

**PEASE LAW, APC**

Bryan W. Pease (SBN 239139)  
3960 W. Point Loma Blvd., Suite H-2562  
San Diego, CA 92110  
Ph. (619) 723-0369  
Email: [bryan@peaselaw.org](mailto:bryan@peaselaw.org)

**LAW OFFICES OF CASEY D. GISH**

Casey D. Gish (SBN 206289)  
5940 S. Rainbow Blvd.  
Las Vegas, NV 89118  
Ph. (702) 583-5883  
Email: [casey@gishlawfirm.com](mailto:casey@gishlawfirm.com)

**LAW OFFICES OF G. DAVID TENENBAUM**

G. David Tenenbaum (SBN 150629)  
269 S. Beverly Drive #1041  
Beverly Hills, CA 90212  
Ph. (312) 404-7723  
Email: [g.davidtenenbaum@gmail.com](mailto:g.davidtenenbaum@gmail.com)

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

|                                                                                                                          |                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DILEY GREISER and CHELSEA<br>WARD,<br><br>Plaintiffs,<br><br>v.<br><br>JOHNNY CHAVEZ, <i>et al.</i> ,<br><br>Defendants. | Case No. 5:22-cv-01600-JGB-SP<br><br><b>PLAINTIFFS' OPPOSITION TO<br/>DEFENDANTS' MOTION FOR<br/>SUMMARY JUDGMENT</b><br><br>Date: March 25, 2024<br>Time: 9:00 a.m.<br>Courtroom: 1<br>Judge: Hon. Jesus G. Bernal |
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## **I. INTRODUCTION**

What began as an animal cruelty investigation by the Sheriff's Department, in which deputies arrested the suspects and took them to jail, ended with Animal Control refusing to take any action, and leaving dozens of German Shepherds stranded in the middle of the desert, miles from any structures, running water, electricity, food, or water, chained up without shelter in a 100-plus degree heat wave and sweltering sun.

The Sheriff's Department was then left to scramble and figure out a way to keep the dogs alive so that they would not be blamed for their deaths. Deputies mobilized to bring food, water, and sheets from the jail to be used as makeshift shade from the sun.

Some deputies involved volunteer animal rescuers who came in and rescued many of the dogs from the cruel and unlawful conditions in which they were stranded on vacant land. Animal Control resented this, as they considered it their exclusive jurisdiction to handle anything to do with animals, and they wanted a message sent to these rescue groups not to meddle.

Ultimately, Defendants decided to side with Animal Control and blame the deputies who had sought help, launching a sham "theft" investigation into the German Shepherds that by definition could not have been "stolen" because there was no evidence they were on private land or privately owned, but rather had been abandoned in the middle of nowhere.

Disputed issues of material fact prevent summary judgment, and Plaintiffs' claims should go to a jury.

## **II. FACTS**

### **A. Plaintiff Diley Greiser**

On August 8, 2020, Plaintiff Diley Greiser, a firefighter who volunteers in animal rescue, was planning to go visit a lake with her family when she received a disturbing call from a friend who put her in touch with a Sheriff's deputy who informed her that there were dozens of German Shepherds chained in the middle of the desert on land that had "no running water, no electricity...animal control had left these animals in the desert, and

1 that some of them were chained by the neck, with no food, or water, or shelter, in a heat  
2 wave, and there were at least five or six of these that were chained in a pole in the middle  
3 of the desert.” (Request for Judicial Notice (RJN), Ex. 1, Greiser Tr., p.37:5-9.)

4 Greiser did not want to get involved, but she decided to help because “the officers  
5 put out an SOS. The nurse called – the nurse from the jail had called people, the  
6 dispatchers were calling people, other deputies that worked at the jail were calling  
7 people.” (*Id.*, pp.37:24-38:2.) “There were many people in the Sheriff’s Department  
8 calling for help.” (*Id.*, p.38:7-8.)

9 Deputy Parsons confirmed to Greiser that rescuing the dogs would not be trespass  
10 because this was not a house, the suspects who were arrested for animal cruelty were  
11 squatting in the middle of the desert on BLM (Bureau of Land Management) land, there  
12 was no gate, you can drive right in, and there was not even an address, but GPS  
13 coordinates in the desert. (*Id.*, pp.43:25-44:22.)

14 Greiser called the Animal Control Officer (ACO) Deputy Parsons had described  
15 who was involved, former Defendant Johnny Chavez, because Greiser knew him threw  
16 her other animal rescue efforts. But, Chavez refused to provide any information. (*Id.*,  
17 p.45:3-24).

18 Deputy Parsons specifically instructed Greiser to go rescue the animals. (*Id.*,  
19 p.49:4-16.)

20 When Greiser got to the land, she saw it was just as Parsons had described. There  
21 were only tarps, no structures, there was a horrific smell of death, dogs had dug holes in  
22 the dirt to escape the sun, and there was a small makeshift, unfinished wooden shed in the  
23 middle. (*Id.*, pp.60-62.) It was over a hundred degrees, and two people had died that  
24 weekend from heat in the area. (*Id.* P.63:2-4.)

25 The only water around was oily and filthy, by the shed. (*Id.*, p.65:9-25.)

26 There was no electricity or running water, and there was a tent outside. (*Id.*, p.66:6-  
27 11.) Greiser and the several other community volunteers who had come to help kept  
28 rescuing dogs and putting them in vehicles until they ran out of daylight. (*Id.*, p.69:24-

25.) Because it was “in the middle of nowhere, and there’s no light,” Greiser knew “that we had to leave before it got pitch black.” (*Id.*, p.70:6-8.)

The dogs’ fur was “basically like burnt” from the hot sun, some had claws “so long that they had – like, they curled into their paw from being in a confined space and having – you know, if you don’t cut their nails, they just grow in a circle and it, like, digs into their paws, so a lot of them were like that. Others had very distended stomachs, which were parasites we found out later.” (*Id.*, pp.71:18-72:1.)

“[O]nce people heard the conditions that the dogs were in, like total strangers volunteered to move the dogs from -- and it wasn’t anywhere close. It was hours and hours of them renting the car, driving, going there and then going back to Nevada. It was just -- it was really, like, just good hearts trying to save these poor animals.” (*Id.*, p.82:4-10.)

Greiser and the others were planning to come back the next day to rescue the remaining dogs they were unable to find after it got dark, but Deputy Parsons told her not to bother, because Animal Control was finally coming back and would impound the remaining dogs. (*Id.*, p.88:16-25.)

When Animal Control did come back the next day, they noticed most of the dogs were missing, and they wanted Parsons to write a theft report, which angered Parsons. (*Id.*, p.89:5-14; 90:7-14.)

Several days later, Greiser got a call from Defendant Alexander, who was investigating the alleged theft. (*Id.*, p.94:15-20.) Greiser then called Parsons who told her, “I think that was my partner that called...he’s totally cool, don’t worry about it, they just like – they have to pretend like they care.” (*Id.*, pp.94:24-95:1.)

But a few days later, Greiser realized “this is not going right, this is weird.” She called Parsons again, who said she could no longer talk because she was “under investigation.” Additionally, Parsons told Greiser the animal cruelty suspects “had been released from jail, the charges had been dropped by the DA because animal control refused to acknowledge that there was any kind of wrongdoing by these women that had

1 all these dogs in the middle of the desert, and that animal control refused to acknowledge  
 2 cruelty or even abuse, or breaking of any laws.” Parsons further told Greiser that Animal  
 3 Control was pushing for theft charges “because they didn’t know what rescues took the  
 4 dogs” and wanted “to teach the rescues a lesson for meddling.” (*Id.*, p.95:2-15.)

5 A few weeks later, deputies including Defendant Parks showed up at Greiser’s  
 6 home, executed a search warrant, and took her phone and laptop. They called Greiser’s  
 7 attorney and falsely stated that Greiser “is telling us that you told her to hide her  
 8 electronic devices.” (*Id.*, p.112:12-21.)

9 Even after talking to Greiser’s attorney and being informed she was represented  
 10 and should not question her, they continued to antagonize, harass, and ask questions over  
 11 and over to Greiser and her husband. (*Id.*, p.116:10-15.)

12 They finally offered to give the devices back two years later, and Greiser would  
 13 have had to drive at least three hours round trip to retrieve them. (*Id.*, pp.113:19-114:2.)

#### 14 **B. Plaintiff Chelsea Ward**

15 Plaintiff Ward runs a nonprofit animal rescue with her husband, Thomas Ward,  
 16 called Southern Nevada Animal Rescue (SNARL). (Ward Decl., ¶2.)

17 On Sunday, August 9, 2020, Ms. Ward was enroute to Barstow, CA to pick up her  
 18 husband who was being driven in from San Bernardino, CA. Her family was on vacation  
 19 in Alabama and Florida from July 29th - August 8th, and her husband drove her  
 20 grandfather’s car back from Alabama to California for her aunt, which is why she was  
 21 meeting him in Barstow to pick him up. (*Id.*, ¶3.)

22 Around 6pm, she was already driving to Barstow when she received notice  
 23 through Facebook posts that there were 60+ dogs abandoned in the desert. Originally it  
 24 was said they were dumped and roaming free (based on comments), then it changed to  
 25 “they were left in cages.” Photos started being shared and Facebook posts started saying  
 26 it was a “dump spot.” As Ward runs a dog rescue organization, and she was already  
 27 enroute to Barstow, she started to chime into the posts asking where the dogs were  
 28 located and what she could do to help. (*Id.*, ¶4.)

1 Ward was added to a group chat and provided with a meeting location. Originally  
2 she thought she was going out to the place where all of the dogs were abandoned,  
3 but then she was told most of the dogs were already moved to a safer location where  
4 rescues that could help could meet to pick up dogs. Ward asked how many dogs were left  
5 as they stated rescue groups from California were coming out to help also. No one could  
6 give her an answer. At this point, she sent a message out to my volunteer team asking for  
7 immediate transport volunteers not knowing what they would find when they arrived, just  
8 knowing there were 60 something dogs abandoned in cages that needed rescue ASAP.  
9 (*Id.*, ¶5.)

10 Other rescues in Vegas were offering to help, but none could make the drive out  
11 and did not have anywhere to house any dogs overnight, so Ward offered up her kennel  
12 resource and said everyone was welcome to take any dogs they could take in there for the  
13 night and move them to their vets the next day. I let the group of rescuers and volunteers  
14 know I had other volunteers on their way out and that we would take as many dogs as  
15 possible back, book them into the kennels for the night, and then work out the details of  
16 which rescues were taking who from there. (*Id.*, ¶6.)

17 When Ward arrived at the meeting spot, which was near a bar called The Barn, it  
18 was around 8:15 p.m. There were two volunteers from other Vegas rescue groups there, a  
19 mid-sized public transportation type bus (which she assumed was used to transport the  
20 dogs from where they were at originally) and a large truck. She approached the people  
21 and identified herself as Chelsea with SNARL and asked how she could help. There were  
22 17 dogs at the meeting spot left, and she let them know she had other vehicles on their  
23 way with supplies to help transport the dogs back to Vegas. (*Id.*, ¶7.)

24 Ward asked how many dogs there were left at the original place, and they said they  
25 had counted 14. She asked where all the other dogs went, and they said other rescues  
26 picked them up already. Ward knew a rescue in LA took six puppies, and it was  
27 mentioned that Orange County Shepherd Rescue and another rescue in Chino were taking  
28 dogs also. (*Id.*, ¶8.)

1 The two volunteers, who were already at the meeting spot when Ward arrived,  
2 each loaded up two dogs in their vehicles and drove them back to Vegas to Ward's  
3 kennels. Ward's husband, who she picked up in Barstow, loaded up two dogs in their  
4 SUV and drove back. Ward stayed behind at the meeting spot with the other people and  
5 remaining dogs until her volunteer arrived. There were 11 dogs left at this point when her  
6 volunteers arrived, so they loaded up the remaining 11 dogs and transported them back  
7 out to Vegas to their kennel resource. (*Id.*, ¶9.)

8 When Ward arrived to the kennels (around 1:45 a.m.), she was told the six dogs  
9 that had left while she was there had all checked in. She was also informed that another  
10 vehicle with six dogs had arrived and dropped off six dogs. She asked around to see who  
11 it was, and was told it was a volunteer that drove all the way out from Apple Valley.  
12 Ward surmised they had arrived to the meeting spot before her, loaded up six dogs, and  
13 started heading back out to Vegas. Ward and the other volunteers unloaded the last 11  
14 dogs from their cars and then headed home for the night. They had a total of 23 dogs in  
15 Vegas. (*Id.*, ¶10.)

16 On August 10, 2020 at around 4:00 p.m., Ward received an email from San  
17 Bernardino County Sheriff's Deputy Alexander stating, "My name is Deputy J.  
18 Alexander and I'm from the San Bernardino County Sheriff's Office, Barstow Station.  
19 Recently my station came upon [sic] a property with a large number of German  
20 Sheppards [sic]. Some of the dogs have been taken away and it was brought to our  
21 attention SNARL May [sic] have been involved. When you get a chance I'd like to speak  
22 with you about it if you have any information. At your convenience call 760-256- 4846  
23 and ask for me." (*Id.*, ¶12.)

24 Ward called Deputy Alexander back as soon as she saw this email, and emailed  
25 him at 4:49 p.m. stating she had just tried calling. He then called back around 6:00 p.m.  
26 and asked Ward to email him a statement, which she did. In their conversation, Deputy  
27 Alexander stated there was a risk the owners of the dogs, who were at the time  
28 incarcerated, may request to reclaim these dogs when they are released from jail. In their

1 phone discussion and as Ward stated again in her email, Ward asked Deputy Alexander if  
 2 it was okay to proceed with providing basic medical care and vetting for the dogs, and he  
 3 stated that it was a “weird situation” because the owners may try to reclaim the dogs, but  
 4 if we felt the need to provide medical care for the dogs, he “couldn’t advise us not to.”  
 5 (*Id.*, ¶14.)

6 Ward advised Alexander of all the veterinary care the dogs needed, and that she  
 7 would put an adoption hold on them pending the completion of the animal cruelty  
 8 investigation and any hearing. Alexander stated this was all fine. (*Id.*, ¶¶15-20.)

9 The animal cruelty suspect was thereafter released from jail, and Ward wrote again  
 10 to Alexander regarding cruelty charges based on the terrible condition the dogs were in  
 11 and all the money Ward’s rescue had to spend on vet bills. (*Id.* ¶¶21-23.) Alexander  
 12 never responded, so Ward started calling the Sheriff’s Department. Detective Grimm  
 13 finally called her back, and her attorney sent him extensive documentation of the cruelty  
 14 including vet records. (*Id.*, ¶¶24-26.)

15 Grimm thereafter executed a search warrant at Ward’s home, at the direction of  
 16 Defendants. The search was traumatic due to the way Ward’s family was treated. (*Id.*,  
 17 ¶¶27-32.)

18 **C. The German Shepherds were abandoned on vacant land, miles**  
 19 **from any structure, electricity, or running water**

20 The Internal Affairs interview with Deputy Parsons is illuminating. While the  
 21 transcript is marked confidential, the County later withdrew the confidentiality  
 22 designation on all documents produced. (Pease Decl., Ex. 19.)

23 The land was “out in the middle of nowhere” and had some patchy hogwire  
 24 fencing on parts of it. (RJN, Ex. 2, Parsons interview, p.9:11-14.) There was no gate or  
 25 doors. (*Id.*, p.9:17-18.)

26 Defendant Hardin instructed Parsons to take the animal cruelty suspects to jail.  
 27 (*Id.*, p.15:16-17.) The next day, Defendant Frank Hardin instructed Parsons and  
 28 Defendant Josh Alexander to take jail sheets to try to provide shade for the dogs, and

1 water. (*Id.*, p.16:16-19.)

2 Parsons told Hardin she had gotten an animal rescue group on board to help. (*Id.*,  
3 p.17:3-8.) Hardin did not make it clear that Parsons was not supposed to allow people to  
4 remove dogs from the property. (*Id.*, p.68:11-19.)

5 When Parsons learned the rescue groups had taken dogs to a veterinarian, she  
6 asked for the information to pass along the vet records to Defendant Alexander, who was  
7 writing the report. (*Id.*, p.70:25-27.)

8 The land was “a parcel of land, it wasn’t a piece of property.” It was “an open  
9 property with abandoned animals on it that were left to die.” (*Id.*, p.72:14-17.)

10 At no point did Parsons tell Greiser that she lacked authority to remove the dogs.  
11 (*Id.*, p.79:6-9.)

12 Parsons’ past experience with Animal Control is they would leave animals hurt in  
13 cages and inside abandoned homes and refused to take them, and it would take months  
14 before any action was ever made on several cases. (*Id.*, p.118:15-19.)

15 After the interview, Defendant Guerry seized Parsons’ phone pursuant to a  
16 warrant, but he was very apologetic about it and noted it could be returned the next day  
17 after copying, unlike Greiser’s phone and laptop, which Guerry and Mooradian hung onto  
18 for a year and a half. (*Id.*, pp. 142, 146.)

19 Due to Defendants allowing the animal cruelty suspects to continue their cruel,  
20 illegal, and fraudulent business, the public continued to be harmed. (See Declaration of  
21 Justin Smith).

22 The Internal Affairs interview with Defendant Hardin is also illuminating.

23 He admits that Parsons told him she had contacted animal shelters to help the dogs  
24 and “didn’t think anything of it at the time.” (Pease Decl., ¶24, timestamp 14:15.)

25 The entire comm center was discussing “tak[ing] control of these dogs.” (*Id.*,  
26 timestamp 15:06.) This was when Hardin called Defendant Ferber on a Sunday to let him  
27 know deputies were discussing taking action to rescue the dogs. (*Ibid.*)

28 Hardin’s concern was the Sheriff’s Department lacked anywhere to take the dogs,

1 and that Animal Control “had jurisdiction,” yet he still felt it was appropriate for the  
 2 Sheriff’s Department to go out and keep feeding and watering the dogs since Animal  
 3 Control was refusing to. (*Ibid.*) An Animal Control officer later told Hardin that Parsons  
 4 was present in the area when the dogs were rescued, and that the rescuers would have had  
 5 to drive right by her. (*Ibid.*)

6 Hardin agreed the elements of animal cruelty were met. (*Id.*, timestamp 21:28.) He  
 7 did not tell Parsons she could not allow somebody else to take the dogs. (*Id.*, timestamp  
 8 53:42.) Hardin wished Animal Control had just responded, and this could have eliminated  
 9 any issue of theft. (*Id.*, part 2, timestamp 21:20.)

### 10 **III. ARGUMENT**

11 The FAC alleges 42 U.S.C. §1983 supervisory liability against Ferber in the first  
 12 cause of action, individual liability against Parks in the second cause of action,  
 13 supervisory liability against Mooradian in the third cause of action, individual liability  
 14 against Alexander and Hardin in the fourth cause of action, and individual liability  
 15 against Guerry in the fifth cause of action. The third cause of action has been dismissed  
 16 as it was only against the Animal Control Officers (ACOs).

#### 17 **A. Defendants bear the burden of proving qualified immunity**

18 “Qualified immunity is an affirmative defense that the government has the burden  
 19 of pleading and proving.” (*Frudden v. Pilling* (9th Cir. 2017) 877 F.3d 821, 831.)

20 Defendants cite a Sixth Circuit case in an attempt to flip the burden onto Plaintiffs,  
 21 but that is not the law in the Ninth Circuit. (ECF No. 80, p.21:3-7.)

22 Defendants continue to cite additional Sixth Circuit authority in their qualified  
 23 immunity analysis. (*Id.*, p.21:11-15.)

#### 24 **B. The evidence supports supervisory liability**

25 Although it is not part of the qualified immunity analysis, Defendants discuss  
 26 under their qualified immunity section the standard for supervisory liability. (ECF No.  
 27 80, p.21:26-22:8.)

28 Defendants rely primarily on a Montana District Court case and a Second Circuit

1 case, and then cite two Ninth Circuit cases for general legal principles.

2 The Montana case cited by Defendants actually holds:

3 Supervisory liability under § 1983 - the personal liability of a  
 4 supervising official for the unconstitutional conduct of the official's  
 5 subordinates - may be imposed in certain circumstances. "A supervisor  
 6 will rarely be directly and personally involved in the same way as are  
 7 the individual officers who are on the scene inflicting constitutional  
 8 injury." *Larez v. City of Los Angeles*, 946 F.2d 630, 645 (9th Cir. 1991).  
 9 However, a supervisor may have sufficient involvement in the  
 10 subordinate's conduct to impose liability on the supervisor under 42  
 11 U.S.C. § 1983. *Id.* "[A] supervisor is liable for the acts of his  
 12 subordinates 'if the supervisor participated in or directed the violations,  
 or knew of the violations of subordinates and failed to act to prevent  
 them.'" *Corales v. Bennett*, 567 F.3d 554, 570 (9th Cir. 2009) (citation  
 omitted).

13 (*Peschel v. City of Missoula* (D. Mont. 2009) 686 F. Supp. 2d 1092, 1097.)

14 Thus, the Ninth Circuit authority cited in *Peschel*, which Defendants declined to  
 15 refer to, holds that even *knowing* of violations of subordinates and failing to act to  
 16 prevent them is enough for supervisory liability. This is different from vicarious liability,  
 17 which is more like strict liability for the acts of subordinates, regardless of specific  
 18 knowledge or intent. Plaintiffs are not claiming this. Plaintiffs are claiming the supervisor  
 19 Defendants were actively involved in and/or ratified the violations.

20 Defendants then skip to discussing an irrelevant issue regarding individual capacity  
 21 before returning to discussing supervisory liability under a new heading. (ECF No. 80,  
 22 p.23:5.)

23 Defendants admit here that there are three separate independent bases on which a  
 24 supervisor may be culpable:

- 25 1) action or inaction in the training, supervision, or control of subordinates
- 26 2) acquiescence in the constitutional deprivations of which the complaint is made;
- 27 *or*
- 28 3) for conduct that showed a reckless or callous indifference to the rights of others.

1 (ECF No. 80, p.23:20-24.)

2 Defendants also correctly state that a supervisor may be held liable for “sett[ing] in  
3 motion ‘a series of acts by others which the actor knows or reasonably *should* know  
4 would cause others to inflict’ constitutional harms.” (ECF No. 80, p.24:5-7, emphasis  
5 added.)

6 **C. Defendants are named in their individual capacities only**

7 Despite it being very clear that Defendants are only being sued in their individual  
8 capacities, and the Court previously issuing a ruling denying Defendants’ motion to  
9 dismiss on the grounds that they are not in privity with the County, which was dismissed  
10 in a previous lawsuit, Defendants include an entire section devoted to arguing that any  
11 “official capacity” claims are subject to dismissal.

12 As there are no such claims, this section can be ignored.

13 **D. Defendants fail to meet their burden as to each cause of action**

14 **1. First cause of action against Ferber**

15 The first cause of action is against Ferber for supervisory liability.

16 The sole reason given in Defendants’ motion for partial summary judgment on the  
17 first cause of action is that “a supervisory official is not vicariously liable for the acts of  
18 subordinate employees under 42 U.S.C. § 1983 [citation] and because FERBER acted in  
19 an objectively reasonable manner in supervising the lawful searches and seizures.” (ECF  
20 No. 80, p.2:13-17.) However, Plaintiffs have not alleged a theory of vicarious liability.

21 Defendants seem to mischaracterize Plaintiffs’ claims as being based on Ferber’s  
22 reassignment of the theft investigation from Hardin to Mooradian, but this is not the basis  
23 for Plaintiffs’ claims. Rather, the issue is that Ferber directed there to be a theft  
24 investigation against Plaintiffs at all.

25 Defendants next claim that Ferber’s actions were justified because the search  
26 warrants were “sanctioned by multiple bench warrant officers.” (ECF No. 80, p.25:19.)  
27 However, this was because Ferber’s subordinates—at Ferber’s direction—concealed key  
28 information from the bench officers, namely that Plaintiffs had acted at the direction of

1 Sheriff's deputies, and that the land on which the dogs were abandoned had no structures,  
2 electricity, or running water for miles around, and seemed to be owned by no one.

3 Defendants claim "Lieutenant Ferber had at best only a minimal high level  
4 supervisory role in this matter," yet Hardin called him on a Sunday to immediately  
5 inform him that other Sheriff's deputies were coordinating to rescue the dogs:

6  
7 I get a phone call from Sheriff's dispatch. Or a message from Sheriff's  
8 dispatch saying hey, comm center is on the phone, and they want to talk  
9 about how they can help with these dogs and take control of these dogs.  
10 And I'm like, what are you, what do you mean take control of these  
11 dogs? And so at that point I'm like dang, we're not taking these dogs.  
12 So I tell her hey, we're not taking the dogs, hold off, tell comms center  
13 that's not what we're doing. We can't do anything without Animal  
14 Control's approval or whatever. I call my lieutenant and give him a  
15 heads up, hey sir, this is what's going on. And he's like, well we don't  
16 have control of those dogs. I got you, I'm just giving you a heads up, **I**  
**was going to tell you Monday...when he came in.** However, now that  
17 comm's center were asking about these dogs, I want to go ahead and  
18 give him a heads up.

19 (Pease Decl., ¶24, timestamp 15:06.)

20 If Ferber just had a "minimal high level supervisory role," Hardin could have  
21 waited to brief him when he came to work on Monday. Instead he called him on a Sunday  
22 to advise him of the unfolding situation. Ferber was intimately involved.

## 23 **2. Second cause of action against Parks**

24 The second cause of action is by Greiser against Parks for individual liability and  
25 has three counts.

26 The first is based on the search warrant containing false and misleading  
27 information, and Parks participating in the search and seizure despite being aware of  
28 Alexander's previous contacts with Ward. Importantly, Parks does not deny this  
knowledge, either in his own declaration or in the answer.

The second count is Parks authoring a search warrant for Greiser's call detail again

1 with full knowledge of the Ward/Alexander communication.

2 The third count is based on the information received from the warrant showing  
3 Greiser had been in communication with Parsons and thus acting at her direction, which  
4 should have ended the investigation into Greiser and led to immediate return of her  
5 personal property.

6 The sole reason given in Defendants' motion for partial summary judgment on the  
7 second cause of action is "Defendant PARKS has qualified immunity." (ECF No. 80,  
8 p.2:18-20.)

9 Defendants' discussion of Parks' actions is based almost entirely on the search  
10 warrants having supposedly been validly issued. (ECF No. 80, p.32:21-33:16.) This  
11 ignores the key facts omitted from the warrant application, which Parks was specifically  
12 aware of.

13 Parks also admits in his declaration, "The sole purpose of the search was to  
14 determine if Plaintiff Greiser made any calls concerning the stolen Gelman Shepard  
15 dogs." Thus, Parks admits the seizure of Greiser's laptop was unreasonable, which he  
16 participated in.

### 17 **3. Third cause of action and Mooradian**

18 The third cause of action is by Greiser against Mooradian for supervisory liability.  
19 This is based on Mooradian instructing his subordinate Guerry to hold onto Greiser's  
20 personal property long after there was no reasonable basis for doing so.

21 Defendants have not sought partial summary judgment on the third cause of action.  
22 (ECF No. 80, p.2:11, only seeking "partial judgment as to the first and second claims.")

23 Thus, only if the Court grants summary judgment in its entirety can this cause of  
24 action be dismissed.

25 The sole reason given in Defendants' motion for this cause of action failing is, "a  
26 supervisory official is not vicariously liable for the acts of subordinate employees under  
27 42 U.S.C. § 1983 [citation] and because MOORADIAN acted in an objectively  
28 reasonable manner in supervising the lawful searches and seizures." (ECF No. 80,

1 p.2:21.) However, Plaintiffs have not alleged a theory of vicarious liability.

2 Mooradian admits in his declaration that he “was Detective Guerry’s supervisor for  
3 the period he was assigned to this matter,” and that Guerry would ordinarily “clear the  
4 release of any evidence seized pursuant to search warrants with his supervising officer  
5 prior to the release of the evidence.” (ECF No. 86, ¶10.) Thus, Mooradian admits that he  
6 and Guerry were both responsible for failing to return Greiser’s property in a timely  
7 manner.

8 Mooradian admits the property was not released until March 2022. (*Id.*, ¶11.) Yet,  
9 the DA had issued a decline to charge memo in October of 2021. (Pease Decl. ¶14.) Thus,  
10 it was unreasonable to withhold Greiser’s property for six more months. Defendants did  
11 not even inform Plaintiffs of this decline to charge letter until March 2022. (ECF No. 83-  
12 5.)

13 Defendants refer to these six months as a “short administrative delay” and argue  
14 without authority that “absent additional aggravating factors,” this “does not rise to the  
15 level necessary to establish a violation of Plaintiff Greiser’s rights.” (ECF No. 80,  
16 p.26:24-27.)

17 It is important to note that Defendants have not raised a qualified immunity  
18 defense as to Mooradian’s actions here. The sole asserted basis for this cause of action  
19 failing in the motion is lack of vicarious liability, and that Mooradian’s actions were  
20 “objectively reasonable in supervising the lawful searches and seizures.” (ECF No. 80,  
21 p.2:21.) The latter defense has nothing to do with unreasonable delay in returning the  
22 property *after* the searches and seizures.

23 Defendants end the Mooradian discussion with, “Accordingly, Plaintiff Greiser has  
24 failed to establish a violation of her constitutional rights.” (ECF No. 80, p.26:27-28.)  
25 However, as Defendants have not asserted a qualified immunity defense, and have not  
26 identified any authority that show withholding someone’s property for an additional six  
27 months after the DA declines to file charges, particularly when the property had already  
28 been withheld for over a year prior to that despite being easily copied in a matter of

1 minutes, this question should be put to a jury.

2 **4. Fourth cause of action against Alexander and Hardin**

3 The fifth cause of action is against Alexander and Hardin due to being fully aware  
4 of the facts and circumstances regarding the rescue of the dogs and Alexander's  
5 authorization to adopt the dogs out, yet pursuing a sham "theft" investigation against  
6 Plaintiffs.

7 Defendants have not sought partial summary judgment on the fourth cause of  
8 action. Thus, only if the Court grants summary judgment in its entirety can this cause of  
9 action be dismissed.

10 The sole basis Defendants state in their motion for this cause of action failing is  
11 "Defendants ALEXANDER and HARDIN have qualified immunity." (ECF No. 80,  
12 p.2:27-3:1.)

13 Defendants do not refute that Hardin was aware of Ward's communication with  
14 Alexander. Defendants also conflate the Plaintiffs here. Ward never went to the property.  
15 All Ward did was volunteer time and money to transport dogs to a veterinarian for  
16 treatment, inform Alexander of this, and then adopt them out as Alexander authorized her  
17 to do.

18 All Greiser did was rescue dogs abandoned on vacant land in the desert as  
19 authorized by Deputy Parsons. Hardin was aware of all of this yet allowed the sham  
20 "theft" investigation to continue.

21 **5. Fifth cause of action against Guerry**

22 The fifth cause of action is by Greiser against Guerry for individual liability and  
23 contains two counts. The first is for authoring a search warrant for Greiser's personal  
24 devices which involved judicial deception by omitting key information. The second is for  
25 failure to return the personal property within a reasonable amount of time.

26 Defendants have not sought partial summary judgment on the fifth cause of action.  
27 Thus, only if the Court grants summary judgment in its entirety can this cause of action  
28 be dismissed.

1 The sole basis Defendants state in their motion for this cause of action failing is  
2 “Defendant GUERRY has qualified immunity.” (ECF No. 80, p.3:2-4.)

3 Defendants attempt to blame the lengthy delay in returning Greiser’s property on  
4 counsel, claiming “the department took a brief period to return Plaintiff Greiser’s  
5 cellphone, which was extended because her counsel refused to schedule an appointment  
6 to retrieve the phone.” (ECF No. 80, p.35:1-3.)

7 The January 18, 2022 email from defense counsel did not offer to return the  
8 property, but asked for “a list of property that your clients are looking to be returned to  
9 them from the County.” (ECF No. 83-1, p.2.) Despite this being three months after the  
10 DA had, unbeknownst to Plaintiffs, issued a decline to charge memo rejecting the case,  
11 Defendants were still not sharing this information with Plaintiffs or even offering to  
12 actually return the property yet. Instead, defense counsel cryptically stated, “I do not have  
13 more information to share with you at this time, but believe we are now at a juncture  
14 where we can move forward with that request.” (ECF No. 83-1, p.2.)

15 It was not until February 11, 2022 that Defendants finally wrote, “Your clients may  
16 pick up their property next week.” (ECF No. 83-3, p.2.)

17 On March 2, 2022, Defendants emailed confirming that it had not been until the  
18 previous day that “we sent you a copy of the letter confirming that no criminal charges  
19 are being filed.” (ECF No. 83-5, p.2.)

20 Because Defendants did not allow the property to be released until February 2022  
21 that was seized in September 2020, and Greiser was an hour and a half each way from the  
22 San Bernardino station where she would have to drive to retrieve it, she did not pick it up  
23 right away upon being finally notified that she could. (Greiser Tr., p.113:19-114:2.)

24 Computers and phones generally need to be replaced every couple of years  
25 anyway. This delay was entirely at the direction of Defendants, specifically Mooridian  
26 and Guerry. It had nothing to do with any supposed delay in counsel taking a few days to  
27 respond to an email about it.

1 **IV. CONCLUSION**

2 Defendants have not met their burden for summary judgment or partial summary  
3 judgment on the first two causes of action, which are the only two causes of action on  
4 which Defendants seek partial summary judgment. Defendants' motion should be denied  
5 in its entirety.

6 Dated: March 4, 2024

7 By: /s/ Bryan W. Pease  
8 Bryan W. Pease  
9 Attorney for Plaintiffs

10  
11 **CERTIFICATE OF COMPLIANCE**

12 The undersigned certifies that this brief contains 5,539 words, which complies with  
13 the word limit of L.R. 11-6.1.

14 Dated: January 26, 2024

15 By: /s/ Bryan W. Pease  
16 Bryan W. Pease  
17 Attorney for Plaintiffs  
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