

How Three Collies Turned into 150+ Collies:

A Legal Saga Involving an Ownership Dispute, Animal Cruelty, Federal Bankruptcy, a Federal Animal Seizure,
and State/Federal Crimes

Texas State Bar Animal Law Institute 2023



Zephyr



Kabe the Devil Dog



Smooch

Zena , VST, TD, RN, CGC, NI

Zeus RN, BN, PCD, CGC

Smooch RAE, RA, RE, RN, BN, PCD

www.TexasDogLawyer.com

Irresistibull Ziggy Stardust

July 4 2019



www.TexasDogLawyer.com

Fraja EC Light My Fire aka ZANE



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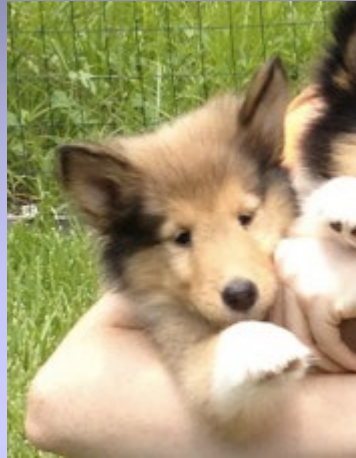
How 3 Collies Turned into 150 Collies+!

(...and 11 Cats)

Texas State Bar Animal Law Institute 2023



Promise



Justice



Reno

- Kara was 22, a single parent mom of 2 kids, had 3 Collies and nowhere to go.
- Enter Sheila Kopman - touted herself to be a Collie fancier.
- Signed a written contract, Kopman paid for the dogs



How 3 Collies Turned into 150+Collies!

(...and 11 Cats)



There was a contractual agreement with *Shelia Kopman* to transfer 3 Collies.

Puppy/Dog Sales Agreement

This contract is between Kara Kaufman herein after referred to as "Seller(s)" and Shelia Kopman, herein after referred to as "Buyer(s)". In consideration of payment in full of the purchase price of dog/puppy only (does not include

Buyer Address & Drivers License #:

14234 Alice Rd Tomball Tx 77377 07394640

Printed Name of Buyer:

Shelia Kopman

Buyer Signature:

Shelia Kopman

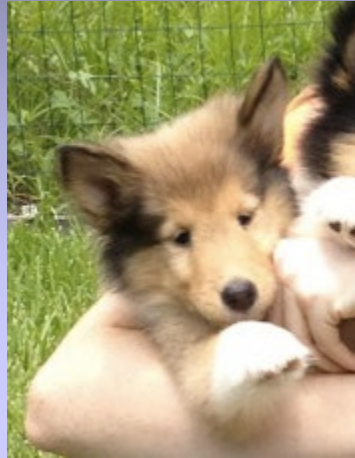


You ever just get that feeling...

How 3 Collies Turned into 150+ Collies! (...and 11 Cats)



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You know when you just get that feeling...WOOPS!!!

**KMIEC ELAINE
14234 ALICE RD
TOMBALL TX 77377**

...BIG WOOPS!!!

Texas Optometry Board License: KMIEC, ELAINE ANN # 2721



How 3 Collies Turned into 150+ Collies

The Great Epiphany!

Kara Kaufman figured out Kopman was Kmiec!

So who is this *Dr. Elaine Kmiec*?

The Collie World is a small one!




Make NO MISTAKE:

Hell hath no fury like the wrath of a Kara scorned!

How 3 Collies Turned into 150+! (...and 11 Cats)
Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013

Why would she do that??? Sheila Kopman?

**KMIEC ELAINE
14234 ALICE RD
TOMBALL TX 77377**

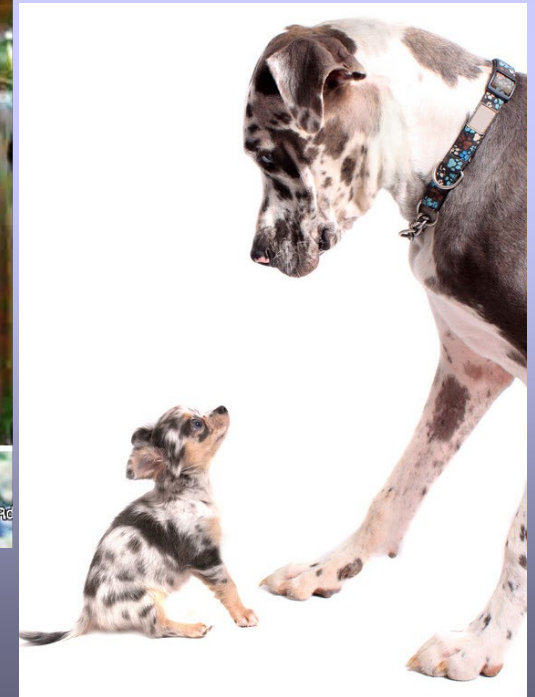
		HOUSTON SPCA 900 PORTWAY DRIVE HOUSTON, TX 77024 (713) 869-7722		<i>Inves Office #3</i>
Admission Contract				
Animal ID#:	298240-10-298259 <i>298244</i>	Admitting Date:	7/25/07	Admitting Time: 4:56:12 PM
Received By:	KF	Source:	FPU	Adoption Return: N
Animal Name:		Reason for Surrender:	CRUELTY SURRENDER	
Animal Type:	DOG (LG)	Sex:	M F	Size: L(46-
Age:	YEARS	Spayed/Neutered:	N	Food Type: DRY ONLY
Breed/Mix:	COLLIE			Animal Stays: OUTSIDE
Colors:	TAN/WHITE			Housetrained (Y/N): ?
Ears:	SEMI-ERECT			Collar (Y/N): ?
Tail:	LONG	Lived w/Animals (Y/N):	?	Types of Animals: DOGS

Name:	FRANKS K. , INVESTIGATIONS	Drivers License No:	<i>[Signature]</i>
Address:	14234 ALICE	Date of Birth:	
	TOMBALL, TX 77375	Phone #:	

How 3 Collies Turned into 150+ Collies!

(...and 11 Cats)

The Showdown: We Know You're Elaine Kniec





How 3 Collies Turned into 150+ Collies!
Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013
Harris County Justice Court



Justice Courts: Jurisdiction to \$10,000.00* but you can sue to get property back. Dogs are property.

**Now Jurisdiction is \$20,000.00.*

Puppy/Dog Sales Agreement

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Buyer Address & Drivers License #:

14234 Alice Rd Tomball Tx 77377 07394640

Printed Name of Buyer:

Sheila Kopman

Buyer Signature:

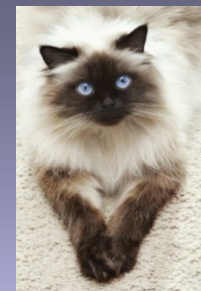
Sheila Kopman

**KMIEC ELAINE
14234 ALICE RD
TOMBALL TX 77377**





How 3 Collies Turned into 150+ Collies (...and 11 Cats)
Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013
Harris County Justice Court



Justice Courts: Jurisdiction to \$10,000.00* but you can sue to get property back. Dogs are property.

****Now Jurisdiction is \$20,000.00.***

RULE 500.3. APPLICATION OF RULES IN JUSTICE COURT CASES (a) Small Claims Case. A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any. Small claims cases are governed by Rules 500-507 of Part V of the Rules of Civil Procedure.

Pets are property in the eyes of the law, and we decline to permit non-economic damages rooted solely in an owner's subjective feelings. True, a beloved companion dog is not a fungible, inanimate object like, say, a toaster. *Strickland v. Medlen*, 397 S.W.3d 184, 185-186 (Tex. 2013)

How 3 Collies Turned into 150+ Collies

Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013

Kara Wants her Dogs back!



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Elements of Fraud as Provided by the Texas Law:

- The elements of a cause of action for fraud are:
- (1) that a material representation was made;
- (2) the representation was false;
- (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion;
- (4) the speaker made the representation with the intent that the other party should act upon it;
- (5) the party acted in reliance on the representation; and
- (6) the party thereby suffered injury."

***Johnson v. Brewer & Pritchard, P.C.*, 73 S.W.3d 193, 211; 45 Tex. S.Ct. J. 470, (Tex. 2002); *In re First Merit Bank, N.A.*, [52 S.W.3d 749](#), 758 (Tex.2001); *Formosa Plastics Corp. v. Presidio Engrs. & Contractors, Inc.*, [960 S.W.2d 41](#), 47 (Tex.1998).**

How 3 Collies Turned into 150+ Collies

Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013

How to Undo the Sale of the Dogs!



//
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Rescission is an equitable remedy that extinguishes legally valid contracts that must be set aside because of fraud, mistake, or other reasons in order to avoid unjust enrichment.

Martin v. Cadle Co., 133 S.W.3d 897, 903 (Tex. App.-Dallas 2004, pet. denied); Country Cupboard, Inc. v. Texstar Corp., 570 S.W.2d 70, 73-74; (Tex. Civ. App.-Dallas 1978, writ ref'd n.r.e.).

A trial court may order unilateral rescission of a contract if a party demonstrates a breach in a material part of the contract. **Costley v. State Farm Fire & Cas. Co., 894 S.W.2d 380, 386 (Tex. App.-Amarillo 1994, writ denied); Humphrey v. Camelot Ret. Cmty., 893 S.W.2d 55, 59; (Tex. App.-Corpus Christi 1994, no writ); Ennis v. Interstate Distributions, Inc., 598 S.W.2d 903, 906 (Tex. Civ. App. -Dallas 1980, no writ).**

•

How 3 Collies Turned into 150+ Collies

*Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013
Seriously?? She did not....the Day of Reckoning*



STATUTORY DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, CHAPTER XII, TEXAS PROBATE CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, SHEILA KOPMAN (insert your name and address), appoint
ELAINE KMIEC (insert the name and address of the person appointed) as my
agent (attorney-in-fact) to act for me in any lawful way with respect to all of the following
powers except for a power that I have crossed out below.

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR
EXTENDING THE POWERS GRANTED TO YOUR AGENT.

- ① SIGN MY NAME TO ANY CONTRACT OR AGREEMENT
WHEN I AM NOT PERSONALLY PRESENT
- ② ACT ON MY BEHALF IN ANY CONTRACT OR
TRANSACTION WHEN I AM NOT PERSONALLY PRESENT
- ③ AGENT HAS USE OF HER DISCRETION IN IDENTIFYING
HERSELF AS MY AGENT IN ANY TRANSACTION
- ④ EXPIRES 4/15/2014

How 3 Collies Turned into 150+ Collies

Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013

If any agent named by me dies, becomes legally disabled, resigns, or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent:

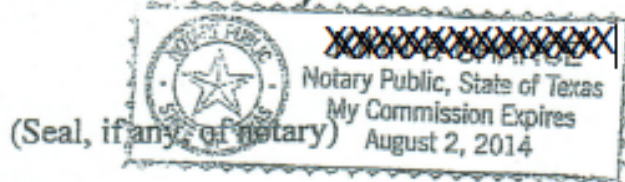
None

Signed this 15th day of April, 2013

S. Kopman

State of TX
County of Harris

This document was acknowledged before me on April 15, 2013 (date) by Sherida Kopman (name of principal).



[Signature]
(signature of notarial officer)
[Printed Name]
(printed name)
My commission expires: 8-2-14



THE ATTORNEY IN FACT OR AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

Things that make you go hmmm... Another epiphany!



How 3 Collies Turned into 150+! (...and 11 Cats)
The Brother, the Video, the Mediation and the Judge Becomes Curious...

The simple wisdom of the Court... WE WON!!!!

CV – Judgment – JP51



JUDGE RUSS RIDGWAY

JUSTICE OF THE PEACE, HARRIS COUNTY, TEXAS
PRECINCT FIVE, PLACE ONE

Case Number: CV51C0142551

CIVIL

~~JUDGMENT~~ w/ Counterclaim

PLAINTIFF: KARA KAUFMAN

DEFENDANT: ELAINE KMIEC aka SHEILA KOPMAN



09/24/13 – PL/CDF present w/ atty. DF/CPL present. At Trial, Judgment for PL, KARA KAUFMAN, against
DF, ELAINE KMIEC aka SHEILA KOPMAN, for the return of 3 dogs (1 male microchip #098-315-618, 1
female microchip #016-894-525 and 1 female puppy) within 11 days (by October 5, 2013) or \$4000.00.
Additionally, Judgment for PL for \$2700.00 Attorney Fees + Court Costs + Post Judgment Interest at 5% per
annum. Counter PL take nothing on Counterclaim from Counter DF. Court invokes Original Justice court rules
(which were in effect prior to 09/01/13). Appeal to be filed within 10 days of Judgment, if either party chooses
to Appeal. Signed 09/24/13



How 3 Collies Turned into 150+! (...and 11 Cats)

Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013

We won!!!! *But, not so fast...*

Appellate clock tolled-ten days.



**THE STATE OF TEXAS
WRIT OF EXECUTION FOR SEIZURE AND DELIVERY OF
SPECIFIC PERSONAL PROPERTY**

Cause No. : CV51C0142551

Date of Judgment: September 24, 2013; (Judgment Nunc Pro Tunc-September 30, 2103)

Judgment in Favor of: **KARA KAUFMAN**
3934 Shadow Trace Circle
Houston, Texas 77082
832 524 7832

Judgment Against: **ELAINE KMIEC a/k/a SHEILA KOPMAN**
14234 Alice Road
Tomball, Texas 77377
713 828 3602

Original Judgment Due at the Issuance of this Writ:

Seizure of Three Collie Dogs:

1. One Male Collie Dog-Microchip #098 315 618;
2. One Female Collie Dog-Microchip #016 894 525
3. One Female Puppy Collie Dog (offspring of previous listed dogs)

Attorney Fees: \$2,700.00

Costs of Court: \$

Post-Judgment Interest: 6% Per Annum



How 3 Collies Turned into 150+! (...and 11 Cats)

Kara Kaufman v. Dr. Elaine Kmiec; August 2, 2013

If only...

But “Sheila Kopman” Lives on...



A correct copy of the Bill of Costs is attached hereto and made a part hereof.

You are commanded to satisfy the judgment by **Seizing the Three Collie Dogs** described above.

You are further commanded to satisfy the judgment for attorney fees and costs out of any other property subject to execution by law.

You are further commanded that if ELAINE KMIEC a/k/a SHEILA KOPMAN refuses to return the property described above, to wit, the Three Collie Dogs, that pursuant to Texas Rule of Civil Procedure 561, you are to take ELAINE KMIEC a/k/a SHEILA KOPMAN into custody until such time as she complies and produces the Three Collie Dogs described above.

How 3 Collies Turned into 150+ Collies

Kara Kaufman v. Dr. Elaine Kmiec-December 17, 2013

Sheila Kopman???? Seriously?????



Constable's Writ Return Cause CV51C0142551

In the case of KARA KAUFMAN vs ELAINE KMIEC AKA SHEILA KOPMAN a writ of EXECUTION
was issued by the JP5-1 court of HARRIS County and came to hand on the 19TH day of NOVEMBER, 2013
at 08:15 (am)pm by making the demand on the Defendant(s) (see listed below) for the full amount of the Judgment and all cost within
this writ. (if applicable)

Service Information

Name	Date	Time	Address of Service
ELAINE KMIEC AKA SHEILA KOPMAN	11/19/13		DEMAND LETTER(S) SENT
	12/17/13	0730	DEMAND MADE

Service Remarks

Date	Time	Remarks
12/17/13	0730	I WENT TO WRIT ADDRESS WITH PLAINTIFF WHERE I MADE DEMAND ON DEFENDANT WHO STATED THAT SHE HAS SOLD THE DOGS LISTED ON THE WRIT TO SHEILA KOPMAN WHOM SHE DOES NOT KNOW HOW TO CONTACT.
		FURTHER, DEFENDANT STATED THAT SHE HAS NO NON-EXEMPT ASSETS AND CAN NOT PAY JUDGMENT. DEFENDANT'S RESIDENCE WAS BARRICADED AND WAS LOCKED WITH CHAINS AND PADLOCKS. DEFENDANT CAME TO A LOCKED FENCE AND SPOKE WITH ME AND WOULD NOT ALLOW ME TO LOOK FOR THE DOGS.
12/17/13	0937	RETURN WRIT TO COURT AS DIRECTED BY PLAINTIFF SO THAT ADDITIONAL PROCESS CAN BE SOUGHT.



How 3 Collies Turned into 150+ Collies

Kara Kaufman v. Dr. Elaine Kmiec

The Wagons are Circling... June 2, 2014, 10:00 a.m.



Cause No. CV12CO138314

Kara Kaufman § In The Justice Court
v. § Precinct One, Place Two
Elaine Kmiec, a/k/a Sheila Kopman § Harris County, Texas

Plaintiff's Post-Judgment Interrogatories, Request for Admissions and Production

Interrogatories and requests for production and admissions were served on Elaine Kmiec a/k/a Sheila Kopman by certified and first class mail, at **14234 Alice Road, Tomball, Texas 77377 and RAM Optical, 2412 S. Chappell Hill, Brenham, Texas 77833** on April 22, 2014.

The Defendant is pro se.

Please answer these questions, as required by Rule 193(c) & Rule 197, T.R.C.P., and mail the answers to the undersigned, within 30 days.

CAUSE NO. CV12CO138314

KARA KAUFMAN § IN THE JUSTICE COURT
§
§
VS. § PRECINCT 1, PLACE 2
§
§
ELAINE KMEC A/K/A § OF HARRIS COUNTY,
SHEILA KOPMAN § TEXAS

PLAINTIFF'S MOTION TO COMPEL DISCOVERY RESPONSES AND FOR AWARD OF EXPENSES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Kara Kaufman, Plaintiff in the above entitled and numbered cause, and files this Motion to Compel Discovery Responses and for Attorney Fees and in support thereof would respectfully show unto the Court:

I. Compelling Production.

Plaintiff Kara Kaufman served Plaintiff's Post-Judgment Interrogatories, Requests for Admission and Production (see discovery attached as Exhibit 1) on Defendant Elaine Kmiec a/k/a Sheila Kopman according to the Texas Rules of Civil Procedure (see proof of service

ery has expired.

enter an Order

Cause No. CV12CO138314

Kara Kaufman § In The Justice Court Court
versus § Precinct One, Place Two
Elaine Kmiec, a/k/a Sheila Kopman § Harris County, Texas

Application for Post Judgment Turnover Order, And Appointment of a Receiver and Master

1. Parties. Applicant, Kara Kaufman, judgment-plaintiff, requests the appointment of a Receiver and turnover of the non-exempt property of each judgment defendant, **Elaine Kmiec, a/k/a Sheila Kopman**, ("defendant"), pursuant to Sec. 31.002 of the Texas Civil Practices and Remedies Code (the "Statute"), and appointment of a Master pursuant to Rule 171, Texas Rules of Civil Procedure (the "Rule").
2. Hearing Date. This matter will be heard at 10:00 a.m., on June 2, 2014.



How 3 Collies Turned into 150+! (...and 11 Cats)

Kara Kaufman v. Dr. Elaine Kmiec—May 30, 2014

The Wagons are Circling... And then the CALL!!



/

May 30, 2014

Ms. Zandra Anderson
7941 Katy Freeway, No. 412
Houston, TX 77024
VIA FAX: 713/481-8793



RE: Case No. 14-32964; In re Elaine Ann Kmiec; In the United States Bankruptcy Court,
Southern District of Texas

Cause No. CV12CO138314; Kara Kaufman v. Elaine Kmiec, In the Justice Court Precinct One,
Place Two, Harris County, Texas

NOTICE OF BANKRUPTCY AND IMPOSITION OF AUTOMATIC STAY

Dear Ms. Anderson:

It is my understanding that you are the attorney for the plaintiff in the above-referenced cause. Please be advised that the above referenced bankruptcy case was filed on 5/29/2014. The automatic stay imposed by applicable United States bankruptcy laws is hereby imposed. Accordingly, any further collection activities, including but not limited to foreclosure, repossession, garnishment and lawsuit proceedings are in direct violation of applicable federal bankruptcy laws.



How 3 Collies Turned into 150+ Collies

Kara Kaufman v. Dr. Elaine Kmiec, May 30, 2014

Harris County Justice Court



NO. CV12CO138314

KARA KAUFMAN

VS.

ELAINE KMIEC

§
§
§
§
§
§
§

IN THE JUSTICE COURT

PRECINCT ONE, PLACE TWO

HARRIS COUNTY, TEXAS

NOTICE OF BANKRUPTCY

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DEFENDANT, Elaine Ann Kmiec, who would respectfully show unto the Court as follows:

GENERAL DENIAL

1. Defendant has filed for bankruptcy in Case No. 14-32964, In Re Elaine Ann Kmiec in the United States Bankruptcy Court, Southern District of Texas on 5/29/2014. The automatic stay provided by 11 U.S.C. §362 is imposed.



Enter Rambo...

How 3 Collies Turned into a Bankruptcy Seizure for Cruelty: Or, Be Careful what You Say to a Federal Judge

- 🐾 Defiance: Judgment, Writ of Execution, Receivership
- 🐾 More Defiance: Preliminary Injunction

8.25.14 Injunction Hearing

I think I'm gonna' like this judge!

8.28.14 Puppy Gets a Name: Justice

8.29.14 The One Question,
and just when you thought it
couldn't get better!

Reno, Kara's Collie



How 3 Collies Turned into a Bankruptcy Seizure for Cruelty

Houston Collie Rescue

Vicky Willard, President & Founder



Diagnosis: Body Condition Score: 3/9; ^{3-9%} ~~8-10%~~ dehydration
① Deep skin infections behind the base of both ears. The ① ear wound had a moderate amount of necrotic tissue, hair and mucopurulent discharge. Wound appears to be about 1-1.5 wks. old. p will need to have wound debrided under sedation due to the severity of the wound. The ② ear wound was much smaller in size, but a moderate amount of mucopurulent discharge present. Large amount of dead fleas on coat.
② p has a pyometra (infected uterus) that will require surgery within the week that follows.
③ Promise is very thin and will require nutritional support to get back to her ideal weight.



Go get the dogs!

Briarcrest Veterinary Hospital-Houston

How 3 Collies Turned into a Bankruptcy Seizure for Cruelty: Or, Be Careful what You Say to a Federal Judge

Case 14-32964 Document 27 Filed in TXSB on 08/29/2014 Page 1 of 2



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

ELAINE ANN KMIEC

Debtor(s).

§
§
§
§
§

CASE NO: 14-32964
CHAPTER 13

DAVID R. JONES

ORDER CONVERTING CASE
(Docket No. 22)



Ms. Kmeic has failed to meet the responsibilities as a debtor under 11 U.S.C. § 521. Most egregious is the fact that her actions danger the lives of 35 animals who cannot speak or protect themselves. The Court cannot condone the use of the bankruptcy process to inflict harm on undeserving creatures. Accordingly it is

ORDERED THAT:

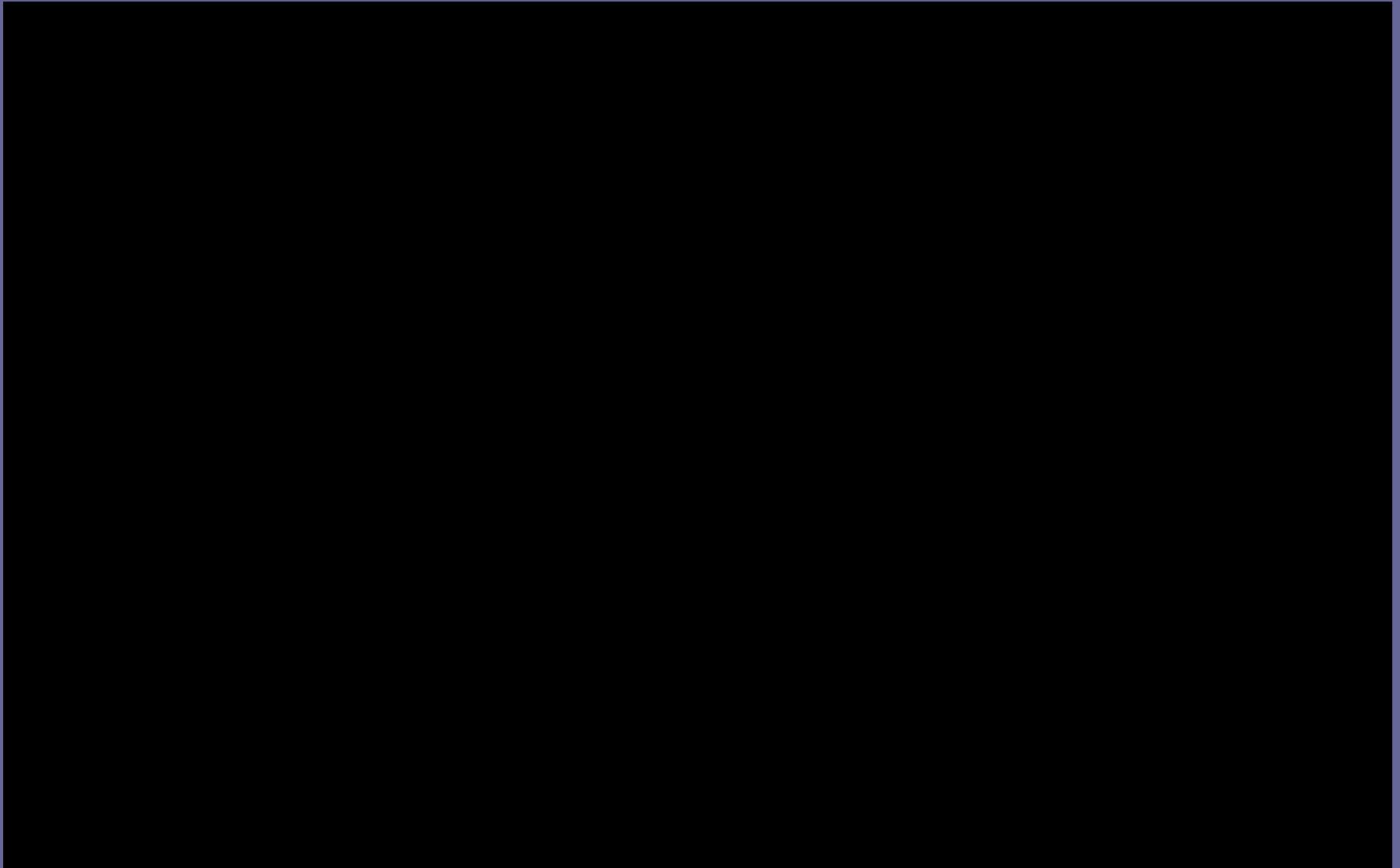
3. Chapter 7 trustees are not generally equipped to provide care for living creatures. Therefore, Houston Collie Rescue and its volunteers ("HCR") are authorized and directed to remove all dogs that are located at the Debtor's claimed residence of 14234 Alice Road, Tomball, TX 77377. HCR is authorized to enter the property to remove the dogs. The Debtor shall provide access to the property. No person shall inhibit or obstruct HCR from entering onto this property and carrying out the Court's instructions. These animals shall remain in HCR's custody and control pending further order. HCR shall be entitled to an administrative claim for all costs related to the care of these animals.

Go get the dogs!

How 3 Collies Turned into a Bankruptcy Seizure: 35 Dogs on the Property??? Uh...NO! August 29, 2014



How 3 Collies Turned into a Bankruptcy Seizure: 35 Dogs on the Property???



How 3 Collies Turned into 150+ Collies

Or, Be Careful what You Say to a Federal Judge



Severe gash on neck, hair loss, scalded paws, open gash, discharge from eyes...
Every dog had giardia.

How 3 Collies Turned into 150+ Collies & 11 Cats:

The Breeder Who Doesn't Sell Dogs...



Infected deep gash on neck with purulent drainage. Massive hair loss most likely from Demodectic mange. Long nails. Overwhelming odor from being in feces and urine and from the infection. Hair loss can be seen on all three dogs.

Charles Jantzen, Harris County Cruelty Investigator

How 3 Collies Turned into 150+ Collies & 11 Cats:



This is the Collie depicted above with the severe hair loss. He has scald wounds on his paws from standing in his own feces and urine. HCR put the blue collar on him at Camp Collie so that he would not gnaw his wounds. The collar was carefully fitted to avoid his neck wounds.



This was the tiny space where the Collie above was contained. It contained urine and feces. The dog was lying on his side and feared dead. He could barely raise his head and was very lethargic. The rescuer came close to throwing up due to the stench and shocking condition of this dog.

The dog had a sickening stench from the pus in his wounds.

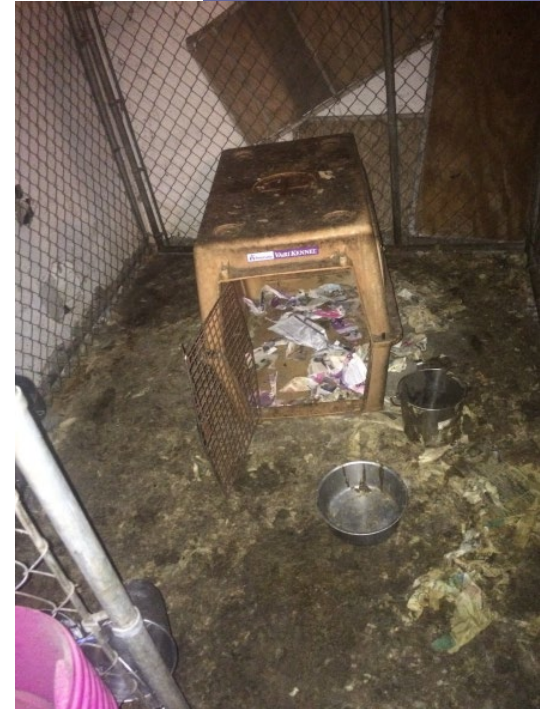
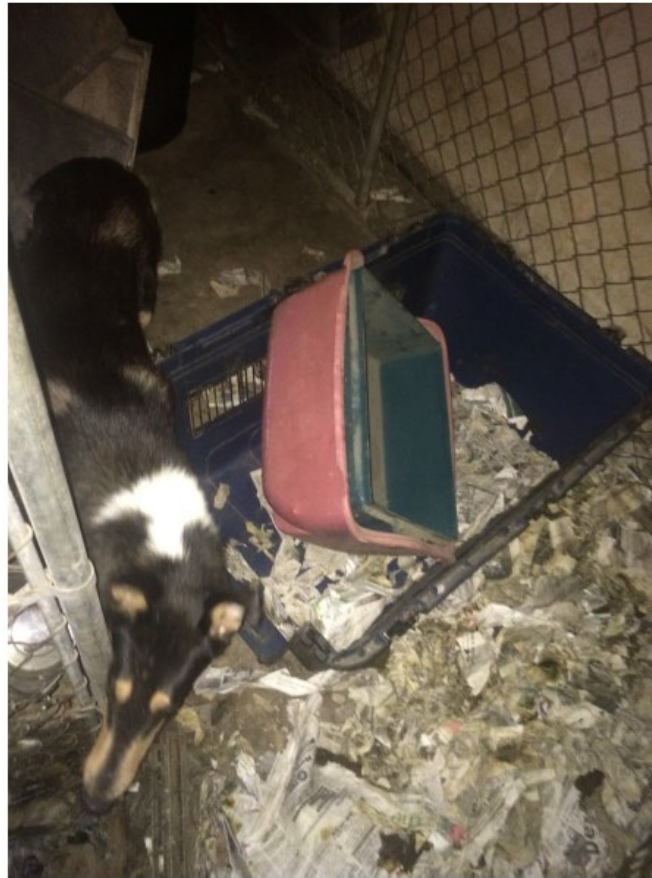
How 3 Collies Turned into 150+ Collies & 11 Cats:



This dog has a gaping wound that is infected. This is an adult female that is about to deliver puppies at any moment. She has generalized hair loss likely from Demodectic mange. This dog was removed from Camp Collie and placed in a home environment because her oozing wound was attracting flies. She will deliver her puppies in the volunteer's home.

The “dungeon” was “home” to the worst of the worst.

How 3 Collies Turned into 150+ Collies & 11 Cats



This is where the pregnant Collie with the huge, open wound on her side was found. This pen was in the garage and it was located way in the back. Rescuers had to climb over stacks of debris to access the dog. The pen was very small and had junk stacked in it (see red part of a crate, pipe, etc.). The newspapers were urine soaked with feces everywhere and the odor was pungent and made worse by no ventilation. The temperature was extremely hot in this enclosed garage. It appeared that this cage had not been entered or addressed in days. No food or water was present.

Urine and feces soaked paper had a putrid smell made worse by August heat and no ventilation.

How 3 Collies Turned into 150+ Collies & 11 Cats



These are cages in an accessory building used for housing dogs. There was a buildup of feces and urine that even spilled out into the walkway as depicted here. The dogs in these cages were standing in this muck. As the excited dogs were removed they splashed the waste matter. There was no ventilation and the smell was staggering. Notably these areas did not have lights so the dogs were being kept in darkness.



Dogs being kept in darkness standing in feces and urine so deep it was in the walkway.



“The pictures presented to the Court reflect a complete abrogation by Ms. Kmiec of all responsibility and compassion toward living creatures.”

9.4.2014

“During her examination, Ms. Kmiec testified that she perjured herself regarding the number of dogs on her property as well as other matters in her prior testimony to the Court. Of critical concern to the Court is Ms. Kmiec’s new testimony that there are currently an additional 17 dogs and 7 cats located on the property.

These animals will not be forgotten nor will they become victims or continue to suffer.”

Texas Animal Cruelty: Civil & Criminal



- Cruelty is a two step process in Texas—Civil Seizures & Criminal Prosecution.

Most civil seizures do not eventuate into a Criminal Prosecution.
Standard is different for civil and criminal.

HEALTH AND SAFETY CODE

TITLE 10. HEALTH AND SAFETY OF ANIMALS

CHAPTER 821. TREATMENT AND DISPOSITION OF ANIMALS

SUBCHAPTER B. DISPOSITION OF CRUELLY TREATED ANIMALS

Sec. 821.021. DEFINITIONS. In this subchapter:

- (1) "Cruelly treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, or subjected to conduct prohibited by Section 21.09, Penal Code.



The Basis for Criminal Prosecution

Texas Penal Code



Sec. 42.092, Cruelty to Non-Livestock Animals

- (3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.
- (7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.
- (8) "Torture" includes any act that causes unjustifiable pain or suffering.



Collie Seizure, Tomball



Montgomery County
(Cupid)

Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS (Domestic Animals)

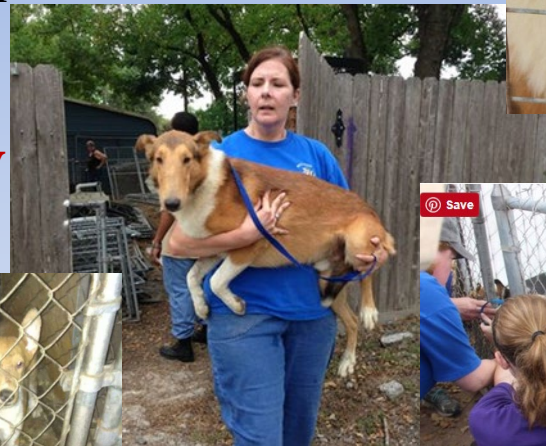


- (b) A person commits an offense if the **person intentionally, knowingly, or recklessly:**
- (1) **tortures** an animal or in a cruel manner kills or causes serious bodily injury to an animal;
 - (2) without the owner's effective consent, **kills**, administers poison to, or causes **serious bodily injury** to an animal;
 - (3) fails unreasonably to provide necessary **food, water, care, or shelter** for an animal in the person's custody;
 - (4) **abandons** unreasonably an animal in the person's custody;
 - (5) **transports or confines** an animal in a cruel manner;
 - (6) without the owner's effective consent, **causes bodily injury** to an animal;
 - (7) causes one animal to **fight** with another animal, if either animal is not a dog;
 - (8) uses a live animal as a **lure** in dog race training or in dog coursing on a racetrack; or
 - (9) seriously **overworks** an animal.

Class A Misdemeanor/**State Jail Felony**



*Collie Seizure, Tomball
8.29.14*



The State of Texas v. Elaine Ann Kmiec

Misdemeanor Charge: Cruelty to Non-Livestock Animal:

“On or about 8/29/14 did then and there unlawfully intentionally, knowingly, or recklessly fail unreasonably to provide necessary food, water, care or shelter...”

Corky #1

Penny #1215

Isaac #17

GiGi #25



Corky #1

The State of Texas v. Elaine Ann Kmiec

And More Good News...

THE STATE OF TEXAS
VS
ELAINE ANN KMIEC

02791707

SPN:
DOB: WF 03/17/53
DATE PREPARED 10/13/2015

DA LOG NUMBER 2202837
CJIS TRACKING NO
BY: JSW DA NO. 002672306
AGENCY HCSO
O/R NO: 15159022
ARREST DATE TO BE

NCIC CODE 4802 21

RELATED CASES.

FELONY CHARGE TAMPERING/FABRICATING PHYSICAL EVIDENCE
CAUSE NO
HARRIS COUNTY DISTRICT COURT NO: 1484848
FIRST SETTING DATE. 185

BAIL. \$5000
PRIOR CAUSE NO

IF I L E ID

Chris Daniel
District Clerk

OCT 13 2015

Harris County, Texas

Deputy

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, ELAINE ANN KMIEC hereafter styled the Defendant, heretofore on or about **SEPTEMBER 24, 2013**, did then and there unlawfully knowing that an OFFICIAL PROCEEDING was IN PROGRESS, PRESENT A DOCUMENT, NAMELY, A FORGED DURABLE POWER OF ATTORNEY with knowledge of its falsity and with intent to affect the course and outcome of the OFFICIAL PROCEEDING

Fabricating Evidence: The Notary Cut & Paste Forgery

The State of Texas v. Elaine Ann Kmiec
But the BEST news of all...



January 26, 2016: **CONVICTED!**

Plead GUILTY to TWO charges of Animal Cruelty with ONE year in JAIL
probated for TWO years.

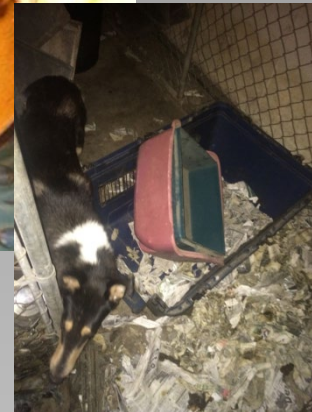
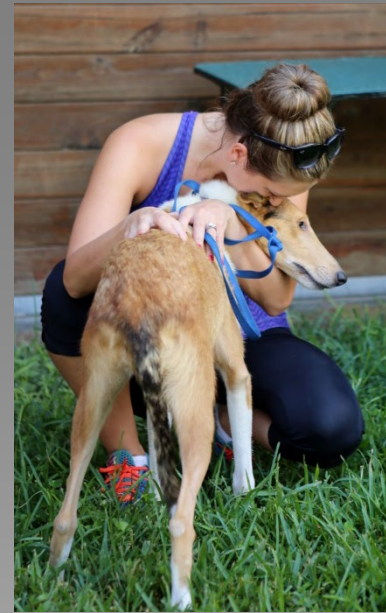
Straight Probation, NOT Deferred Adjudication, AND as part of probation:

- Cannot possess animals
- Must pay \$29,000+ to Houston Collie Rescue (monthly payments)
- 80 hours of community service
- Must be evaluated and continue counseling
- Pay certain fees/fines for probation



Camp Collie: A Success from the Heart

There is a waiting
list in the U.S.
for Collies.



All Collies have been placed.

Investigation was conducted by the Harris
County Animal Crimes Division., and...

Camp Collie: A Success from the Heart

Collies Found Homes all Across the Country!



Collies in the Snow

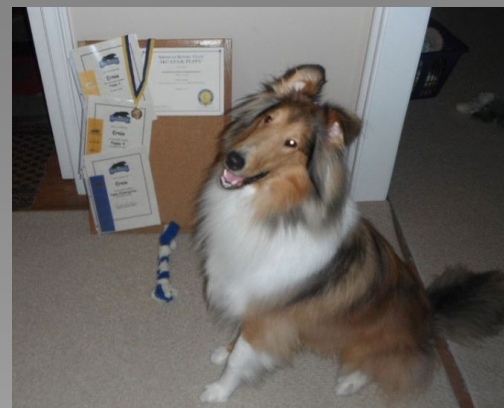
Camp Collie: A Success from the Heart

Puppies that Were Born to the 4 Pregnant Seizure Collies & All 11 Cats Saved



Camp Collie: A Success from the Heart

Puppies that Were Born to the 4 Pregnant Seizure Collies



Camp Collie: A Success from the Heart

Tank & Cookie: Inseparable!



Bitsy's Puppies



Running and playing as they should be!

Tank is Bitsy's Puppy.

Cookie was in the 2nd Seizure (9/4/14) and was about 4 months old.

The Bankruptcy Update: Elaine Ann Kmiec
March 5, 2016, Another Seizure of a Different Kind!



And the highest bidder is.....

Again, the price was paid...

You're OUT!!!

TEXAS OPTOMETRY BOARD

333 Guadalupe Street, Suite 2-420
Austin, Texas 78701-3942

July 20, 2020

ELAINE KMIEC OD
14234 ALICE RD
TOMBALL TX 77377

*U.S. Mail, Certified
Return Receipt Requested
7019 2970 0001 2357 7633*

RE: License No. 2721TG
Revocation of License

Dear Dr. Kmiec:

Texas state law, Section 53.021 of the Occupations Code, requires the Board to revoke the license of an optometrist who has been imprisoned due to a felony conviction:

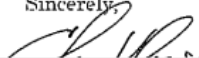
53.021. AUTHORITY TO REVOKE, SUSPEND, OR DENY
LICENSE.

...

(b) A license holder's license shall be revoked on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

Therefore your optometry license was revoked when you were imprisoned. There is a provision in the Optometry Act that allows an optometrist to petition to be reinstated. See the text of Board Rule 277.4 included with this letter.

Sincerely,



BOARD MEMBERS

Mario Gutierrez, O.D.
Chair
San Antonio

Ron L. Hopping, O.D., M.P.H.
Vice-Chair
Houston

Judith Chambers
Secretary-Treasurer
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Bill C. Thompson, O.D.
Richardson

Ty Sheehan
San Antonio

Meghan Schutte, O.D.
Austin

John Todd Cornett, O.D.
Amarillo

EXECUTIVE DIRECTOR

Chris Kloeris
chris.kloeris@tob.texas.gov

WEBSITE

www.tob.texas.gov

TELEPHONE

512/305-8500

FAX

Again, the price was paid...
You're still OUT!!!

Texas Optometry Board License: KMIEC, ELAINE ANN
2721

License Number	2721
License Type	TG
License Status	Revocation
License Issue Date	07/16/1980

ZANDRA ANDERSON

ATTORNEY AT LAW

Texas Dog Lawyer[®]



ZANDRA ANDERSON

ATTORNEY AT LAW

Texas Dog Lawyer^{©™}

