

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PEOPLE FOR THE ETHICAL TREATMENT
OF ANIMALS, INC., and ANIMAL LEGAL
DEFENSE FUND,

Plaintiffs,

v.

Case No. 2:21-cv-488

REIGLEMAN ENTERPRISES, INC. D/B/A
PYMATUNING DEER PARK, and RACHELLE
SANKEY as an individual and D/B/A
PYMATUNING DEER PARK, INC.

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Plaintiffs, People for the Ethical Treatment of Animals, Inc. (“PETA”) and Animal Legal Defense Fund (“ALDF”), bring this suit to address the ongoing mistreatment of more than two hundred animals held at an unaccredited Jamestown, Pennsylvania roadside zoo called Pymatuning Deer Park. These animals include lions, tigers, ring-tailed lemurs, a military macaw, and a Mikado pheasant, all of whom are listed under the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531-44. They also include many other unlisted animals—such as a black bear named Bosco confined for more than two decades in a concrete pit—who are maintained in conditions so egregious that they are unlawful, and Defendants’ unlawful conduct has produced a long-lasting effect that Defendants know or have reason to know significantly interferes with the public right, and therefore constitute a public nuisance.

2. Pymatuning Deer Park is owned and operated by Defendant Rachelle Sankey, who also owns Defendant Reigleman Enterprises, Inc., Pymatuning Deer Park's parent company, and Pymatuning Deer Park, Inc., a fictitious business name registered with the state of Pennsylvania (collectively, "Pymatuning" or "Defendants").

3. At Pymatuning Deer Park, the animals suffer physically and psychologically because they are confined to undersized, virtually barren enclosures and are denied care that meets even their most basic needs. As further detailed below and in Plaintiffs' statutory notice of intent to sue letter ("Notice of Intent"), attached here as **Exhibit A**, Defendants' treatment of these animals falls below generally accepted husbandry practices and violates federal and state animal protection laws, including Pennsylvania's animal welfare regulations, 58 Pennsylvania Code Sections 147.281-.287.

4. By subjecting the endangered or threatened animals at Pymatuning Deer Park to these substandard conditions, Defendants significantly disrupt and impair the animals' ability to carry out their natural behaviors, cause them psychological distress and injury, and put them at risk of further injury, thereby "harming" and "harassing" them in violation of the ESA's "take" prohibition.

5. By inflicting needless suffering on these and the other animals kept at Pymatuning Deer Park, in repeated violation of state and federal wildlife protection laws, Defendants have created a public nuisance that is contrary and repugnant to the interests of the Pennsylvania public. Plaintiffs bring this suit on their own behalf, on behalf of their members, and on behalf of the public at large, to ask the Court to enjoin Defendants' unlawful conduct.

II. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to the citizen suit provision of the ESA, 16 U.S.C. § 1540(g), and has federal question jurisdiction under 28 U.S.C. § 1331.

7. The requested relief is proper under 16 U.S.C. § 1540(g)(1)(A) and 28 U.S.C. §§ 2201-02 (injunctive relief and declaratory relief).

8. Plaintiffs provided notice regarding the violations alleged in this Complaint in their December 1, 2020, Notice of Intent, which was sent to Defendants, the Secretary of the Interior, and the Principal Deputy Director of the United States Fish and Wildlife Service (“FWS”) more than sixty days prior to the filing of this action. 16 U.S.C. § 1540(g)(2)(A)(i).

9. Defendants have not remedied the violations set out in the Notice of Intent nor have they applied for or received any permit to lawfully “take” any federally listed species.

10. The Secretary of the Interior has not commenced an action against Defendants to impose a penalty pursuant to the ESA or its implementing regulations, and the United States has not commenced a criminal prosecution against Defendants to redress a violation of the ESA or its implementing regulations. 16 U.S.C. § 1540(g)(2)(A)(ii)–(iii).

11. The Court has personal jurisdiction over the Defendant Rachelle Sankey because she resides in the Western District of Pennsylvania and conducts her business, using the fictitious business name Pymatuning Deer Park, Inc., within this District. This Court also has personal jurisdiction over Reigleman Enterprises, Inc., because it is a Pennsylvania Corporation with its principal place of business in this District.

12. Venue is proper in the Western District of Pennsylvania because the violations of the ESA alleged in this Complaint have occurred, and continue to occur, within this judicial district. 16 U.S.C. § 1540(g)(3)(A).

13. This Court has supplemental jurisdiction over the Pennsylvania state law claims under 28 U.S.C. § 1367(a) because this Court has original jurisdiction under 16 U.S.C. § 1540(g),

and 28 U.S.C. § 1331, and the state law claims are so related to the underlying federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

III. THE PARTIES

14. Plaintiff PETA is a Virginia non-stock corporation and animal protection charity pursuant to Section 501(c)(3) of the Internal Revenue Code. PETA's headquarters are in Norfolk, Virginia.

15. Plaintiff ALDF is a California non-stock corporation and animal protection charity pursuant to Section 501(c)(3) of the Internal Revenue Code. ALDF's headquarters are in Cotati, California.

16. Defendant Reigleman Enterprises, Inc., is a Pennsylvania corporation located at 102 Aspen Way, Jamestown, Pennsylvania. Reigleman Enterprises, Inc., does business as Pymatuning Deer Park, which is located at 804 East Jamestown Road, Jamestown, Pennsylvania.

17. Defendant Rachelle Sankey owns Reigleman Enterprises, Inc., Pymatuning Deer Park, Inc., and Pymatuning Deer Park, which she also operates. On information and belief, she oversees the day-to-day operations at Pymatuning Deer Park and is responsible for managing animal care, providing animal care, supervising staff and volunteers, and participating in United States Department of Agriculture ("USDA") and Pennsylvania Game Commission ("Commission") inspections. She is a citizen of Pennsylvania and resides at 842 East Jamestown Road, Jamestown, Pennsylvania. On information and belief, Rachelle Sankey owns, either directly or through these corporate entities, the animals at issue in this suit. Plaintiffs sue her individually and in her corporate capacities.

IV. STATUTORY BACKGROUND

A. The Endangered Species Act

18. The ESA defines an “endangered species” as “any species which is in danger of extinction,” 16 U.S.C. § 1532(6), and a “threatened species” as “any species which is likely to become an endangered species within the foreseeable future,” *id.* § 1532(20).

19. The ESA prohibits the “take” of any endangered species within the United States. *Id.* § 1538(a)(1)(B); 50 C.F.R. § 17.21. It likewise prohibits the taking of any threatened species within the United States unless otherwise provided by a special rule. 16 U.S.C. § 1538(a)(1)(G); 50 C.F.R. §17.31(a).

20. The term “take” is defined to include “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” 16 U.S.C. § 1532(19).

21. The term “harm” is defined by regulation as an act which “kills or injures” an endangered or threatened animal. 50 C.F.R. § 17.3.

22. The term “harass” is defined by regulation to include an “intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.” 50 C.F.R. § 17.3.

23. The ESA also prohibits the possession of any endangered species, or any threatened species unless otherwise provided by a Section 4(d) special rule, that has been unlawfully taken. 16 U.S.C. § 1538(a)(1)(D), (G); 50 C.F.R. §§ 17.21(d), 17.31(a).

24. The ESA authorizes the Secretary of the Interior to issue a permit for any act that is otherwise prohibited by 16 U.S.C. § 1538, but only if such act is “for scientific purposes or to enhance the propagation or survival of the affected species” and other strict requirements are met. 16 U.S.C. § 1539(a)(1)(A), (c), (d).

25. Defendants do not have a permit to lawfully “take” any federally listed species.

26. The ESA allows citizens to bring suit to enjoin “any person . . . who is alleged to be in violation” of the “take” provisions of the statute or of a regulation promulgated under the statute. 16 U.S.C. § 1540(g)(1)(A).

27. Tigers (*Panthera tigris*), all lemurs, including ring-tailed lemurs (*Lemur catta*), military macaws (*Ara militaris*), and Mikado pheasants (*Syrmaticus mikado*) are listed as “endangered” under the ESA. 50 C.F.R. § 17.11(h). Lions (*Panthera leo*) are listed as either “endangered” or “threatened” depending upon their subspecies—the subspecies *Panthera leo leo* is listed as “endangered” and the subspecies *Panthera leo melanochaita* is listed as “threatened.” *Id.* §§ 17.11(h), 17.40(r). The prohibitions against “take” and the possession of unlawfully taken members apply equally to both lion subspecies. *Id.* §§ 17.21, 17.31(a), 17.40(r).

B. Pennsylvania Animal Protection Laws

28. In Pennsylvania, a public nuisance is an unreasonable interference with a right common to the general public. This includes conduct that is proscribed by a statute, ordinance, or administrative regulation; conduct that involves a significant interference with the public health, safety, peace, comfort, or convenience; or conduct of a continuing nature or that has produced a long-lasting effect where the actor knows, or has reason to know, that the conduct has a significant effect upon the public right.

29. In Pennsylvania, it is a crime against public order and decency to “fail[] to provide for the basic needs of each animal to which the person has a duty of care.” 18 Pa. Stat. § 5532(a). At minimum, animals must be provided “necessary sustenance and potable water”; clean and sanitary shelter and protection from the weather”; and “necessary veterinary care.” *Id.*

30. Regulations promulgated by the Pennsylvania Game Commission require the “humane care and treatment” of exhibited wildlife. 58 Pa. Code § 147.281(a).

31. The Commission requires that captive wildlife be provided proper nutrition and prohibits confining wildlife in an “an unsanitary or unsafe condition or in a manner which results in maltreatment, mistreatment or neglect.” 58 Pa. Code § 147.281(a)-(b).

32. Exhibitors must “adequately protect the public from [captive] wildlife.” 58 Pa. Code § 147.281(c).

33. Pennsylvania prohibits “[p]ublic human contact” with all the captive wildlife at issue here. 58 Pa. Code § 147.282(c)-(d).

34. Exhibitors must prevent the public from “annoying the wildlife.” 58 Pa. Code § 147.284(c).

35. Captive wildlife must be “kept in a sanitary manner” with “[c]lean, fresh water” that is “provided daily” in containers that are “cleaned and disinfected daily.” 58 Pa. Code § 147.283(a)-(b).

36. “Fecal and food waste shall be removed . . . daily.” 58 Pa. Code § 147.283(d). Enclosures with “[h]ard floors shall be scrubbed and disinfected at least weekly” and enclosures with dirt floors shall be raked every 3 days and the waste removed.” *Id.*

37. The state further requires that “[c]ages, pens and paddocks shall be designed to provide adequate drainage of the enclosure.” 58 Pa. Code § 147.283(e).

38. Animals must be provided “bedding required for the comfort and protection from inclement weather” and “provisions shall be made to adjust holding conditions to the natural habitat” of wildlife whose “natural climate . . . differs from the climate of the area” where they are held. 58 Pa. Code § 147.284(b).

39. Captive “[w]ildlife shall be kept free from parasites, sickness or disease.” 58 Pa. Code § 147.287. If they become sick, they must “be removed from public display and

immediately given professional medical attention” or be provided “humane” euthanasia. *Id.*

40. Pennsylvania state law further provides that “[n]o animal shall be destroyed by means of . . . [u]nacceptable agents and methods published in the most current version of the American Veterinary Medical Association’s Guidelines on Euthanasia.” 3 Pa. Stat. § 328.301.

V. FACTUAL BACKGROUND

41. Pymatuning Deer Park is a roadside zoo in Jamestown, Pennsylvania.

42. Pymatuning Deer Park is not accredited as a zoo or sanctuary. It does not hold, for example, an accreditation from the Association of Zoos & Aquariums (“AZA”) or the Global Federation of Animal Sanctuaries (“GFAS”).

43. At Pymatuning Deer Park, Defendants exhibit more than two hundred animals and charge the public a fee to view and interact with the animals.

44. Several of the animals who Defendants exhibit at Pymatuning Deer Park are protected under the ESA, including two lions (named Buddy and Missy), two tigers (named Snowy and Nila), two ring-tailed lemurs, a military macaw, and a Mikado pheasant.

45. Defendants also exhibit Bosco, a North American black bear confined primarily to a concrete pit.

46. In addition, Defendants exhibit one or more members of the following mammal species: common marmoset, tufted capuchin, golden-backed squirrel monkey, black spider monkey, African green monkey, olive baboon, small spotted genet, cougar, bobcat, gray wolf or wolf-dog hybrid, New Guinea singing dog, fennec fox, African crusted porcupine, North American porcupine, South American coatimundi, red kangaroo, black-tailed prairie dog, Patagonia cavy, Reeves’ muntjac, dromedary camel, zebra, yak, nilgai, elk, zebu, zedonk, white-tailed deer, fallow deer, sika deer, cow, ox, donkey, mini horse, paint pony, goat, sheep, pig, and rabbit. Defendants also exhibit three sulcata tortoises, approximately one hundred parakeets, and a variety of other

birds, including a blue and gold macaw and one or more of the following: Eurasian eagle owls, tawny owls, African crowned cranes, silver pheasants, ring-necked pheasants, trumpeter hornbills, kookaburras, rheas, emus, ostriches, blue pied peacocks, whooper swan, turkeys, ducks, and geese.

VI. DEFENDANTS TAKE ENDANGERED ANIMALS IN VIOLATION OF THE ENDANGERED SPECIES ACT

A. Pymatuning Harms and Harasses Big Cats by Denying Them Appropriate Housing, Adequate Environmental Enrichment, Necessary Veterinary Care, Basic Sanitation, Proper Nutrition, and the Supervision of Qualified Staff

47. In the wild, lions and tigers (“Big Cats”) range vast territories across many miles where they are free to engage in natural behaviors such as climbing, stalking, and predation. A lion’s natural habitat includes open woodlands, thick brush, scrub, and tall grassy areas. Tigers occupy a variety of habitats, which typically have dense vegetative cover, sufficient prey populations, and access to water.

48. Given their natural needs, Big Cats require large, environmentally rich, natural spaces that allow them to express a wide range of behaviors. Captive environments that do not provide the environmental enrichment necessary to promote the expression of a full range of species-typical behaviors have a detrimental effect on the animals’ physical and psychological well-being. In sterile environments, which are devoid of natural features, accessories, and species-appropriate enrichment activities, like the enclosures at Pymatuning Deer Park, Big Cats experience long periods of inactivity or mindless activity, which result in permanent long-term changes to the body, brain, neural, and endocrine systems. Psychological distress can often leave Big Cats with higher blood cortisol levels, which can trigger apathy, learned helplessness, or displacement behaviors—activities animals engage in when they are prevented from performing behaviors they are highly motivated to perform. Higher blood cortisol levels from psychological distress can also lead to and suppression of the immune system, which increases the likelihood of

contracting disease. Appropriately implemented species-appropriate enrichment is necessary to deter harmful behaviors such as self-mutilation and abnormal repetitive behaviors such as pacing. In the wild or in a reputable sanctuary, Big Cats would have the ability to exercise, explore, and engage in other species-typical behaviors.

49. Enrichment plans for captive carnivores, including lions and tigers, are difficult to develop due to these animals' natural feeding and hunting behaviors and spatial needs. In inadequate captive conditions, the inability to engage in hunting behaviors, such as stalking and pouncing, causes carnivores like lions and tigers to suffer distress, which causes physical and psychological injury. Accordingly, enrichment plans should include natural and complex enclosures and environmental enrichment that includes whole-carcass feeding, novel toys or objects, scratch logs, introduction of new smells, platforms and vertical space, pools or ponds, adequate space to run, and places to retreat from view. Further, enrichment should be rotated on a consistent and frequent basis to retain the Big Cats' interest and to better reflect the varied experiences Big Cats would have in natural settings.

50. The AZA recommends providing lions with "large spacious enclosures designed to encourage species appropriate behaviors such as resting, walking, [simulated] hunting, stalking, grooming, playing, breeding, etc." Ass'n of Zoos & Aquariums, *Lion Care Manual* 18 (2012). Enclosures should also allow lions to retreat from conspecifics and provide visual privacy from humans "through the use of visual barriers, such as rock outcroppings, hills, and foliage." *Id.* According to the AZA, a majority of lion exhibits are over 10,000 square feet, which should be considered the minimum size for new exhibits, and the typical tiger exhibit is between 2,500 and 10,000 square feet, with an average of 5,500 square feet. Ass'n of Zoos & Aquariums, *Tiger Care Manual* 12 (2016).

51. In addition to providing social privacy, enclosures should provide shade and include “various substrates, surfaces to mark, deadfall for scratching, and other aspects in their enclosure that will change their pathways and create complex behavioral opportunities.” Ass’n of Zoos & Aquariums, *Lion Care Manual* at 18.

52. Defendants harm and harass protected Big Cats by confining them to small, virtually barren enclosures, denying them appropriate, natural and complex housing, and frustrating their natural instincts.

53. Defendants also harm and harass Big Cats by depriving them of adequate enrichment. Inadequate enrichment thwarts the expression of a range of natural behaviors, including, for example, predatory and investigatory behaviors.

54. The enclosures at Pymatuning Deer Park do not comply with generally accepted husbandry practices as they do not encourage the Big Cats to engage in instinctual and species-specific behaviors, including exercising, retreating from view, and simulated natural hunting behaviors such as stalking and predation. The enclosures are therefore inadequate to provide for the animals’ physiological and psychological well-being. As a result, the Big Cats at Pymatuning Deer Park suffer and show signs of suffering, including through abnormal repetitive pacing.

55. By denying Big Cats adequate space, complex enclosures, and novel enrichment, Defendants deny them the opportunity to engage in species-typical behavior, cause them psychological injury, and increase the likelihood of injury. Thus, Defendants harm and harass Big Cats in violation of the ESA.

56. Defendants also have a pattern of denying Big Cats proper veterinary care, including preventative care. This pattern is documented in part in USDA inspection reports.

Pymatuning was cited in 2015 after denying an ailing tiger named Scruffy appropriate veterinary care, including a proper examination from a qualified veterinarian. The USDA cited Pymatuning for killing Scruffy by gunshot, a form of euthanasia reserved only for emergency situations. The USDA noted while “diagnostics may have provided a medically manageable diagnosis for this animal,” Pymatuning’s veterinarian did not conduct anything other than visual inspection despite the fact that the “ability [to] conduct appropriate diagnostics is vital for adequate veterinary care for the animal.”

57. The August 2015 USDA inspection report also shows that when Scruffy was shot, a younger male lion, presumably Buddy, was trapped in an adjacent enclosure where he was “unable to escape the sound of the firearm,” which was fired three times. The inability to retreat from the sound would have inflicted distress, discomfort, and physical injury, with the USDA noting the “discharge of the firearm may have caused trauma to the ear drums, and unnecessary discomfort for the juvenile lion.” The inspection report cautioned that animals have been shown to suffer from stress from the exposure to another animal’s euthanasia, finding “another method of euthanizing the tiger should have been taken into consideration” by Pymatuning.

58. The USDA cited Pymatuning in July 2015 for denying this lion adequate veterinary care after the adult female lion, presumably Missy, injured him on his hindquarters in May 2015, reportedly during his introduction into her enclosure. Pymatuning did not have a veterinarian assess the lion to determine the extent of his injury and then confined him for two months to an “extremely soiled” and “unsanitary” holding area where there was not enough lighting to determine if his injury was healing well. Pymatuning was also cited because the lack of light denied the lion “a diurnal light cycle” and prevented proper “cleaning, routine husbandry practices, and [] inspection,” which is required under the (“AWA”), 7 U.S.C. §§ 2131-59.

59. The USDA cited Pymatuning in October 2017 for denying the male lion adequate veterinary care after the female lion once again injured him on his hindquarters, reportedly during feeding. Pymatuning did not provide this lion with a proper veterinary examination after the incident, leaving the lion to suffer continued physical decline without ever contacting a veterinarian for reevaluation of his injuries. The USDA report described the lion's condition weeks after his only veterinary evaluation for the injury, noting he was limping, appeared ataxic with "decreased muscle mass in the hind-end," and suffered from a "pink and moist" lesion "that was 1 inch by 1 inch in size." The USDA demanded Pymatuning have a licensed veterinarian visit the lion within a week of the USDA's inspection.

60. By denying Big Cats adequate veterinary care, including preventative care, contrary to generally accepted husbandry practices, Defendants cause them physical and psychological injury and increase the likelihood of injury. Thus, Defendants harm and harass Big Cats in violation of the ESA.

61. Defendants also have a pattern of denying the Big Cats proper sanitation. For instance, in 2015, the USDA cited Pymatuning for confining the injured male lion to a holding area that "was extremely soiled" and "unsanitary" because Pymatuning had "been unable to enter the enclosure to remove food and fecal waste" for nearly two months. At the same time, the female lion was not "receiving appropriate cleaning and sanitation" because she could not be moved into the holding area to allow the outdoor enclosure to be cleaned. In 2016, the USDA cited Pymatuning for failing to clean the Big Cats' water receptacles for so long that they became "covered in algae and debris." In 2017, the USDA found the "feeding pans used to feed the lions raw meat need to be cleaned more frequently," as the pans "are in essence contaminated with raw chicken each time the pans are used." The USDA has also cited Pymatuning for allowing algae and grime to

accumulate on the concrete floors of the lions' enclosure and failing to adequately ventilate the Big Cats' indoor housing areas, allowing a strong ammonia smell to permeate the enclosures. In October 2020, the USDA also found that Pymatuning allowed a bird to nest "in the rafters of the indoor area of the tiger enclosure," which exposed the tigers to the "[b]ird droppings" that were "on the wall and floor below this nest."

62. By denying Big Cats adequate sanitation, contrary to generally accepted husbandry practices, Defendants deny them the opportunity to engage in species-typical behavior, including avoiding heavily soiled areas, and increase the likelihood of injury. Thus, Defendants harass Big Cats in violation of the ESA.

63. Defendants also have a pattern of denying Big Cats proper nutrition. For instance, the USDA cited Pymatuning for failing to have the facility's veterinarian re-evaluate the diet plan for a white tiger, presumably Snowy, who appeared to be obese then and remains obese now. Pymatuning was also cited for feeding the tigers and lions a diet composed primarily of frozen chickens that were not only improperly thawed by the facility but which may be nutritionally unbalanced according to industry guidelines. U.S. Dep't of Agric., *Handling Frozen/Thawed Meat and Prey Items Fed to Captive Exotic Animals* at 6-7 (May 2001); Global Federation of Animal Sanctuaries, *Standards for Felid Sanctuaries* § N-2.m (July 2013). On information and belief, Defendants continue to feed the Big Cats a nutritionally imbalanced diet composed primarily of frozen chickens.

64. By denying Big Cats adequate nutrition, contrary to generally accepted husbandry practices, Defendants deny them the opportunity to engage in species-typical behavior, including consuming large prey, cause them physical and psychological injury, and increase the likelihood of injury. Thus, Defendants harm and harass Big Cats in violation of the ESA.

65. Defendants' pattern of failing to provide the Big Cats with appropriate space, novel enrichment, adequate veterinary care, including preventative care, proper sanitation, and appropriate nutrition further demonstrates that Defendants' staff do not have adequate training or expertise to work with Big Cats. Denying Big Cats the care of properly trained staff does not comport with generally accepted husbandry practices, causes the Big Cats injuries as described above, and increases the likelihood of further injury. Thus, Defendants harm and harass Big Cats in violation of the ESA.

66. Because these conditions do not comply with generally accepted husbandry practices, and they impair the Big Cats' ability to engage in normal behavioral patterns, cause them psychological and physical injury, and place them at risk of further injury, Defendants have taken and continue to take Big Cats by harming and harassing them in violation of the ESA.

B. Pymatuning Harms and Harasses Ring-Tailed Lemurs by Denying Them Appropriate Housing, Adequate Environmental Enrichment, Adequate Socialization, Basic Sanitation, and the Supervision of Qualified Staff

67. Lemurs, including ring-tailed lemurs, are highly social animals with advanced cognitive abilities. In nature, ring-tailed lemurs live in large social groups ranging in size from eight to twenty individuals. Traveling in groups, they roam about their range each day foraging for food. In the wild, the territories of ring-tailed lemurs range from fourteen to fifty-six acres in size. Ring-tailed lemurs spend a portion of their time on the ground, but they are known to spend time climbing and foraging in trees. Lemurs communicate with each other in many different ways, with olfactory communication as one of the most important. Lemurs produce unique scents for this purpose.

68. In order to ensure their physical and psychological health, captive lemurs must be provided with appropriate space, which includes a varied environment that allows foraging and

climbing opportunities, enrichment that creates complexity for mental stimulation, and enough room to allow scent marking.

69. Captive lemurs must also be provided with the opportunity to socialize with other lemurs and with extensive, varied, and well-planned environmental enrichment to provide the opportunity to engage in species-typical behavior.

70. In recognition of the unique social, psychological, and physical needs of primates, regulations issued by the USDA expressly require exhibitors of primates to “develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates” that is “in accordance with the currently accepted professional standards as cited in appropriate professional journals or reference guides, and as directed by the attending veterinarian.” 9 C.F.R. § 3.81. These plans “must include specific provisions to address the social needs of nonhuman primates of species known to exist in social groups in nature.” *Id.* § 3.81(a).

71. Despite the well-established scientific literature documenting the environmental needs of ring-tailed lemurs and the minimum standards provided by the AWA and its implementing regulations, Defendants continue to confine endangered ring-tailed lemurs in an inappropriate, static environment without appropriate enrichment, environmental novelty, or opportunities for cognitive challenge or control. Defendants deny these lemurs the opportunity to engage in species-typical behavior, including foraging, climbing, roaming, and deriving intellectual stimulation from a varied habitat. Defendants’ care therefore wholly fails to meet the lemurs’ complex cognitive needs and does not comply with generally accepted husbandry practices. Depriving the ring-tailed lemurs of appropriate environmental enhancement injures them by creating psychological distress and harasses them by significant disrupting their normal

behaviors in a way that is likely to result in injury. Thus, Defendants harm and harass ring-tailed lemurs in violation of the ESA.

72. Defendants deny lemurs appropriate space to engage in species-typical behaviors, including climbing in trees, retreating from view, and leaving and detecting scent marks. To better simulate the lemurs' natural environment, captive enclosures should provide access to ample vertical space, with climbing ropes of varying sizes, substantial perches, and visual barriers to allow retreat from conspecifics and the public. At Pymatuning Deer Park, the lemurs are unable to climb higher than a few feet, where they must perch on narrow branches, and where they are unable to hide from each other or the public. Unable to access the limited vertical space, the lemurs spend the majority of their time on the small, barren floor of the enclosure. The functional space that is available to the lemurs is reduced by the presence of inappropriate equipment, including ropes that contain dangerous slack and that do not lead to places to perch. Depriving the ring-tailed lemurs of appropriate space injures them by creating psychological distress and harasses them by significantly disrupting their normal climbing and foraging behaviors in a way that is likely to result in injury. Thus, Defendants harm and harass ring-tailed lemurs in violation of the ESA.

73. In addition, Defendants hold lemurs with hazards that may injure them. For example, in 2015, the USDA cited Pymatuning for failing to fix a cracked swing in an enclosure confining lemurs, thereby creating a risk of injury. By depriving the lemurs of safe conditions, Defendants create a likelihood of injury. Thus, Defendants harass lemurs in violation of the ESA.

74. Defendants also have a pattern of denying lemurs adequate sanitation. In 2016, the USDA cited Pymatuning for a "build-up of food waste and fecal material" in the lemurs' enclosures caused by the failure to properly clean and sanitize the space. Unsanitary conditions in, near, or surrounding lemurs' enclosures create a risk of disease, including by attracting

free-roaming animals, like raccoons, possums, and feral cats, who can transmit diseases including toxoplasmosis, which is spread through parasites and can be fatal to ring-tailed lemurs. By denying lemurs adequate sanitation, contrary to generally accepted husbandry practices, Defendants increase the likelihood of injury by putting the lemurs' health and welfare at risk. Thus, Defendants harass lemurs in violation of the ESA.

75. Defendants also operate an inappropriate and largely unsupervised feeding program that permits and encourages visitors to feed the captive animals, including the ring-tailed lemurs, unsuitable foods including crackers, fruity cereal, and food made for chimpanzees. Visitors drop these foods into the lemur enclosure through a tube that deposits the food on the floor of the enclosure, sometimes resulting in a pile of uneaten food. The availability of large quantities of inappropriate and potentially contaminated food creates the likelihood of injury through the overconsumption of food, which could lead to obesity or other body condition issues. The displacement of more appropriate foods could lead to nutritional imbalance, which can lead to diseases, such as iron storage disease, that can lead to chronic illness and even death. The lack of opportunity to engage in species-typical feeding methods, including foraging, could lead to psychological distress and abnormal repetitive behaviors. The consumption of potentially contaminated food could lead to disease. Pymatuning's inappropriate and unsupervised ring-tailed lemur feeding program therefore creates the likelihood of injury and thus harasses the lemurs in violation of the ESA.

76. On information and belief, Defendants' staff is not properly trained or experienced to care for lemurs, which further places the ring-tailed lemurs at risk of injury. For instance, on information and belief, Defendants' staff lacks sufficient training and expertise to construct appropriate social groups, to assess whether their lemur groups are meeting the needs of the lemurs,

or to successfully blend lemur groups. Blending groups of lemurs requires expertise and if lemur introductions are attempted by inexperienced staff, the lemurs are at risk of psychological distress, severe injury, or death. Defendants' staff's inexperience in lemur population management is evidenced by the 2015 USDA citation issued for "still hous[ing]" two of five ring-tailed lemurs in a "holding area" that lacked "cage complexity or foraging opportunities." The inspector noted that "[o]ne of the lemurs was bouncing off the enclosure sides in an agitated state," which is an abnormal repetitive behavior indicative of psychological distress and inadequate space and enrichment. Prolonged segregation of lemurs in barren holding areas is contrary to generally accepted husbandry practices. It denied these lemurs the opportunity to engage in species-typical behavior, including foraging, and it caused these lemurs psychological injury and increased the likelihood of further injury. Thus, Defendants harmed and harassed these lemurs in violation of the ESA.

77. The absence of knowledge and training necessary to create and maintain appropriate social groups is further evidenced by the fact that Defendants held an endangered black-and-white ruffed lemur named Lola in prolonged social isolation, where she could not see or hear other primates. By keeping Lola in prolonged social isolation away from other primates, Defendants failed to comply with generally accepted husbandry practices and denied her the opportunity to engage in species-typical behavior, including interacting with other members of her species. This prolonged isolation thereby deprived her of appropriate socialization with compatible lemur companions that would allow her to express a wide range of normal lemur behaviors, including socializing, bonding, exploring, playing, as well as other social interaction and adjustments. Depriving Lola of an appropriate social group injured her by denying her companionship that was fundamental to her physical and psychological well-being and harassed

her by significantly disrupting her normal behaviors in a way that was likely to result in injury. This prolonged social isolation also caused her psychological injury. Thus, Defendants harmed and harassed this black-and-white ruffed lemur in violation of the ESA.

78. Lola died on February 8, 2020, along with a bearcat, in a fire sparked by an electrical heater at Pymatuning Deer Park. Defendants exposed Lola and the bearcat to the risk of fire, including by failing to provide a safe heating system in the winter holding area where they were trapped, constructing the holding area out of fire resistant materials, or providing a functional fire suppression system. Defendants consequently caused their deaths, thereby harming Lola in violation of the ESA.

79. Pymatuning's failure to provide staff with appropriate skills to properly care for the ring-tailed lemurs, as evidenced above, creates the likelihood of injury and thus harasses the lemurs in violation of the ESA.

80. Because these conditions do not comply with generally accepted husbandry practices, and they impair the lemurs' ability to engage in normal behavioral patterns, cause them psychological and physical injury, and place them at risk of further injury, Defendants have taken and continue to take lemurs by harming and harassing them in violation of the ESA.

C. Pymatuning Harms and Harasses Endangered Birds

1. Pymatuning Harms and Harasses a Military Macaw by Denying the Macaw Appropriate Housing, Adequate Environmental Enrichment, Conspecific Companionship, and the Supervision of Qualified Staff

81. Macaws, including military macaws, are highly intelligent and inquisitive animals with advanced cognitive abilities. Military macaws are "strong flyers" and travel up to twelve miles per day. *Endangered and Threatened Wildlife and Plants; Two Foreign Macaw Species*, 80 Fed. Reg. 59976-01, 59978 (Oct. 2, 2015). They are believed to require a home range of 1,359 acres. *Id.* at 60002. Military macaws are also highly social. In nature, they mate for life and

have large communal roosts, often on cliff faces. *Id.* at 59979, 59989. They forage in groups, feeding largely on fruit and nuts, and migrate seasonally, based on food availability. *Id.* at 59978. They have been observed feeding on the fruits of thirty-seven different tree species. *Id.* at 60001. They prefer to live in wet temperate forests in mountainous areas, but are also found in seasonally dry, semi-deciduous tropical forests, deciduous tropical forests, and slopes of pine-oak forest. *Id.* at 59978.

82. In order to ensure their physical and psychological health, captive macaws “need a huge amount of space” and should be provided “stimulating environmental enrichment” with “toys, social interaction and foraging opportunities.” Ass’n of Avian Veterinarians, *Macaws 2* (2018), available at <https://amccorona.com/wp-content/uploads/2018/03/Macaws-AAV.pdf> (last visited Apr. 12, 2021).

83. Despite the environmental and psychological needs of military macaws, Defendants confine a military macaw together with a blue and gold macaw, to a small, virtually barren enclosure, without appropriate enrichment, conspecific companionship, or room to fly, contrary to generally accepted husbandry practices. Defendants therefore wholly fail to meet the macaw’s complex cognitive needs and deny the macaw the ability to engage in normal behavioral patterns, including flying, exploring varied environments, and foraging for food. When deprived the opportunity to fly, macaws are at higher risk of cardiovascular disease and atherosclerosis. Denying the military macaw proper space and enrichment injures the bird psychologically and creates the likelihood that the bird will suffer further injury. Defendants thereby harm and harass the military macaw in violation of the ESA.

84. Macaws are “susceptible to many bacterial, parasitic, and viral diseases, particularly in captive environments.” 80 Fed. Reg. at 59991. Common diseases that captive

macaws should be screened for include psittacosis, polyomavirus, circovirus, and avian bornavirus, which causes macaw wasting syndrome and which macaws may carry for years without symptoms, spreading the virus through their stool. Macaws are also at risk of paramyxovirus and Pacheco's parrot disease, which is "highly fatal" and causes death "suddenly without apparent sign of sickness other than some mild nasal discharge and lethargy." *Id.* Since "transmission of this disease is mainly through nasal discharge and feces, it is less likely to happen in open habitat in the wild than in a confined aviary." *Id.* "[C]aptive conditions . . . make birds more susceptible to disease" because "the stress of confinement combined with inadequate diet can reduce the ability of birds to fight disease." *Id.*

85. On information and belief, Pymatuning's staff is not properly trained or experienced to care for macaws, which further places the bird at risk of injury. For instance, staff who care for macaws at reputable facilities are trained on proper nutrition, including crafting an individually tailored and varied diet with fresh foods, proper husbandry to prevent the spread of disease, including psittacosis, and proper enrichment for cognitive stimulation. Because psittacosis is a zoonotic disease, it can spread to people, including those who breathe in the dust from an infected macaw's waste products. Once infected, people are at risk of developing pneumonia. Macaws infected with Exotic Newcastle Disease, a fatal paramyxovirus, can likewise spread the disease to people, who could develop fever, headaches, and encephalitis. In addition, people who work with macaws must be trained in safe handling, including to facilitate the provision of preventative veterinary care, such as annual exams to test for parasites or blood markers that signal the development of heart disease. Improper handling can result in injury to the caretakers or the macaws, who are at risk of suffocation if held too tightly. Pymatuning's failure to provide staff with appropriate skills to properly care for the military macaw is contrary to generally accepted

husbandry practices and creates the likelihood of injury and thus harasses the macaw in violation of the ESA.

86. Because these conditions do not comply with generally accepted husbandry practices, and they impair the military macaw's ability to engage in normal behavioral patterns, cause the bird psychological and physical injury, and place the macaw at risk of further injury, Defendants have taken and continue to take the military macaw by harming and harassing the bird in violation of the ESA.

2. Defendants Harm and Harass a Mikado Pheasant by Denying the Pheasant Appropriate Housing, Adequate Environmental Enrichment, and the Supervision of Qualified Staff

87. In the wild, Mikado pheasants often walk and forage for food, including various fruit, leaves, vegetation, seeds, and invertebrates. When disturbed, Mikado pheasants seek out shelter within surrounding shrubs.

88. In order to ensure their physical and psychological health, captive Mikado pheasants should be provided a well-planted and grassy enclosure with plenty of shade and a separate shelter.

89. Despite the environmental and psychological needs of the Mikado pheasant, Defendants confine the pheasant to a virtually barren enclosure, crowded with other birds, that offers limited enrichment, in conditions that fall short of generally accepted husbandry practices. Defendants therefore wholly fail to meet the pheasant's needs and deny the pheasant the ability to engage in normal behavioral patterns, including foraging for food and enjoying conspecific companionship. Denying the Mikado pheasant proper space and enrichment injures the bird psychologically and creates the likelihood that the bird will be further injured and subjected to chronic stress, which weakens the immune system and predisposes the pheasant to suffer injury or

creates a likelihood the pheasant will be injured. Defendants thereby harm and harass the Mikado pheasant in violation of the ESA.

90. On information and belief, Pymatuning's staff is not properly trained or experienced to care for Mikado pheasants, which further places the bird at risk of injury. This lack of experience is evidenced by the fact that in July 2020, Defendants' staff confined the pheasant with a peacock who had a potentially infectious and apparently untreated eye condition. Pymatuning's lack of a proper infectious disease prevention and quarantine protocol predisposes the pheasant to a wide variety of infectious diseases that can be spread between the peacock and the pheasant. Pymatuning's failure to provide staff with appropriate skills to quarantine sick birds or otherwise properly care for the Mikado pheasant creates the likelihood of injury and thus harasses the Mikado pheasant in violation of the ESA.

91. Because these conditions do not comply with generally accepted husbandry practices, and they impair the Mikado pheasant's ability to engage in normal behavioral patterns, cause the bird psychological and physical injury, and place the pheasant at risk of further injury, Defendants have taken and continue to take the Mikado pheasant by harming and harassing the bird in violation of the ESA.

VII. PYMATUNING'S MISTREATMENT OF ANIMALS CONSTITUTES A PUBLIC NUISANCE BY VIOLATING THE LAW AND SIGNIFICANTLY INTERFERING WITH THE PUBLIC RIGHT

92. In addition to failing to provide adequate care to the federally listed animals discussed above, Pymatuning fails to provide adequate care to the other mammals, reptiles, and birds it confines and exhibits.

93. Defendants also operate an inappropriate and largely unsupervised feeding program that permits and encourages visitors to feed the captive animals unsuitable foods, including food made for humans, like crackers and fruity cereal, and foods made for chimpanzees.

94. Defendants deny many of the animals at Pymatuning Deer Park the most basic necessities, including sufficient space, appropriate substrates, sufficient environmental enrichment, proper nutrition, clean water, shelter from the elements, timely and adequate veterinary care, and daily care by staff experienced in animal care and husbandry.

95. Pennsylvania requires the “humane care and treatment” of exhibited wildlife, 58 Pa. Code § 147.281(a), and criminalizes the failure to provide for an animal’s basic needs, including the need for proper food, clean water, sanitary shelter with protection from the elements, and necessary veterinary care, 18 Pa. Stat. § 5532(a). These laws reflect the public policy of treating captive wild animals humanely.

96. The AWA likewise reflects the public policy of treating exhibited animals humanely, as it is explicitly intended to ensure the “humane care and treatment” of animals used “for exhibition purposes.” 7 U.S.C. § 2131.

97. The AWA establishes bare minimum federal protections for certain categories of animals in captivity and provides protection from animal neglect similar to Pennsylvania’s criminal code and wildlife regulations.

98. Pymatuning has been cited on inspection reports by the USDA for dozens of violations of the AWA over the years. Because the USDA enjoys enforcement discretion, these inspection reports do not capture all violations of the AWA at Defendants’ facility. They also wholly omit Defendants’ treatment of several of animals at the facility, including those that the AWA does not protect, including horses and reptiles, 7 U.S.C. § 2132(g), and those the USDA does not actively regulate, including birds.

99. The USDA inspection reports detail Defendants’ pattern of disregarding animal welfare and demonstrated failure to provide proper care for animals. These violations concern

issues of serious neglect, including, for example, failure to provide adequate veterinary care, nutrition, and sanitation.

100. Pymatuning's history of violating the AWA is so egregious that in February 2016, the USDA took a rare enforcement action against them, issuing Pymatuning a warning for over a dozen violations found during inspections in the year prior. These violations included failing to clean up animal waste, failure to maintain a current veterinary program, failing to have a sufficient number of adequately trained employees, and confining visibly ailing bears to concrete pits, with no opportunities to swim, climb, dig, den, or engage in other natural behaviors.

101. Pymatuning's pattern and practice of mistreatment of the animals in its custody violates federal and state laws, including Pennsylvania's regulations that require the "humane care and treatment" of wildlife and prohibit their "maltreatment, mistreatment or neglect." 58 Pa. Code § 147.281.

102. Defendants' continuous mistreatment and neglect of the animals held at Pymatuning Deer Park violates federal and state laws, which are indicative of public policy concerning animal welfare and the corresponding moral prohibition against causing animals to suffer. Pymatuning's violations of these laws are legally actionable because they violate public policy and thus unreasonably interfere with a right common to the general public—the right to be free of unlawful animal neglect—and constitute a public nuisance. *See Pa. Soc. for Prevention of Cruelty to Animals v. Bravo Enters., Inc.*, 237 A.2d 342, 348 (Pa. 1968) ("A legislative proscription, such as that found in [a] cruelty to animals statute, is declarative of the public policy and is tantamount to calling the proscribed matter prejudicial to the interests of the public" and such "[i]njury to the public is the essence of a public nuisance.").

A. Pymatuning confines Bosco the bear in conditions that constitute a public nuisance

103. For more than two decades, Bosco, the North American black bear kept at Pymatuning, has been confined primarily to a virtually barren concrete pit that inhibits his every natural instinct. Pymatuning's mistreatment of Bosco violates the Commission's regulations, as described below, and also creates a long-lasting effect, and Defendants know or have reason to know that this unlawful conduct has a significant effect upon the public right and thus constitutes a public nuisance.

1. Pymatuning fails to provide timely medical attention to Bosco, violating state law

104. Defendants have a pattern and practice of denying bears held at Pymatuning Deer Park adequate veterinary care, including preventative care, in violation of 18 Pennsylvania Statute Section 5532(a), which provides that the failure to provide animals with "necessary veterinary care" constitutes criminal neglect, and 58 Pennsylvania Code Section 147.287, which requires that "sick or unsightly" wildlife "be removed from public display and immediately given professional medical attention."

105. Contrary to these clear statutory and regulatory requirements, Bosco shows signs of arthritis, such as walking stiffly, yet he remains on public display and, on information and belief, Defendants are not providing him with appropriate medical attention. Instead, Defendants confine him primarily to concrete, which is a well-known cause of arthritis in large mammals, including bears, and which exacerbates existing arthritis.

106. Indicative of Defendants' pattern and practice of denying bears veterinary care, the USDA cited Pymatuning in July 2015 for failing to provide adequate veterinary care to another bear, named Mama Bear, who was confined with Bosco in the concrete pit prior to her death. She "was reluctant to walk on her front left leg" and "she crawled using her elbow" while gathering

food. Pymatuning's staff admitted she had "seemed arthritic for a while" and she "had difficulty walking," yet they failed to "contact the veterinarian to determine the cause or to develop a treatment plan" for her debility.

107. By failing to provide Bosco timely and adequate medical care, Defendants mistreat and neglect him, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

2. Pymatuning mistreats and neglects Bosco by providing him inadequate space, enrichment, and comfort, violating state law

108. Defendants have a pattern and practice of denying bears held at Pymatuning Deer Park adequate space, enrichment, and comfort, in violation of 58 Pennsylvania Code Sections 147.281(b) and 147.284(b), which prohibit confining wildlife "in a manner which results in maltreatment, mistreatment or neglect" and require that enclosures "have bedding required for the [animals'] comfort and protection from inclement weather."

109. Contrary to this clear regulatory requirement, Defendants hold Bosco in a barren concrete pit with virtually no enrichment. The only alternative substrates available to Bosco are a small area of natural ground, which is adjacent to the pit and which appears to be hard-packed dirt, and a tiny wooden platform Defendants added to the concrete pit in the past few years. Bosco has shown difficulty navigating up and over the step to access the outdoor area, and, on information and belief, climbing onto the wooden platform will become increasingly challenging, if not impossible, for Bosco as his apparent arthritis progresses. These conditions fall short of the standard set by state law.

110. Indicative of this pattern and practice, the USDA has cited Pymatuning for its failure to address the inadequate bear enclosure. For example, Pymatuning was cited in July 2015 for violating the AWA after the USDA's inspector saw that the "bears still ha[d] much of their

winter coat because there [wa]s nothing for them to rub against to remove the excess fur” and their only water source was “a small pool” that was not big enough for both bears. As a result, Mama Bear “was breathing heavily while resting possibly indicating she was hot.” She was also seen dragging herself, “moving forward on her front limbs and elbows and she was very slow to stand.” Her “movements appeared painful when she stood up and laid down” and Pymatuning staff believed she had arthritis. The inspector noted that her signs of debility were “consistent with being housed exclusively on concrete.” Bosco has endured the same conditions as Mama Bear and shows similar signs of debility. In addition, Pymatuning has been repeatedly cited for not having soft areas or hay or anything in the enclosure that would allow a bear to rub against to shed excess fur. Nevertheless, Defendants continue to force Bosco to live in an almost totally barren, concrete pit, without soft areas, hay, or sufficient surfaces to rub against to shed his fur.

111. As a result of these improper conditions, Bosco and Mama Bear have been observed engaging in abnormal repetitive behavior, including repeated pacing, spinning in circles, and biting the cage on the perimeter of the enclosure. These abnormal repetitive behaviors indicate psychological distress and inadequate space and enrichment.

112. In addition, through Defendants’ inappropriate and largely unsupervised feeding program, they permit and encourage visitors to feed Bosco by throwing white bread and other low-quality foods into the concrete pit, where they land on the floor of the enclosure. The availability of large quantities of inappropriate food can contribute to obesity or other body condition issues, which are of particular concern for an arthritic bear held on concrete. The consumption of inappropriate food can also result in nutritional imbalance or deficiencies. In addition, public feeding places Bosco at risk of the transmission of disease from people, particularly due to the lack of staff supervision and since there are no handwashing stations near

Bosco's enclosure. Public feeding also denies Bosco the opportunity to engage in species-typical feeding methods, including foraging, and encourages him to sit up and solicit food from visitors instead. This unnatural body position adds further stress on his joints and the need to solicit food from the public can cause psychological distress and can cause or exacerbate abnormal repetitive behaviors.

113. By forcing Bosco to live in an inadequate enclosure devoid of proper space, enrichment, comfort, or even basic substrate, Defendants mistreat and neglect him, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

3. Pymatuning confines Bosco in an unsanitary manner, violating state law

114. Defendants have a pattern and practice of denying bears held at Pymatuning Deer Park adequate space, enrichment, and comfort, in violation of 58 Pennsylvania Code Section 147.283(a), (c), which requires that wildlife "be kept in a sanitary manner," that "[c]lean, fresh water shall be provided daily," and that "[w]ater containers shall be cleaned and disinfected daily."

115. Contrary to this clear regulatory requirement, Defendants hold Bosco in an enclosure that is unsanitary and threatens his health.

116. Indicative of this pattern and practice, the USDA cited Pymatuning for allowing excessive green to black algae and organic buildup in the bear pit's only water source. The USDA further cited Pymatuning for failing to clean the bear pit for months, creating an accumulation of algae along the walls.

117. In addition, because Defendants allow the public to feed Bosco by throwing food into his pit, and this food frequently lands in the slanted portion of the pit, where, on information and belief, Bosco's urine and fecal matter drains, Defendants create a risk of contamination. Further, Pymatuning's staff has allowed feces from a free-roaming apparently wild animal to

accumulate on the ledge formed by the top of the wall around the concrete pit, creating a risk of disease transmission.

118. By failing to provide Bosco adequate sanitation, Defendants mistreat and neglect him, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

B. Pymatuning’s mistreatment and neglect of cubs, joeys, and other young animals constitutes a public nuisance

119. Defendants have a pattern and practice of confining and exhibiting young animals in conditions that violate 58 Pennsylvania Code Section 147.281(b), which prohibits “maintain[ing] wildlife . . . in a manner which results in maltreatment, mistreatment or neglect.”

120. Contrary to this clear regulatory requirement, Defendants hold young animals in enclosures for public viewing, which causes harm to the animals at a critical juncture in their development. Separating infant animals from their mothers, well before they would naturally be weaned, causes distress to the young animals and their mothers, prevents the young animals from engaging in normal feeding behaviors, and alters their development, including by preventing them from learning behaviors from their mothers, and creating a risk of injury in the form of weakened immune systems and abnormal behavioral development. The young animals suffer further distress when they are subjected to public display, including from sleep deprivation and from inadequate conditions of confinement.

121. Indicative of this pattern and practice, the USDA cited Pymatuning in August 2015 for failing to recognize the signs of distress in a pair of five-month-old bear cubs who Defendants were exhibiting. The USDA’s inspector observed the cubs engaged in “paw sucking and ear sucking,” which is “an abnormal behavior pattern that can be attributed to stress and how the cubs cope with stress,” and which “can cause physical hot spots.” One cub’s ear was “soaked” and

missing hair, and the sucking put the cub at risk of ear infection. According to the inspection report, Defendants' staff admitted to the USDA's inspector that "all of their hand reared cubs do this behavior and they were not concerned with it." Because the "facility did not recognize that this was an abnormal behavior pattern," they did not alert the facility's attending veterinarian. The USDA's inspector instructed Defendants to have the veterinarian "assess the cubs['] behavior and assist the facility with a plan to encourage normal behavior patterns for their health and well-being."

122. Further, the USDA cited Pymatuning for failing to have "a diet plan to transition" a pair of six-week-old tiger cubs on "to solid foods over the next few months." As the USDA's inspector noted in the May 2015 report, "[t]iger cubs are at high risk for developing vitamin and calcium deficiency problems like metabolic bone disease if [they are] not given an appropriate diet at his critical time period." The USDA ordered the facility to implement a diet plan approved by the facility's attending veterinarian.

123. In addition, changes in Pymatuning's inventory indicate that Defendants routinely acquire new animals, including immature animals, before Pymatuning Deer Park opens each year, and then dispose of animals after the facility closes each year. By routinely acquiring immature animals, Defendants create a demand that causes the animals to be separated from their mothers as infants, well before they would naturally be weaned. This increases the number of animals who suffer distress caused by premature maternal separation and public display.

124. By acquiring immature animals and confining them to and exhibiting them in inadequate conditions that cause them harm, Defendants mistreat and neglect them, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

C. Pymatuning confines animals to conditions that constitute a public nuisance

125. Defendants have a pattern and practice of confining animals to conditions that violate the state’s prohibition against depriving an animal of proper food, clean water, sanitary shelter with protection from the elements, and necessary veterinary care, 18 Pennsylvania Statute Section 5532(a), and the Commission’s regulations that provide “safeguards for . . . [the] humane care and treatment, adequate housing and nutrition, sanitation, [and] safety” of captive wildlife, 58 Pennsylvania Code Section 147.281(a).

126. Contrary to these clear statutory and regulatory requirements, Defendants provide animals with inhumane care, confine them to inadequate housing, and provide them inadequate nutrition, sanitation, and safety.

127. Indicative of this pattern and practice, the USDA has cited Pymatuning for violating the bare minimum requirements for animal care set forth under the AWA, standards that overlap in part with Pennsylvania’s regulatory requirements. These citations, which are detailed in the Notice of Intent, include citations for depriving animals of adequate nutrition, proper sanitation, and protection from the elements—conditions that also violated the Commission’s regulations, including 58 Pennsylvania Code Sections 147.281(a)-(b), 147.284(b), and 147.287.

128. Defendants mistreat several animals by confining them to inadequate conditions where they are denied everything that is natural and important to them. For instance, pigs at Pymatuning Deer Park are confined exclusively to concrete where they cannot wallow. Cows and other grazing animals are confined to muddy enclosures without grass to graze on. A blue and gold macaw is confined to the same inadequate enclosure as the military macaw and suffers in the same ways, including from being denied adequate enrichment or space to fly, as detailed above. The cougar is held in a small enclosure without space to roam or climb and without the opportunity

to retreat from public view. Primates, including the baboons, are denied proper enrichment, sanitation, and space.

129. By confining these animals to inhumane conditions, Defendants mistreat and neglect them, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

130. Defendants also mistreat sulcata tortoises by confining them to a barren dirt plot. This enclosure does not ensure that the tortoises will be able to maintain proper body temperatures that support optimal functioning of their digestive and immune systems, which is necessary to prevent distress, disease, or even death. Since tortoises cannot regulate their own body temperatures, ambient temperature gradients must be provided in their enclosures. The best source of heat is overhead radiant heat, which is lacking at Pymatuning. Instead, the tortoises are forced to compete for a single heat pad, which means they are unable to retreat from each other and even when huddled, they are unable to simultaneously maintain a proper temperature. The tortoises are also not provided adequate shade or protection from the rain. In addition, according to generally accepted husbandry practices, sulcata tortoises should be held in conditions that allow them to dig and burrow, should have regular access to hay or grass to feed on, and should be provided enrichment, such as balls to push around. On information and belief, the barren dirt pit is hard packed and does not allow the tortoises to dig or burrow, and Pymatuning fails to provide the tortoises with regular access to hay or grass or any enrichment.

131. By confining the tortoises to inhumane conditions, Defendants mistreat and neglect them, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

D. Pymatuning’s practice of allowing direct public contact with animals endangers both the animals’ and the public’s safety and constitutes a public nuisance

132. Defendants have a pattern and practice of allowing direct public contact with animals, including unsupervised feeding, in violation of 58 Pennsylvania Code Sections 147.281(a)-(c), 147.282(c)-(d), 147.284(c), which provide “safeguards for public safety” including by prohibiting conduct that “results in maltreatment, mistreatment or neglect,” requiring exhibitors to “adequately protect the public from [captive] wildlife,” prohibiting “[p]ublic human contact” with non-ruminant animals such as those exhibited at Pymatuning Deer Park, and requiring exhibitors to prevent the public from “annoying the wildlife.”

133. Contrary to these clear regulatory requirements, Defendants allow their customers to feed the animals confined at Pymatuning Deer Park in an unregulated environment lacking staff supervision and proper sanitation. Defendants provide food that is unsuitable for the various species and enclose the animals with improper perimeter fencing, which allows customers to touch them. On information and belief, Pymatuning does not provide adequate sanitation measures, such as foot baths or hand washing stations, to prevent the spread of zoonotic disease to the public. Allowing the public to feed and touch the animals without supervision or proper sanitation creates a risk of disease transmission between the people and the animals as well as between animals through cross-contamination caused by customers touching many animals in succession without washing their hands in between.

134. Indicative of this pattern and practice, the USDA has cited Pymatuning for conditions that allowed, or could allow, public contact with a variety of animals, including cougars and a coatimundi, and for gaps in fences that could allow animals to escape. The USDA has also cited Pymatuning for inadequately supervising public feeding of animals at the facility.

135. Defendants also confine as many as one hundred parakeets to the “Budgie Barn,” a crowded indoor barn where the parakeets are subjected to unsupervised public feeding, screaming children, and trampling by members of the public. These chaotic conditions, including the loud noise, can cause psychological distress in the birds. Moreover, the enclosure is constructed out of wood, which cannot be sanitized, and is designed so that the birds perch above the public walkway, putting customers at risk of contact with fecal material from which they could contract contagious zoonotic diseases including psittacosis. On information and belief, Pymatuning does not provide adequate sanitation measures, such as foot baths or hand washing stations, to prevent the spread of zoonotic disease to the public. In addition, by holding so many birds in a single enclosure, Defendants make it difficult, if not impossible, for their staff to monitor the birds for illness or to implement an effective quarantine protocol as needed, which increases the likelihood of disease transmission among the birds and with the public. Holding so many birds in close proximity also makes it difficult, if not impossible, to evacuate the birds if the wooden structure caught fire, leaving the birds at risk of psychological distress, physical injury, and death.

136. In addition to violating state law by allowing public contact with animals, including by encouraging public feeding, Defendants violate the AWA, which is intended to ensure the “humane care and treatment” of animals used “for exhibition purposes,” 7 U.S.C. § 2131, and which requires that exhibited animals “be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public,” 9 C.F.R. § 2.131(c)(1). This practice also violates generally accepted husbandry practices. For example, the AZA advises that “hand-feeding in free contact situations is not recommended.”

137. By allowing unsupervised public feeding, Defendants jeopardize both the animals' and the public's safety, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

E. Pymatuning's failure to provide animals with adequate veterinary care constitutes a public nuisance

138. Defendants have a pattern and practice of failing to provide animals with adequate veterinary care, including preventative care, in violation of 18 Pennsylvania Statute Section 5532(a), which provides that the failure to provide animals with "necessary veterinary care" constitutes criminal neglect, and they display animals in need of veterinary care, in violation of 58 Pennsylvania Code Section 147.287, which requires that "sick or unsightly" wildlife "be removed from public display and immediately given professional medical attention."

139. Contrary to these clear statutory and regulatory requirements, Defendants fail to provide animals at Pymatuning Deer Park with necessary veterinary care, including preventative care.

140. Indicative of this pattern and practice, the USDA has cited Pymatuning for depriving animals of timely and appropriate medical attention.

141. In July 2017, the USDA cited Pymatuning for the inadequacy of its veterinary care when fallow deer and fennec foxes appeared sick, unsightly, and untreated by a licensed veterinarian. The USDA noted that despite hair loss and an unkept coat, Pymatuning's fennec foxes "had not been assessed by a veterinarian and had not been treated by park staff for the most recent hair loss re-occurrence." The same inspection report described a fallow deer whose "left eye was clouded, blue colored and was bulging," but which Pymatuning's staff "had not noticed" so "no treatment had been given to the animal."

142. Further, in July 2020, Defendants confined many birds with a peacock who had a persistent and apparently painful eye condition that, on information and belief, went untreated and was potentially infectious. Pymatuning's lack of a proper infectious disease prevention and quarantine protocol predisposes birds to a wide variety of infectious diseases. Because inadequate sanitation also facilitates the spread of disease, the peacock's eye condition may indicate a failure to provide proper sanitation in the enclosure, which further exposes the birds to a variety of contagious diseases.

143. In addition, Pymatuning's use of gunshot in place of proper euthanasia is prohibited by Pennsylvania Statute Section 328.301, which provides that "[n]o animal shall be destroyed by means of . . . [u]nacceptable agents and methods published in the most current version of the American Veterinary Medical Association's Guidelines on Euthanasia."

144. Contrary to this clear statutory requirement, Defendants have killed at least one animal by gunshot. The USDA cited Pymatuning for killing Scruffy, an adult tiger, by gunshot, which was, on information and belief, not an isolated incident since Pymatuning's program of veterinary care provided for gunshot and barbiturate overdose as primary forms of euthanasia.

145. The most recent American Veterinary Medical Association guidelines indicate that gunshot is only acceptable in an emergency situation, and "should not be used when other methods are available and practicable." On information and belief, Scruffy's death was not an emergency situation, nor were other methods unavailable and impracticable. Moreover, killing a big cat by gunshot requires "highly skilled personnel trained in the use of firearms," appropriate firearms and bullets, and well-maintained equipment, and can create suffering if more than one shot is required. On information and belief, Pymatuning staff lacks the requisite skill and training in firearms, as is evident by the fact that they shot at Scruffy three times.

146. By depriving animals of necessary veterinary care, including preventative care, Defendants jeopardize their health, violating state law and creating a public nuisance by producing a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

VIII. DEFENDANTS' ACTIONS HARM PETA BY FRUSTRATING ITS MISSION AND WASTING ITS RESOURCES

147. PETA has over 6.5 million members and supporters worldwide and is dedicated to protecting animals, including animals used in entertainment, from abuse, neglect, and cruelty. PETA's mission statement reads, in relevant part: "Animals are not ours to . . . use for entertainment."

148. By unlawfully harming and harassing ESA-listed animals and confining them and other animals to unlawful conditions, Defendants directly frustrate PETA's mission to eliminate the abuse and neglect of animals for entertainment. Unlawfully harming and harassing animals and confining animals to unlawful conditions increases the number of animals subject to abuse and neglect in entertainment.

149. To achieve its objectives of ending the abuse and neglect of animals used for entertainment, PETA pursues several programs, including public education, cruelty investigation, research, animal rescue, legislation, special events, celebrity involvement, and protest campaigns. It brings this suit on its own behalf to protect its programs, which have been perceptibly impaired by Pymatuning's actions.

150. Continuing to harm and harass and otherwise mistreat the animals who are the subject of this action without repercussion creates the incorrect public impression that the conditions in which these animals are kept are humane and lawful and that Defendants can lawfully abuse, neglect, and mistreat animals.

151. As a result, PETA has been forced to divert resources in order to counteract the public impression that Pymatuning's practices are consistent with the ESA and animal welfare. Among other activities, in order to counteract this public impression, PETA has been, and continues to be, forced to: submit complaints about Pymatuning to government agencies; post multiple posts on the PETA.org blog; review and respond to complaints from the public about Pymatuning; compile and publish information on PETA's website about Pymatuning's history of animal welfare violations; and distribute press releases on Pymatuning's AWA violations.

152. In order to compile accurate information about Pymatuning to share with the public and its members, as well as to counteract the public impression that Pymatuning's practices are consistent with the ESA and animal welfare, PETA has been, and continues to be, forced to: track and gather Pymatuning's USDA inspection reports; arrange for staff and activists to visit Pymatuning; monitor Pymatuning's social media pages and website; and submit multiple public records requests related to the facility and review and analyze numerous responsive documents.

153. Despite the resources PETA has expended, Defendants have failed to significantly improve the conditions at Pymatuning Deer Park, which has rendered PETA's expenditures effectively wasted.

154. PETA has also been, and continues to be, forced to undertake all of the actions listed in the preceding two paragraphs, and is therefore compelled to divert resources, to address Defendants' unlawful mistreatment of the animals who are the subject of this action.

155. PETA's ongoing need to expend resources to investigate and counteract Defendants' unlawful harm and harassment of animals has perceptibly impaired PETA's ability to advance its mission. Specifically, the expenses incurred identifying and counteracting Defendants' illegal activity has forced PETA to divert resources away from campaigns against other

unaccredited roadside zoos and traveling animal shows with egregious records of animal neglect and abuse, and from funding animal rescues, among other efforts.

156. If PETA prevails in this action, Defendants will no longer be able to maintain the animals at issue in conditions that are inconsistent with the ESA and animal welfare, and PETA will no longer have to divert resources to counteract the incorrect public impression caused by Defendants' unlawful acts or to counteract the unlawful acts themselves.

157. PETA's additional efforts and the resulting expenditures would not be necessary but for Defendants' unlawful mistreatment of animals.

158. PETA suffers an injury different in kind and degree than the general public due to the perceptible frustration of its programs caused by Defendants' unlawful mistreatment and neglect of animals and the public nuisance thereby created by Defendants. Unlike other members of the public, PETA has been forced to, and continues to be forced to, expend resources to investigate and counteract Defendants' unlawful treatment and neglect of animals, and to counteract the public impression that Defendants' treatment of animals is lawful and consistent with animal welfare, when it is in fact illegal, cruel, and offensive to public decency.

IX. PLAINTIFFS' MEMBERS SUFFER AESTHETIC INJURIES CAUSED BY VIEWING DEFENDANTS' MISTREATMENT OF ANIMALS

159. As set forth above, PETA's organizational mission is focused on animal protection and it brings this lawsuit to vindicate its interests and the interests of its members who have visited Pymatuning Deer Park.

160. Likewise, ALDF's organizational mission is focused on animal protection and it brings this lawsuit to vindicate its interests and the interests of its members who have visited Pymatuning Deer Park.

161. ALDF has over 300,000 members and supporters nationwide and pursues its mission of protecting the lives and advancing the interests of animals by persistently advocating for the protection of animals used and sold in commercial enterprises. ALDF frequently focuses on animal husbandry practices and the confinement of animals used for entertainment and exhibition purposes.

162. By unlawfully harming and harassing ESA-listed animals and confining them and other animals to unlawful conditions, Defendants directly frustrate ALDF's mission to protect animals used and sold in commercial enterprises. Unlawfully harming and harassing animals and confining animals to unlawful conditions increases the number of animals subject to abuse and neglect in commercial enterprises.

163. When Plaintiffs' members visited Pymatuning Deer Park, they observed and developed aesthetic and emotional connections to the animals at the facility, including Bosco and the other animals at issue in this suit. Plaintiffs' members became distressed and upset due to the animal mistreatment and suffering that they witnessed at Pymatuning Deer Park, including the suffering of animals kept on inappropriate substrates like concrete, or in mud; animals confined to undersized enclosures without adequate enrichment; and animals subject to public feeding without sufficient supervision, barriers, or sanitary precautions. The inhumane and inadequate conditions prevented Plaintiffs' members who visited Pymatuning Deer Park from viewing and enjoying the animals kept there in appropriate conditions. Members of the public have expressed similar concerns about the conditions at Defendants' facility.

164. Plaintiffs' members' aesthetic injuries continue and even magnify when Pymatuning acquires additional animals who will be held in inadequate enclosures and denied the nutrition, enrichment, and veterinary care they need.

165. Plaintiffs' members wish to view the animals they met at Pymatuning Deer Park in appropriate and humane conditions but are unable to do so because of the current inappropriate and inhumane conditions in which Defendants confine the animals.

166. Plaintiffs' members would view the animals they met at Pymatuning Deer Park if the animals were transferred to reputable facilities or sanctuaries and held in appropriate and humane conditions.

167. Plaintiffs bring this action on PETA's own behalf, and on behalf of both Plaintiffs' members, as well as the public at large. The interests that Plaintiffs' members have in observing and otherwise enjoying animals at Pymatuning Deer Park have been, and will continue to be, harmed by the mistreatment of animals by the operation and management of Defendants' facility. Additionally, the ongoing conditions and mistreatment of animals at Pymatuning Deer Park is a nuisance repugnant to the interests of the Pennsylvania public at large. The relief sought in this lawsuit—including, but not limited to, the transfer of animals to reputable facilities or sanctuaries—would redress Plaintiffs' and their members' ongoing harms caused by Defendants' unlawful activities.

168. Plaintiffs' members who visited Pymatuning Deer Park suffer an injury different in kind and degree than the general public. Unlike other members of the public who suffer a general moral injury, Plaintiffs' members who visited Pymatuning Deer Park witnessed the mistreatment and suffering of animals and as a result experienced significant distress. Accordingly, their aesthetic, recreational, educational, and personal interests, including the desire to observe animals, were harmed and diminished by seeing animals in inhumane conditions. Further, Plaintiffs' members desire to return and enjoy viewing the animals at Pymatuning Deer Park in appropriate and humane conditions but are unable to do so while the current inadequate and inhumane

conditions persist. Thus, Plaintiffs' members' interests in observing and enjoying animals at Pymatuning Deer Park have been, and will continue to be, harmed by Defendants' mistreatment and neglect of animals.

X. CLAIMS FOR RELIEF

Count I—Unlawful “Take” of Protected Species

1. Plaintiffs incorporate by reference all allegations of the Complaint.
2. The Endangered Species Act, 16 U.S.C. § 1538(a)(1)(B), (G), and its implementing regulations, 50 C.F.R. §§ 17.21, 17.31(a), prohibit the “take” of “any [listed] species” not otherwise provided for by a Section 4(d) special rule, within the United States without a permit.
3. Defendants have violated and continue to violate the ESA and its implementing regulations by taking lions, tigers, ring-tailed lemurs, a military macaw, and a Mikado pheasant, by harming and harassing them at Pymatuning Deer Park without a permit.
4. This Court has the authority to issue an injunction prohibiting Defendants from committing further violations of the ESA and ordering them to relinquish possession of the lions, tigers, ring-tailed lemurs, military macaw, and Mikado pheasant to reputable facilities or sanctuaries. 16 U.S.C. § 1540(g)(1)(a).

Count II—Unlawful Possession of Protected Species

5. Plaintiffs incorporate by reference all allegations of the Complaint.
6. The Endangered Species Act, 16 U.S.C. § 1538(a)(1)(D), (G), and implementing regulations, 50 C.F.R. §§ 17.21(d), 17.31(a), prohibit the possession, by any means whatsoever, of any species taken in violation of the ESA.
7. Defendants have violated and continue to violate the ESA and its implementing regulations by possessing and continuing to possess unlawfully taken species, including two lions,

two tigers, two ring-tailed lemurs, a military macaw, and a Mikado pheasant, within the meaning of 16 U.S.C. § 1538(a)(1)(D) and (G).

8. This Court has the authority to issue an injunction prohibiting Defendants from continuing to possess the lions, tigers, ring-tailed lemurs, military macaw, and Mikado pheasant, in violation of 16 U.S.C. § 1538(a)(1)(D) and (G), and 50 C.F.R. §§ 17.21(d), 17.31(a), 17.40(r), and ordering them to relinquish possession of these animals to reputable facilities or sanctuaries. 16 U.S.C. § 1540(g)(1)(A).

Count III—Public Nuisance

9. Plaintiffs incorporate by reference all allegations of the Complaint.

10. Defendants' operation of Pymatuning Deer Park, including the treatment of animals confined therein, unreasonably interferes with the rights of the general public and constitutes a public nuisance.

11. In Pennsylvania, a public nuisance is a significant interference with a right common to the general public, including conduct that is proscribed by a statute, ordinance, or administrative regulation, or conduct that has a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right.

12. Injury to the public is the essence of a public nuisance. Where the government has proscribed certain conduct, such as the inhumane treatment of animals, such a prohibition reflects public policy and is tantamount to a declaration that the proscribed conduct is prejudicial to the interests of the public. Defendants' conduct violates statutes and regulations and has caused, and continues to cause, a long-lasting effect that Defendants know or have reason to know has a significant effect on the public right to have animals treated humanely.

13. Defendants' conduct violates state animal welfare regulations and federal animal welfare standards, which require the humane care and treatment of exhibited animals. 58 Pa. Code § 147.281; 7 U.S.C. §§ 2131-59.

14. These violations of law support a finding of public nuisance under Pennsylvania law.

15. As a direct and proximate result of Defendants' creation of a public nuisance, PETA and Plaintiffs' members have suffered harm different in kind and degree than that suffered by members of the public.

16. Defendants' mistreatment of animals has harmed PETA by frustrating its mission and causing it economic damages incurred when it is forced to divert its resources to investigate and counteract Defendants' unlawful conduct and to counteract the incorrect public impression caused by Defendants' unlawful acts.

17. PETA's expenditures have been rendered wasted as a result of Defendants' failure to significantly improve the conditions of Pymatuning Deer Park.

18. Plaintiffs' members have suffered an injury caused by Defendants' creation of a public nuisance that different in kind and degree than that suffered by the general public. Plaintiffs' respective members incurred an injury including but not limited to their aesthetic, recreational, educational, and personal interest in seeing the animals in a humane, safe, and psychologically enriching setting.

19. Plaintiffs' respective members visited Pymatuning Deer Park to view the animals, they formed emotional attachments to these animals, and they became distressed and upset due to the animal mistreatment and suffering that they witnessed. Plaintiffs' members' interests in observing and otherwise enjoying animals at Pymatuning Deer Park have been, and will continue

to be, harmed by Defendants' mistreatment of animals through their operation and management of Pymatuning Deer Park.

20. Plaintiffs' respective members would view the animals they met at Pymatuning Deer Park if the animals were transferred to reputable facilities or sanctuaries and held in appropriate and humane conditions.

21. If unabated, Defendants' conduct will continue to harm PETA and threaten the rights of the general public and Plaintiffs' members' rights. Equitable relief, including an order to transfer the animals to reputable facilities or sanctuaries and an injunction prohibiting Defendants from obtaining other animals, would redress ongoing harms to PETA and Plaintiffs' members by Defendants' conduct at Pymatuning Deer Park.

22. The relief sought in this lawsuit—including, but not limited to, an order to transfer of animals to reputable facilities or sanctuaries—would redress PETA's and Plaintiffs' members' ongoing harms from Pymatuning's activities at Pymatuning Deer Park. Specifically, PETA would cease incurring costs related to investigating and counteracting Defendants' unlawful conduct and the public misperceptions thereby created and Plaintiffs' members would either return to Pymatuning Deer Park if the treatment and conditions substantially improved to be humane and in compliance with law, or would otherwise visit the animals if they are moved to reputable facilities or sanctuaries.

Relief Requested

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Declare that Defendants are violating the ESA by illegally taking lions, tigers, ring-tailed lemurs, a military macaw, and a Mikado pheasant. 16 U.S.C. § 1538(a)(1)(B); 50 C.F.R. §§ 17.21(c), 17.31(a), 17.40(r);

B. Declare that Defendants have violated and continue to violate the ESA by possessing lions, tigers, ring-tailed lemurs, a military macaw, and a Mikado pheasant who have been illegally taken, 16 U.S.C. § 1538(a)(1)(D), (G); 50 C.F.R. §§ 17.21(d), 17.31(a), 17.40(r);

C. Enjoin Defendants from continuing to violate the ESA and its implementing regulations with respect to lions, tigers, ring-tailed lemurs, a military macaw, and a Mikado pheasant, including the prohibitions on taking a listed species and possessing a listed species that has been unlawfully taken;

D. Enjoin Defendants from owning or possessing endangered or threatened species in the future;

E. Enjoin Defendants from maintaining a public nuisance, namely by confining endangered, threatened, and non-endangered animals in inhumane and unsafe conditions;

F. Enter a permanent injunction against Defendants that terminates all Defendants' ownership and possessory rights in its animals;

G. Order the animals transferred to reputable facilities or sanctuaries that the Court determines are the most appropriate placements for the forfeited animals, consistent with the animals' best interests;

H. Enter a permanent injunction prohibiting Defendants from obtaining other wild animals;

I. Award Plaintiffs reasonable attorneys' fees and litigation costs for this action, 16 U.S.C. § 1540(g)(4); and

J. Grant Plaintiffs such other and further relief as the Court deems just and proper.

Date April 14, 2021
Pittsburgh, Pennsylvania

Respectfully submitted,

K&L GATES LLP

/s/ Jeffrey P. Richter

Jeffrey P. Richter (PA 322540)
Jessica L.G. Moran (PA 325912)
Jennifer Yeung (PA 324199)
Hudson Stoner (PA 326013)

210 Sixth Avenue
Pittsburgh, PA 15222
Telephone: 412.355.6500
Facsimile: 412.355.6501
jeff.richter@klgates.com
jessica.moran@klgates.com
jennifer.yeung@klgates.com
hudson.stoner@klgates.com

PETA FOUNDATION

Caitlin Hawks (CA 260417)
Jenni James (CA 286460)
James Erselius (CA 303026)

(pro hac vice motions forthcoming)
2154 West Sunset Blvd.
Los Angeles, CA 90026
Telephone: 323-644-7382
Facsimile: 202-540-2208
caitlinh@petaf.org
jennij@petaf.org
jamese@petaf.org

ANIMAL LEGAL DEFENSE FUND

Daniel Waltz (DC D00424)
(pro hac vice motion forthcoming)

The Yard, 700 Pennsylvania Ave. SE
Washington, DC 20003
Telephone: 707-795-2533, Ext. 1066
Facsimile: 707-795-7280
dwaltz@aldf.org

Attorneys for Plaintiffs