

FILED

ORANGE COUNTY SUPERIOR COURT

JUN 29 1998

ALAN... Executive Officer/Clerk
BY T. MARTINEZ

Attorney for: PLAINTIFF
STEPHEN BRAUN, Esq
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SAN DIEGO, CA 92101
619-233-3400

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE

PLAINTIFF (S): PAYNE

DEFENDANT(S): Rook's

JOINT CASE MANAGEMENT STATEMENT
(EVALUATION CONFERENCE) Complaint Date: 19-98

Case Number: 92369
Hearing Date: 6-29-98
Judge: WATSON

Counsel for the plaintiff shall have the responsibility to have this form executed by all parties and shall file this form directly in the department of the assigned judge five (5) days prior to the Evaluation Conference. Failure to file or cooperate in completion of this document may result in an Order to Show Cause why sanctions, monetary and/or evidentiary, should not be imposed pursuant to C.R.C. 227, C.C.P. 177.5 and C.C.P. 128.5. In the event any party is unable or unwilling to execute this document, the submitting party shall submit the document along with a declaration.

1. Nature of case and issues involved CONTRACT / Neg. Vet MALPRACTICE

a. Indicate number(s) of any related case(s):
Damages: Complaint 25K+ Cross-complaints

2. Jury trial requested? (X) Yes () No By PLAINTIFF Time estimate: 3 (X) days () hrs.

3. All parties have been served and answered? (X) Yes () No Number of Parties

If no, the following parties named in the complaint or cross-complaint

a. () have not been served (specify names):

b. () have been served but have not appeared and have not been dismissed (specify names):

4. If this is a personal injury or wrongful death case, plaintiff alleges the following:

a. Nature and extent of injuries:

b. Length of hospital admission immediately following injury:

c. Permanent injuries being claimed:

d. Medical expenses to date: Future expenses:

e. Loss of earnings to date:

f. Future loss of earnings: Other special damages:

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): Stephen K. Brunk, Esq. (SBN 53238) LAW OFFICES OF STEPHEN K. BRUNK 550 West "C" Street, Suite 1760 San Diego, California 92101 ATTORNEY FOR (NAME): Plaintiff	TELEPHONE: (619) 234-3300	FOR COURT USE ONLY <div style="text-align: right; font-size: small;"> FILED MAR 3 1996 SUPERIOR COURT SAN DIEGO, CALIFORNIA </div>
Insert name of court, judicial district or branch court, if any, and post office and street address: Superior Court Downtown 330 W. Broadway San Diego, California		
PLAINTIFF: MARGARET ANNE PAYNE		
DEFENDANT: ROBERT L. ROOKS, individually and (d/b/a) ALL CARE ANIMAL REFERRAL CENTER; ALL CARE ANIMAL REFERRAL CENTER		
<input checked="" type="checkbox"/> DOES 1 TO <u>10</u>		
CONTRACT <input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> CROSS-COMPLAINT		CASE NUMBER: 717193 792369

1. This pleading, including exhibits and attachments, consists of the following number of pages: -4-
2. a. Each plaintiff named above is a competent adult
 Except plaintiff (name):
- a corporation qualified to do business in California
 an unincorporated entity (describe):
 other (specify):
- b. Plaintiff (name):
 has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):
 has complied with all licensing requirements as a licensed (specify):
- c. Information about additional plaintiffs who are not competent adults is shown in Complaint-Attachment 2c.
3. a. Each defendant named above is a natural person
 Except defendant (name): **ALL CARE ANIMAL REFERRAL CENTER** Except defendant (name):
- a business organization, form unknown a business organization, form unknown
 a corporation a corporation
 an unincorporated entity (describe): an unincorporated entity (describe):
 a public entity (describe): a public entity (describe):
 other (specify): other (specify):
- b. The true names and capacities of defendants sued as Does are unknown to plaintiff.
- c. Information about additional defendants who are not natural persons is contained in Complaint-Attachment 3c.
- d. Defendants who are joined pursuant to Code of Civil Procedure section 382 are (names):

(Continued)

If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

COMPLAINT-Contract

CASE NUMBER 717192

- 4. Plaintiff is required to comply with a claims statute, and
 - a. plaintiff has complied with applicable claims statutes, or
 - b. plaintiff is excused from complying because (specify):

- 5. This action is subject to Civil Code section 1812.10 Civil Code section 2984.4.

- 6. This action is filed in this county judicial district because
 - a. a defendant entered into the contract here.
 - b. a defendant lived here when the contract was entered into.
 - c. a defendant lives here now.
 - d. the contract was to be performed here.
 - e. a defendant is a corporation or unincorporated association and its principal place of business is here.
 - f. real property that is the subject of this action is located here.
 - g. other (specify):

- 7. The following paragraphs of this pleading are alleged on information and belief (specify paragraph numbers):
- 8. Other:

- 9. The following causes of action are attached and the statements above apply to each: (Each complaint must have one or more causes of action attached.)
 - Breach of Contract
 - Other (specify): **NEGLIGENCE**
 - Common Counts

10. PLAINTIFF PRAYS
 For judgment for costs of suit; for such relief as is fair, just, and equitable; and for
 damages of \$ 26,445.21 +
 interest on the damages according to proof at the rate of _____ percent per year
 from (date):
 attorney fees of \$ _____ according to proof.
 other (specify):

ephen K. Brunk
 (Type or print name)


 (Signature of plaintiff or attorney)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE PAYNE V. ROOKS

CASE NUMBER

717192

FIRST

(number)

CAUSE OF ACTION - Breach of Contract

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ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): MARGARET ANNE PAYNE

alleges that on or about (date): DECEMBER 9, 1996

a written oral other (specify):

agreement was made between (name parties to agreement): PLAINITFF AND DEFENDANTS

A copy of the agreement is attached as Exhibit A, or

The essential terms of the agreement are stated in Attachment BC-1 are as follows (specify):

THE DEFENDANTS WERE TO PERFORM ORTHOPOEDIC SURGERY ON
PLAINITFF'S DOG "CUCHULAIN" AND PROVIDE CAREFUL AND COMPETENT
CARE FOR CUCHULAIN DURING HIS RECUPERATION IN THEIR CUSTODY.

BC-2. On or about (dates): 12/09/96 THROUGH 01/03/97

defendant breached the agreement by the acts specified in Attachment BC-2 the following acts
(specify): ALLOWING AN INFECTION SECONDARY TO THE SURGERY DONE BY
DEFENDANTS TO DEVELOP AND ALLOWING CHUCULAIN TO BECOME INFESTED
WITH TICKS WHILE IN THEIR CUSTODY; EITHER OR BOTH OF THOSE
CONDITIONS RESULTED IN CHUCULAIN'S DEATH ON MARCH 5, 1997.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or
excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

as stated in Attachment BC-4 as follows (specify): PAYMENT FOR SERVICES TO
DEFENDANTS IN THE AMOUNT OF \$7,815.21; EXPENSES ASSOCIATED WITH
HIS CARE IN THE AMOUNT OF \$1,630; CUCHULAIN'S REPLACEMENT COST OF
\$2,000; AND PRIOR INVESTMENTS IN CUCHULAIN'S CARE IN AN AMOUNT IN
EXCESS OF \$15,000, FOR A TOTAL IN EXCESS OF \$26,445.21.

BC-5. Plaintiff is entitled to attorney fees by an agreement or a statute

of \$

according to proof.

BC-6. Other:

SHORT TITLE PAYNE V. ROOKS	CASE NUMBER: 717192
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SECOND

(number)

CAUSE OF ACTION - General Negligence

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ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): MARGARET ANNE PAYNE

alleges that defendant (name): ROBERT L. ROOKS, individually and dba ALL CARE ANIMAL REFERRAL CENTER; ALL CARE ANIMAL REFERRAL CENTER

Does 1 to 10

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): MARCH 5, 1997

at (place):

(description of reasons for liability):

ALLOWING AN INFECTION SECONDARY TO THE SURGERY DONE BY DEFENDANTS TO DEVELOP AND ALLOWING CUCHULAIN TO BECOME INFESTED WITH TICKS WHILE IN THEIR CUSTODY; EITHER OR BOTH OF THOSE CONDITIONS RESULTED IN CUCHULAIN'S DEATH ON MARCH 5, 1997.

SAID NEGLIGENCE RESULTED IN DAMAGE AND INJURY TO THE PLAINTIFF FOR THE LOSS OF CUCHULAIN CAUSING EMOTIONAL DISTRESS TO THE PLAINTIFF AND FURTHER DAMAGE AS FOLLOWS:

PAYMENT FOR SERVICES TO DEFENDANTS IN THE AMOUNT OF \$7,815.21; EXPENSES ASSOCIATED WITH HIS CARE IN THE AMOUNT OF \$1,630; CUCHULAIN'S REPLACEMENT COST OF \$2,000; AND PRIOR INVESTMENTS IN CUCHULAIN'S CARE IN AN AMOUNT IN EXCESS OF \$15,000, FOR A TOTAL IN EXCESS OF \$26,445.21.