

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT

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In the Matter of a Proceeding under Article 78 of the CPLR
for a Writ of Mandamus,

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

Petitioner-Appellant,

Index No. 150149/16
(New York County)

-against-

Attorney Affirmation

TROY K. WEBBER, in her official capacity as an
Associate Justice of the New York State Supreme
Court Appellate Division, First Judicial Department,

Respondent

-and-

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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I, Elizabeth Stein, an attorney duly admitted to practice law in the State of
New York, affirms the following under the penalty of perjury:

1. I am an attorney of record for Petitioner-Appellant, The Nonhuman
Rights Project, Inc. (“NhRP”), in the above-captioned matter and am not a party in
this action.

2. I am fully familiar with the pleadings and proceedings in this matter, have read and know the contents thereof and submit this affirmation in support of the within Verified Petition for Writ of Mandamus and all exhibits and other documents annexed thereto compelling Respondent, the Honorable Associate Justice Troy Webber of this Court (“Justice Webber”) to grant NhRP’s Motion to Appeal as of Right.

3. Attached hereto as Exhibit 1 is an order entered July 28, 2016 issued by Justice Webber, in which she *sua sponte* converted NhRP’s Motion to Appeal as of Right into a Motion for Leave to Appeal pursuant to CPLR 5701(c) then denied this motion.

4. Attached hereto as Exhibit 2 is a Notice of Appeal filed by NhRP on February 9, 2016.

5. Attached hereto as Exhibit 3 is an order dated May 20, 2016 issued by the Honorable Justice Barbara Jaffe of the Supreme Court, New York County (“Justice Jaffe”).

6. Attached hereto as Exhibit 4 is NhRP’s Motion to Appeal as of Right, which was filed with this Court on May 26, 2016.

7. Attached hereto as Exhibit 5 is an order of Justice Jaffe, dated July 6, 2016, stating that the final order of May 20, 2016 (Exhibit 3) be issued *nunc pro tunc* to the original order of January 29, 2016.

8. Attached hereto as Exhibit 6 is an order of Justice Jaffe, dated January 29, 2016, denying NhRP's verified petition for a common law writ of habeas corpus and order to show cause, which stated "declined to sign."

9. Attached hereto as Exhibit 7 is NhRP's Motion to Reargue or, in the alternative, for Leave to Appeal to the Court of Appeals from the order of July 28, 2016, which was filed with this Court on August 19, 2016 (exhibits omitted).

10. Attached hereto as Exhibit 8 is an order of this Court, dated October 25, 2016, denying NhRP's Motion to Reargue or, in the alternative, for Leave to appeal to the Court of Appeals.

11. Pursuant to 22 N.Y.C.R.R. §1301.1, I affirm that this action is not frivolous.

Dated: November 1, 2016

Elizabeth Stein, Esq.
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