

Court file no.:

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

BETWEEN:

**TOVE REECE, ZOOCHECK CANADA INC.
and PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS INC.**

Applicants

-and-

CITY OF EDMONTON

Respondent

AFFIDAVIT OF DR. HENRY MELVYN RICHARDSON

I, DR. HENRY MELVYN RICHARDSON, of the City of Paradise in the State of California in the United States of America, MAKE OATH AND SAY THAT:

1. In this affidavit I provide my opinion on the issue of whether Lucy the elephant ("Lucy"), held at the Edmonton Valley Zoo (the "Valley Zoo") is in distress, as that term is defined in section 1(2) of the *Animal Protection Act* R.S.A. 2000, c. A-41 and whether her conditions at the Valley Zoo meet applicable regulations or "reasonable and generally accepted practices" of elephant care, management and husbandry, pursuant to section 2(2) of the *Animal Protection Act*.
2. In reaching my conclusions I have relied upon my own knowledge and experience, which is described below. I have also relied upon records, documents, photographs and video clips which I cite and which I verily believe to be true as well as my own observations of Lucy.

A. My Professional Qualifications

3. My qualifications are more fully described in my *curriculum vitae*, which I attach as to this affidavit as **Exhibit A**.

4. Currently, and for the past 28 years, I have been a veterinarian providing medical and surgical care for captive wild and domestic animals. I graduated from the University of Georgia in Athens, Georgia, USA, in the College of Veterinary Medicine with a Doctorate in Veterinary Medicine (DVM) in 1982.

5. From June of 1982 until spring of 1984 I was the veterinarian responsible for the health care of more than 1500 captive wild animals, including 52 elephants at International Wildlife Park in Grand Prairie, Texas. The facility was a drive-thru wild animal park owned by International Animal Exchange (“IAE”), which is a company based in Michigan. IAE is primarily an animal dealer, buying and selling animals from all over the world. When I started at the International Wildlife Park in 1982 there were four adult elephants at the park: one male African and one male Asian with two female Asian Elephants. Shortly after my arrival we received a shipment of forty-eight African “orphan” elephants from a culling operation in Zimbabwe (the orphans were taken after the adult elephants were killed). I was charged with ensuring the orphans, ranging in age from one to four years, survived the transition from wild to captive life.

6. I left IAE in spring of 1984 and went into private practice in Northeast Texas. From 1984 to 1989, as part of my private practice I provided relief veterinary services to the Dallas Zoo where there was a diverse collection of captive wild animals, including elephants. I also provided consulting veterinary services for an individual who housed several performing Asian elephants at his farm in Seagoville, Texas, including one adult bull.

7. In 1989 I became an associate veterinarian at the Woodland Park Zoo in Seattle, Washington, where I provided care to the full spectrum of zoo animals including Asian and African elephants.

8. In 1991 I became the Senior Veterinarian at the San Antonio Zoo where I was responsible for a very large collection of zoo animals, including Asian and African elephants. I took a brief leave-of-absence from the San Antonio Zoo from September 1992 until March 1993 in order to serve as veterinarian for the endangered mountain gorillas in Rwanda. I returned to the San Antonio Zoo and remained there in my capacity as Senior Veterinarian until December,

1995.

9. In 1996 I became the Project Director for the Project Protection des Gorilles, a gorilla rescue and release project in Brazzaville, Republic of the Congo for one year.

10. After my return from Brazzaville, until 2005 I practiced mainly pet medicine in Texas and then in Washington state. While in Washington I provided relief veterinary services at the Seattle Woodland Park Zoo and the Point Defiance Zoo in Tacoma. Both of these zoos have elephants.

11. In May 2005 I moved to Paradise, California, where I now reside, and became a Medical Director at a local small animal veterinary clinic. I continue to work in this capacity today.

12. In September, 2005, I testified before the Los Angeles Zoo Commission concerning a female Asian elephant at their zoo named Gita. While there I met Pat Derby and Ed Stewart, the co-founders of the Performing Animal Welfare Society ("PAWS"). They invited me to come see their elephant sanctuary in Galt and San Andreas, California and I started traveling there in my free time from the animal hospital approximately every month.

13. In February 2006 I testified before the Chicago City Council and provided my opinion on a proposed law to set space requirements for captive elephants in Chicago.

14. From 2007 until May 2009 I was the Veterinarian of Record and attending veterinarian for PAWS, primarily due to my elephant experience. As Veterinarian of Record at PAWS I was responsible for ensuring PAWS complied with the state and federal laws and as a result I dealt regularly with the California Department of Fish & Game, the United States Department of Agriculture, and United States Fish & Wildlife agency. Also, as attending veterinarian at PAWS I examined all of the elephants and other captive wild animals regularly, providing care as needed. This care included oversight of the elephant foot care program, as well as treating specific medical problems in the elephants at PAWS.

15. I also have particular experience in welcoming a new elephant to PAWS. In November 2007 Maggie, a 25 year old African elephant, from Anchorage Zoo in Alaska arrived at the PAWS ARK2000 sanctuary in San Andreas, California. Once Maggie arrived at PAWS, I, in consultation with Pat Derby and Ed Stewart, developed and implemented a plan to introduce her to the existing herd. My focus was with providing her with adequate health care to address her preexisting needs.

16. I currently continue to provide veterinary services at PAWS on a consultative basis.

B. The Information Upon Which I am Basing this Affidavit

17. I have personally observed Lucy at the Valley Zoo. Julianne Woodyer (an employee at ZooCheck Canada Inc. signed up me and Mr. Stewart to participate in a workshop entitled “Behind the Scenes with Lucy” which was being hosted by the Valley Zoo in March 2009. However, in advance of the workshop, Ms. Woodyer advised me that the workshop had been cancelled. Regardless, I attended the Valley Zoo on March 16, 2009 along with Ms. Woodyer and Mr. Stewart where I was able to observe Lucy in her indoor enclosure for several hours as a regular guest as well as observe her as she was taken out on a walk by a keeper. I have attached here as **Exhibit B** a copy of a photograph I took of Lucy being taken on that walk by a keeper on March 16, 2009 when I visited her.

18. I have also reviewed the following materials which were provided to me by Ms. Woodyer and which I believe to be accurate:

- (a) Lucy’s Veterinary Medical Records from May 19, 1977 through June, 2009, a copy of which are attached as Exhibit C of Dr. Philip K. Ensley’s affidavit;
- (b) Lucy’s Daily Log Books from January 1, 2008 through July 14, 2009, a copy of which are attached as Exhibit D of Dr. Philip K. Ensley’s affidavit;
- (c) A document entitled “Health Record for Lucy (1980 – March 2009),” a copy of which is attached here as **Exhibit C**;
- (d) Lucy’s 2008 Walk Log, a copy of which is attached here as **Exhibit D**;
- (e) Lucy’s March-July 2009 Walk Log, a copy of which is attached as **Exhibit E**;
- (f) A drawing of Lucy’s indoor barn measurements, dated October 30, 2009, a copy of which is attached as **Exhibit F**;
- (g) A drawing of Lucy’s outdoor enclosure measurements, dated October 30, 2009, a copy of which is attached as **Exhibit G**;
- (h) The following photographs of Lucy and her enclosure, copies of which are attached collectively as **Exhibit H**:
 - i. Lucy inside enclosure, image taken June 1, 09;
 - ii. Lucy in barn, image taken June 1, 2009
 - iii. Lucy outside barn in snow, image taken March 16, 2009;
 - iv. Lucy walking on snow and ice, image taken March 16, 2009;
 - v. Outdoor elephant enclosure yard, image taken April 26, 2007;

- vi. Lucy in barn, image taken May 2, 2005;
- (i) A video of Lucy in her indoor enclosure, taken by Ms. Woodyer on April 25, 2007, a copy of which is attached as Exhibit 4 in the affidavit of Dr. William Keith Lindsay;
- (j) A video of Lucy in her indoor enclosure, taken by Ms. Woodyer on March 16, 2009, a copy of which is attached as Exhibit 5 in the affidavit of Dr. William Keith Lindsay;
- (k) A video of Lucy being taken on an icy walk, taken by Ms. Woodyer on March 16, 2009, a copy of which is attached as Exhibit 6 in the affidavit of Dr. William Keith Lindsay;
- (l) A report entitled *The Sad State of Captive Elephants in Canada* by Winnie Kiiru which is attached as **Exhibit I**;
- (m) The Elephant Consultation Report, dated September 16, 2009, written by Dr. James E. Oosterhuis, which is attached to this affidavit as **Exhibit J**;
- (n) Lucy's Treatment Program, Edmonton Valley Zoo's plan to implement expert recommendations November 13, 2009, a copy of which is attached as **Exhibit K**.

19. I also have personal experience at PAWS, as described above. I have taken a number of pictures during my time at PAWS which accurately depict the PAWS Asian habitat and help to illustrate what I describe below in this affidavit:

- (a) Asian habitat barn and small yard, image taken February 11, 2009, a copy of which is attached as **Exhibit L** (the structure in the background is the African habitat barn and the structure in the foreground is the Asian habitat barn);
- (b) Asian barn and Asian habitat, image taken February 26, 2009, a copy of which is attached as **Exhibit M** (the structure in the background is the African habitat barn and the structure in the foreground is the Asian habitat barn);
- (c) Asian elephants sleeping on hillside in Asian habitat, image taken March 28, 2009, a copy of which is attached as **Exhibit N**.

20. I have reviewed the Alberta *Animal Protection Act* which, in section 1(2) defines distress as an animal that is:

- (a) deprived of adequate shelter, ventilation, space, food, water, or veterinary care or reasonable protection from injurious heat or cold,

- (b) injured, sick, in pain, or suffering, or
- (c) abused or subjected to undue hardship, privation or neglect.

21. I have also reviewed the *Government of Alberta Standards for Zoos in Alberta* (the “GASZA Standards”) and the Association of Zoos and Aquariums’ Standards for Elephant Management and Care (the “AZA Standards”).

C. Lucy’s Exhibit Enclosures and her Health

22. Ms. Woodyer advises me, and I verily believe, that Lucy’s enclosure Lucy’s indoor enclosure where she spends the majority of her time, especially in the winter, is approximately 194 square metres (2088 square feet). Ms. Woodyer also advises me, and I verily believe, that Lucy’s outside enclosure measures 825 square metres (8878 square feet) and that Lucy’s total enclosure space at the Valley Zoo measures just a little more than a quarter of an acre.

23. According to Dr. Oosterhuis’ Elephant Consultation Report, the floor of Lucy’s indoor enclosure is concrete and the floor of her outdoor enclosure is packed dirt.

(i) Lucy’s Chronic Foot Illnesses

24. It appears from the Veterinary Medical Records that Lucy has suffered from chronic foot abscesses during the last twenty years at the Valley Zoo. Her foot abscesses and arthritis are caused by the combination of being forced to stand for most of her day in her indoor enclosure (particularly during the cold winter months), the hardness of the concrete substrate and being subjected to inclement temperatures.

25. As stated above, during the winter months Lucy is primarily kept in her indoor enclosure which measures approximately 194 square metres (2088 square feet) – that is, about 0.05 of an acre. By comparison, in the text in *The Asian Elephant, Ecology and Management*, R. Sukumar estimates home ranges for Asian elephant family clans to be 24,710 acres to 74,131 acres. Elephants are adapted to walking for most of their day; Lucy, however, spends most of her days standing more or less in one spot, particularly during the winter months when she is kept indoors. As a result of being confined to her indoor enclosure, Lucy is unable to engage in her species-typical movements.

26. The significance is that elephants like Lucy that live on hard substrates and in small spaces which prevent them from engaging in extensive walking suffer from reduced blood flow

to the foot. Reduced blood flow to the foot often leads to ischemic necrosis of the nails and pads; that is, reduced blood flow to the live tissue which causes that tissue to die. Standing for long periods of time in essentially one spot, as I have observed Lucy is forced to do at the Valley Zoo, exacerbates her foot problems because Lucy is not getting the blood circulation her feet require to keep them healthy.

27. Edmonton's cold temperatures also compound the problem. I am unaware of the temperature in Lucy's indoor enclosures during the winter months, and I do not know whether the concrete substrate is heated. In any case, Lucy's 2008 and 2009 Walk Logs (Exhibits D and E) reveal that Lucy is often taken out in freezing cold temperatures for walks. Animals, including Asian elephants that are adapted to tropical or sub-tropical climates react to cold temperatures in the same way; the blood supply to the extremities is reduced in order to maintain body core temperature. This natural physiological response worsens Lucy's ability to fend off foot infections. Similarly, if her concrete substrate is unheated, it will necessarily be cold to stand on and will cause reduced blood flow to her feet as her body attempts to maintain her core temperature. Although her walks in the extreme cold may be good to relieve her boredom and provide exercise for her muscles, the effect the frozen ground on her feet is the same as cold concrete. The reason abscessed feet are soaked in warm medicated or salty baths is both to disinfect and to increase perfusion or blood flow to the infected area. Cold will do just the opposite, decreasing blood flow, therefore delaying healing.

28. As a zoo veterinarian I have treated foot abscesses at every institution with captive elephants that I have worked. Treatment of foot abscesses require warm medicated foot soaks and corrective trimming and paring of necrotic tissue by removing devitalized tissue to the level of 'healthy' tissue; that is, treatment requires the skin to be trimmed until there is bleeding and/or the elephant reacts painfully. In my opinion, it would not be worthwhile to perform this treatment on Lucy because infected abscesses will certainly recur due to her conditions at the Valley Zoo. In Lucy's case the only way to heal her feet would be to move her off of cold concrete and cold packed dirt and allow her to have constant outdoor access in a suitable climate.

(ii) Lucy's Arthritis

29. According to Lucy's Veterinary Medical Records, Lucy is suffering from arthritis. She is currently receiving pain medications, primarily phenylbutazone, "for arthritis." Having treated arthritis, an inflammation of the joints, in zoo elephants, I am familiar with the disease. Healthy exercise is necessary to keep muscles fit and toned. Elephants living in small spaces and who do not get adequate exercise, like Lucy, suffer from poor muscle tone and therefore their joints are more easily injured by the day to day activities of walking, getting up and lying down. There is even a note in Lucy's Veterinary Medical Records on 16 August 2002 of Lucy falling while on a walk.

30. There have been claims from the zoo that Lucy suffers from rheumatoid arthritis. From Lucy's Veterinary medical records dated 22 November 05: "She was diagnosed with at an early age with Rheumatoid Arthritis and this problem flares up occasionally." Rheumatoid arthritis is a specific condition whereby the affected animal has a hyper-immune reaction to a Mycoplasmal organism. An animal affected by rheumatoid arthritis will test positive for Rheumatoid Factor in the blood. This is a specific diagnosis and yet her medical records do not reflect that any blood tests have been performed to test for Rheumatoid Factor or that she has been treated with antibiotics if mycoplasmal infection was presumed.

31. Lucy's arthritis is most probably osteoarthritis (also called degenerative joint disease) – the "wear-and-tear" arthritis often experienced by captive elephants with little opportunity to move around and engage in species-typical movements. All animals depend on their muscles and ligaments to support and protect their joints. Although in the last few years the staff has increased Lucy's walks, she is still not as active as she was meant to be. Elephants have evolved to spend most of their day walking; Lucy, however, spends most of her day simply standing.

32. I believe Lucy's arthritis and foot disease are caused by the inadequate environment she has endured for the last 32 years at the Valley Zoo.

(iii) Lucy's Obesity

33. Lucy's arthritis is complicated by her obesity. There is no standard weight that a captive female Asian elephant should weigh, though there may be estimates of the weights of elephants in some literature. In assessing an elephant's weight and determining whether it is overweight, a veterinarian needs to look for basic signs of obesity, such as whether the animal is carrying bulk, whether there appears to be fat or excessive skin and whether it is possible to "pinch" fat on the elephant's body. I have not physically examined Lucy; however, I have visited Lucy on one occasion and I have reviewed the photographs and videos of her which are attached as exhibits to this affidavit. I can conclude that Lucy is obese.

34. The effect of Lucy's obesity is that her joints, which are already weakened by arthritis, are forced to carry more weight than they should. Therefore, her weight exacerbates her arthritis.

(iv) Lucy's Stereotypic Behaviour

35. During my visit to the Valley Zoo on March 16, 2009 I saw Lucy exhibiting the stereotypical swaying or rocking so common in stressed zoo and circus elephants. Stereotypies are repetitive movements with no observable purpose, although the movements may be incited by a particular cause. It is considered an abnormal behavior and is often seen in captive animals, particularly those held in small enclosures with little opportunity to engage in more normal behaviors. The inciting cause on March 16, 2009, when I observed Lucy's stereotypic rocking, was a loud and noisy school group which entered the viewing gallery which adjoins her indoor enclosure. Just before the noisy children became noticeable to me, Lucy started an exaggerated rocking front to back. This continued until the sounds of the children faded from ear shot, and then Lucy went about her business. When another group came in later, she repeated the pattern.

36. Whether Lucy's rocking behaviour is labeled a "stereotypy" or an "anticipatory behaviour" is irrelevant – it is an abnormal behaviour for elephants and is a demonstration of stress or anxiety.

(v) Lucy's Mouth Breathing

37. During my visit at the Valley Zoo, I had the opportunity to observe Lucy's respiratory problem from a safe distance. She did engage in open mouth breathing, but it was not consistent. This leads me to believe that her open-mouth breathing may be a behavioral stereotypy. If Lucy's narrow nasal passages are the pathology causing her respiratory problem it would not

vary from minute to minute, particularly when she is not exerting herself. Yet, Lucy appeared to me to have some control over her open-mouth breathing. I would need more up close time with Lucy to be able to confirm the cause of Lucy's mouth-breathing and respiratory illness. If the cause of her respiratory condition is chronic sinusitis, the cold of Edmonton will definitely hinder her recovery making it all the more crucial that she be moved.

(vi) Conclusions about Distress

38. Chronic foot disease and arthritis are causing Lucy physical pain and suffering. Her chronic foot disease and arthritis, in turn, are caused by the inadequate enclosures and conditions at the Valley Zoo. Based on the fact that she has these chronic maladies, I can conclude that the shelter provided by the Valley Zoo is inadequate.

39. It appears that the Valley Zoo recognizes Lucy's physical pain since they have been administering pain medications to her regularly over a number of years. Based on my experiences treating captive elephants both in zoos and at PAWS, it is my opinion that Lucy's pain and suffering associated with her chronic foot disease and arthritis will not be cured until she is removed from her concrete enclosure and the severe climate of Edmonton for which elephants are not well-suited.

40. Lucy is also enduring privation in that she is deprived of engaging in her species-typical movements and behaviours such as socializing with other elephants, walking for much of her day, digging with her feet and foraging for her food.

41. Lucy's stereotypic behaviour is a manifestation of her various forms of distress. After 28 years treating zoo animals it is my experience that chronic stress can exacerbate disease and hasten death in captive animals. Animals held in inadequate enclosures while in captivity may die from bacterial, viral, fungal, and parasitic infections; but they succumb to the infection because their immune systems are weakened by physical stressors such as excessive cold or heat and psychological stressors.

42. Part IIIB.1 of the GASZA Standards state that "[a]ll animal exhibits must be of a size and complexity sufficient to provide for the animal's physical and social needs and species typical behaviours and movements." An "exhibit" is defined as "all the enclosures, shelters, buildings and any other structures that constitute the 'home in the zoo' for a particular species or multi-species assemblage."

43. Lucy is in pain, is suffering and is subjected to privation. Furthermore, her exhibit (both the indoor and outdoor enclosures) does not meet the GASZA Standard expressed above. I am aware that both the indoor and outdoor exhibits at the Valley Zoo exceed the minimum space requirements set out in the AZA Standards (see s. 1.4 of the AZA Standards). Nevertheless, beyond the size of her exhibit, the conditions of her exhibit at the Valley Zoo are causing her physical pain and suffering in the form of foot infections and arthritis. The Valley Zoo exhibit does not provide the necessary complexity required to keep elephants, including Lucy, in reasonably good physical health. Captive zoo elephants are predisposed to foot illness and arthritis; as a result, creating a sufficiently complex enclosure that meets elephants' unique biological requirements is essential in ensuring adequate physical health. In Lucy's case, she spends too much time on concrete, especially during the winter months. She does not have ready access to a natural, dirt substrate on a daily basis and the main reason for this is the cold and long Edmonton winter, during which time she is primarily kept indoors. The dirt substrate to which she does have access is made of packed dirt which appears to be harder than is desirable for elephants. The hardness of the packed dirt on which she is taken on walks is evident from the photo I took of her (Exhibit B) and from the video of her being taken on that same walk (Exhibit K). She is not given enough (or any) opportunity to engage in her species-typical movements such as walking, digging or swimming. Again, the Edmonton winter is a central reason for why she is deprived of this opportunity, though I note that nothing in Lucy's exhibit (both her indoor and outdoor enclosure) provide her with an opportunity to swim.

44. Additionally, elephants are social animals, with family histories and traditions. Wild female elephants spend their entire lives with their maternal relatives. The fact that Lucy is not housed with other elephants demonstrates that her exhibit is not meeting her social and behavioural needs. In addition, Part III.B.1 of the GASZA Standards specifically require that "[a]ll animals must be maintained in numbers sufficient to meet their social and behavioural needs (unless a single specimen is biologically correct for that animal.)" Section 2.3 of the AZA Standards state that "Institutions should strive to hold no less than three female elephants wherever possible." Living alone and without other Asian elephants is the most severe of her privations, and thus distress, at the Valley Zoo that she must endure.

45. I note that Part III.B.1 of the GASZA Standards states the following:

Enclosures must be of a sufficient size and design to allow individual animals the opportunity to avoid or withdraw from contact with other animals in the enclosure or remove themselves from the view of visitors, using topography (e.g., large earth mounds, large rocks), fixed features (e.g. fences, walls, screening, shelter boxes), moveable fixtures (e.g., brush piles, root balls) or other design methods.

46. I have visited Lucy at the Valley Zoo and have seen her exhibit. During my visit I have noticed that Lucy's indoor and outdoor enclosures do not allow her to withdraw from public view. At all times she is at least partially visible whether she is in her indoor or outdoor enclosure. As a result, I believe her exhibit is inconsistent with Part III.B.1 of the GASZA Standards quoted above.

47. Furthermore, Keeping Lucy housed alone, without any elephant companionship, is inconsistent with both the GASZA and AZA Standards and general industry practice as I have experienced it in my 28 years working at various zoos.

D. The PAWS Sanctuary

48. The ARK2000 sanctuary at PAWS is a 2,300 acre natural-habitat, captive wildlife sanctuary, and is now home to four African and five Asian elephants, all of which were formerly circus or zoo elephants. The current Asian habitat is thirty acres and the African habitat is seventy acres. As in the natural world, the elephants at PAWS are segregated; the African and Asian elephants have their own habitats and barns.

49. Both the African and Asian environments at PAWS have natural dirt and grass substrates and vegetation such as bushes and trees. In the Asian habitat there are hills as well as flat pastures which the elephants can freely roam and access 24 hours a day. There are also several ponds which are large enough for the Asian elephants to bathe in as well as swim in if they wish to get some weight off of their legs and joints. There is mud for digging and bathing and trees which provide shade and can be eaten if so desired.

50. The hills at PAWS are an important feature. They provide a place for the older and arthritic elephants to lie down and, more importantly, get back on their feet again. Exhibits O and P depict some of the hilly terrain at PAWS. Exhibit Q provides a typical example of some of the Asian elephants at PAWS sleeping on a hill in the Asian habitat. Many elephants as they age will not lie down on flat concrete floors, due to the extreme effort it takes to get up again. Lucy is no exception – her records reflect that she refuses to lie down at times. The Valley Zoo

provides Lucy a sand mound in the back of her indoor enclosure to lie down on likely for this very reason. I note, however, that Lucy's records reflect that, even with the presence of a sand mound, she is at times reluctant to lie down. Her reluctance may be due to the fact that the sand mound, being relatively small, does not provide her with enough resistance to assist her back onto her feet once she is down.

51. The barn for the Asian elephants at PAWS measures 100 feet by 200 feet, for a total of 20,000 square feet (approximately 1860 square meters) which the elephants can access as they see fit, 24 hours a day. The barn provides shelter if there is inclement weather. The Asian elephants' barn has a natural dirt floor (though the Asian bull barn floor is a combination of dirt and concrete). Exhibits O and P provides a good view of the Asian elephant barns.

52. Although the PAWS sanctuary is not as large as a range Asian elephants could expect in the wild, it provides its elephants with an environment similar in complexity to their native habitats. It provides them with an opportunity to engage in their normal physical behaviours, particularly walking extensively and foraging. The PAWS sanctuary also provides the opportunity for the elephants to engage in their normal social behaviour with other elephants of their same species, while also providing the space and opportunity to withdraw from the other elephants as they choose.

E. The Transition if Lucy is Transferred to PAWS

53. Ms. Woodyer advises me that Lucy, if released by the Valley Zoo, can be moved either to PAWS or to The Elephant Sanctuary ("TES") in Tennessee. I have visited and toured TES on two occasions. I have a working relationship with TES's founder Carol Buckley as well as her veterinarian Susan Mikota, DVM. TES has 2700 acres of habitat with grass, trees, lakes, and space.

54. If Lucy were transferred to PAWS, she would first spend a short period of time behind gates and fences while she is introduced to the other elephants in the herd in a secure manner. But very quickly after the elephants have made acquaintance with one another over-the-fence, Lucy would be integrated into the herd and her behaviour and progress would be monitored by the staff at PAWS. She will be allowed to meet the elephants in their 30 acre natural habitat. She will have access to a 20000 sq ft dirt floor barn, where she can shelter from the relatively mild California winters.

55. Ms. Woodyer advises me, and I verily believe, that the Valley Zoo has claimed that Lucy is an “anti-social” elephant and that she would not appreciate the company of fellow elephants.

56. During my time at PAWS I gained firsthand experience with two elephants, Ruby and Lulu who were reportedly anti-social when they arrived at PAWS. Ruby is an African elephant from the Los Angeles Zoo. There was an attempt to transfer her to the Knoxville Zoo in Tennessee. However, after repeated attempts at introducing her to the other elephants, she was returned to the Los Angeles Zoo, deemed too aggressive to socialize. Pat Derby, one of the co-founders of PAWS, advises me that when Ruby arrived at PAWS and was introduced to the other four African elephants she ran into the group and knocked another elephant down. Ms. Derby advises that, after that one incident, Ruby has never exhibited the same behaviour again and I personally have never observed Ruby to exhibit such behaviour. The African elephants at PAWS are a cohesive group. Therefore, even a difficult elephant can be introduced and accepted into a herd.

57. Lulu, an African elephant from the San Francisco Zoo, came to PAWS before Ruby arrived. I am advised by Ms. Derby that Lulu took longer to integrate into the group than Ruby. However, a few months after her arrival at PAWS, Lulu became a member of the African herd.

58. It is entirely possible, though rare, that certain elephants prefer to be alone after spending years in captivity. If it is accurate that Lucy is an anti-social elephant, she still can be happily accommodated at PAWS. Sanctuaries like PAWS provide space to allow elephants to pick and choose their companions and decide whether they want to spend time alone. For example, Annie is an Asian elephant who came to PAWS with her long-time elephant companion. The companion died at PAWS due to pre-existing foot disease and arthritis. Since then, Annie has chosen to spend her days on the hillside sleeping, grazing, and swimming in the pond. She comes inside the barn during inclement weather where the other elephants have also gathered, but otherwise chooses to be alone. Nonetheless, I view Annie’s transition at PAWS to be a successful integration.

59. The successful integration of the elephants at PAWS is directly proportional to the space allotted to the elephants. The elephants at PAWS have the space and freedom to decide to socialize or not.

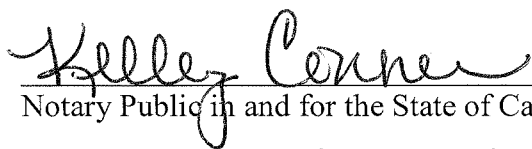
60. If moved to PAWS or TES I am confident from my direct experience with these two sanctuaries that Lucy will adapt well and that she has a very good chance of becoming integrated

socially with the other elephants. Furthermore, the warm climate and expansive terrain will allow her time to heal from her chronic arthritis foot ailments. Most importantly, the causes of her current physical distress – the inadequate enclosure at the Valley Zoo and inhospitable climate in Edmonton – will be removed.

61. I swear this affidavit in support of this application for declaratory judgment and for no other or improper purpose.

SWORN BEFORE ME in Paradise)
the City of CA , this 26th)
January, 2010.)


Dr. Henry Melvyn Richardson


Notary Public in and for the State of California

* See attached CA-Notary

