

At a Motion Term IAS Part 10 of the Supreme Court of the State of New York, County of New York, located at 60 Centre Street, NY, NY on the 18th day of November, 2013

ALICE SCHLESINGER

Present: Hon. JSC

**Robin Mittasch, as Trustee of
"The Companion Animal Trust
for the Benefit of Jake" and Ex Rel
a certain dog named "Jake",
Petitioner**

against

**The City of New York, The New York
City Department of Health & Mental
Hygiene and New York City Animal
Care and Control, Inc.**

Respondents.

Order to Show Cause

Index No. 101574-13

wdsp # purchased 11/18/13

UPON READING AND FILING the annexed petition of Robin Mittasch, sworn to the 18th day of November, 2013, and upon all of the other papers and proceedings had herein.

or counsel
LET THE RESPONDENTS SHOW CAUSE at a Motion Term, IAS Part 6 of the Supreme Court of the State of New York, County of New York, located at 60 Centre Street, Room 222 NY, NY on the 22 day of November, 2013 at 2:15 o'clock in the afternoon of that day or as soon thereafter as counsel can be heard why an order should not be made and entered pursuant to Article 78 of the CPLR declaring the determination by the respondent NYC Department of Health & Mental Hygiene to execute "Jake" (A0983791) as a matter of convenience arising out of its decision to quarantine "Jake" (A0983791) for 6 months to be arbitrary and capricious and/or ultra vires their authority and not in compliance with applicable law and/or granting declaratory judgment vacating the determination of respondents and barring, enjoining and restraining the respondents from harming or killing "Jake" (A0983791), a certain dog currently detained by the Respondent New York City Animal Care and Control, Inc. under the direction of the Respondent NYC Department of Health & Mental Hygiene and appointing "Jake's" trustee Robin Mittasch and The Lexus Project as guardian ad litem for "Jake" (A0983791) and ordering that such dog "Jake" (A0983791) be immediately turned over to petitioner as guardian ad litem and ordering that Respondents take no further action against "Jake" (A0983791), together with such other, further and different relief as may seem to the Court just and proper, and it is

I ORDERED that pending the hearing ~~and determination~~ of this motion the Respondents are barred, enjoined and restrained from harming or killing "Jake" (A0983791) and are hereby required to take all reasonable steps and make all reasonable accommodations to protect him and maintain him in good health, and it is

II ORDERED that the petitioner herein Robin Mittasch, as trustee and guardian ad litem for "Jake" (A0983791) is hereby authorized and directed to obtain all necessary veterinary care and/or any veterinary and behavioral assessments necessary to adequately determine the best course of care and treatment for "Jake" (A0983791), the costs for which shall be borne by "The Companion Animal Trust for the Benefit of Jake" and it is

III ORDERED that, no proceeding having been instituted against "Jake" (A0983791) and the statutory ten (10) day quarantine period having long expired, the Respondents are to forthwith return "Jake" (A0983791) into the custody of his trustee and guardian ad litem, the petitioner herein Robin Mittasch, and

being alleged **SUFFICIENT CAUSE APPEARING THEREFORE**, let *personal* service of a copy of this Order together with the papers upon which it was granted upon the office of the Corporation Counsel, the ~~attorney~~ for the Respondent NYC Department of Health & Mental Hygiene herein and upon the Respondent New York City Animal Care and Control, Inc. on or before November 20, 2013 be deemed good and sufficient service.

Both sides shall come prepared with answers to the questions posed by the court on November 18, 2013

Dated: ~~New York, NY~~
November 18, 2013

ENTER:

Alice Schlesinger

Hon.

J.S.C.

Alice SCHLESINGER

ALICE SCHLESINGER

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