITIONER'S NOTICE OF MOTION AND MOTION FOR AN**
11 **ORDER RETURNING MATTER TO SAN FRANCISCO COUNTY SUPERIOR COURT**
12 on the interested parties in this action as follows:

13 **SEE ATTACHED SERVICE LIST**

14 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I served a copy of the documents
15 to be sent from e-mail address destebanez@hansonbridgett.com to the persons at the e-mail
16 addresses listed in the Service List. I did not receive, within a reasonable time after the
17 transmission, any electronic message or other indication that the transmission was unsuccessful.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Executed on August 31, 2022, at San Bruno, California.

21 
22 **Debbie Estebanez**

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SERVICE LIST
NonHuman Rights Project, Inc., et al. v. Fresno's Chaffee Zoo Corporation, and Jon
Forrest Dohlin, et al.
Fresno Superior Court, Case No. 22CECG02471

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