

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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WILLIAM CRAIN; THE EAST HAMPTON GROUP
FOR WILDLIFE; BETSY PETROSKI SMITH; ROBERT
SILVERSTEIN; GALE FRIEDMAN; DR. ELLEN
CRAIN; RON BRACH; A. W. NOONAN; NANCY
CARDOSO; LORI SCHIAFFINO; ZELDA PENZEL;
CAROL BUDA; SARI THOMPSON; MONICA NAVIA;
AMELINA SIEKLUSKA; MARY STONE; and THE
EVELEN ALEXANDER WILDLIFE RESCUE CENTER,

Index No.: 33432/13

COUNSEL'S
AFFIDAVIT FOR
EMERGENCY RELIEF

plaintiffs,

- against -

THE TOWN BOARD OF EAST HAMPTON; THE
TRUSTEES OF THE FREEHOLDERS AND
COMMONALITY OF THE TOWN OF EAST
HAMPTON; and HAMLETS AND VILLAGES OF THE
TOWN OF EAST HAMPTON, INCLUDING EAST
HAMPTON, AMAGANSETT, MONTAUK, NEPEAGUE,
SPRINGS, and WAINSCOTT,

defendants,

-----X
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

EDWARD LEBEAUX, being duly sworn, deposes and says:

1. I am an attorney duly licensed to practice law before the courts of the State of New York, Senior Trial Counsel with the law firm of Devereaux, Baumgarten, d/b/a of Michael J. Devereaux & Associates, PC (hereinafter "Devereaux Law Group"), with offices at 39 Broadway, Ste 910, New York, New York 10006, attorneys for the plaintiffs.

2. I make this emergency affidavit in support of the attached Order to Show Cause with a request for a Temporary Restraining Order ("TRO"), to enjoin the Town's mass deer cull

or killing throughout the entirety of the Town, including on the common property of the Town governed exclusively by The Trustees of The Freeholders And Commonality of The Town of East Hampton (“Trustees”).

3. The Town’s Deer Management Plan is entitled “Management of the White-Tailed Deer Population in East Hampton Town” (hereinafter “Deer Management Plan,” or “DMP”). The Trustees object to the DMP, along with numerous others, including residents who object to the mass killing of deer on their private property, and the shooting-off of high-powered machine gun weapons generally throughout the Town. Resident hunters also object to the deer cull which will most likely cause the Town’s deer to become extinct. The Town’s method of killing deer is not reconcilable with hunting.

4. Scientific studies establish that reducing the deer population may cause an increase in tick-borne diseases (§§ 133-145). The scientific study “*Scientific Frontline: Deer-free areas may be haven for ticks, disease,*” Penn State’s Center for Infectious Disease Dynamics at Penn State University, Sarah Perkins, postdoctoral researcher; Isabella M. Cattadori, postdoctoral scholar; and Peter J. Hudson, the Willaman Professor of Biology; and Valentina Tagliapietra and Annapaola P. Rizzoli, Centro di Ecologia, Alpina, Italy, dated Wednesday, August 30, 2006, establishes that deer-free areas may be a haven for ticks and diseases. Thus the Town’s Deer Management Plan is arbitrary and capricious and an inappropriate and wasteful use of limited and valuable taxpayer resources just as the Town admitted (§ 6).


5. **The defendant Town in their pleading, very importantly, admitted that their Deer Management Plan is unsupported, and is arbitrary and capricious** (emphasis added).


Please see the accompanying Affidavit of Counsel Michael J. Devereaux, Esq., with attached Exhibits, sworn-to the 29th of January, 2014. The Town's pleading admissions warrant the Court granting the requested TRO enjoining the implementation of the Town's Deer Management Plan.

6. Absent the TRO, the deer cull per the Town's Deer Management Plan will proceed vitiating forever the plaintiffs' rights, causing irreparable harm despite the definite and established likelihood of success on the merits of the plaintiffs' lawsuit.

7. This motion for a TRO is being made as the deer cull, based upon statements made in the media and in Board Meetings of the Town and the Village of East Hampton, will begin in February 2014. A TRO is therefore necessary as the deer cull could begin as early as Saturday.

8. The relief sought herein has not been previously made to this and/or any other Court or forum.


Edward Lebeaux, Esq.

 Sworn to before me this
29th of January, 2014


Notary Public

MICHAEL J. DEVEREAUX
Notary Public, State of New York
No 4948064
Qualified in Nassau County
Commission Expires March 8, 2015
