

The Honorable Richard A. Jones

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JANE SULLIVAN and P. POES 1-75,  
individually and on behalf of others  
similarly situated,

Plaintiffs,

v.

THE UNIVERSITY OF WASHINGTON, a  
Washington public corporation; ELIZA  
SAUNDERS, Director of Public Records  
and Open Public Meetings at the University  
of Washington, in their official capacity,

Defendants.

Case No. 2:22-cv-00204-RAJ

**PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS, INC.’S  
UNOPPOSED MOTION TO  
INTERVENE AS DEFENDANT**

**Noting Date: March 2, 2022**

Pursuant to Fed. R. Civ. P. 24, People for the Ethical Treatment of Animals, Inc. (“PETA”) moves to intervene in this action as a defendant. This motion is supported by the Memorandum of Points and Authorities below. Pursuant to Fed. R. Civ. P. 24(c), PETA’s proposed Answer is attached hereto as Exhibit A. Counsel for PETA has conferred with counsel for Plaintiffs and Defendants, who do not oppose PETA’s intervention.

**MEMORANDUM OF POINTS AND AUTHORITIES**

In this case, Plaintiffs seek to enjoin the University of Washington (“UW”) from releasing records containing Plaintiffs’ personal identifying information pursuant to Washington’s Public Records Act (“PRA”). (*See generally* ECF No. 1.) Specifically, Plaintiffs seek to prevent UW from releasing the appointment letters for members of UW’s Institutional Animal Care and Use Committee (“IACUC”), which PETA has requested under the PRA. (*Id.* ¶¶ 29-32; ECF No. 3, Ex. B.)

1 Fed. R. Civ. P. 24(a)(2) provides that, on timely motion, the Court must permit anyone to  
2 intervene who “claims an interest relating to the property or transaction that is the subject of the  
3 action, and is so situated that disposing of the action may as a practical matter impair or impede  
4 the movant's ability to protect its interest, unless existing parties adequately represent that  
5 interest.” PETA has a right to intervene in this case under that provision.

6 First, the requestor of public records plainly has an interest in an action seeking to enjoin  
7 their release. *See, e.g., Burt v. Wn. State Dep’t of Corrections*, 168 Wn.2d 828, 834 (2010)  
8 (noting that it was undisputed that “the requester of the records” under the PRA has “an interest  
9 in the subject of the action”); *John Doe No. 1 v. Glickman*, 256 F.3d 371, 379-80 (5th Cir. 2001)  
10 (FOIA requestor “asserts an interest related to the transaction that forms the basis of the  
11 controversy” in a lawsuit seeking to enjoin disclosure of records).

12 Second, adjudicating this case in PETA’s absence could, as a practical matter, impair or  
13 impede PETA’s interest. As a non-party, PETA would have no right to appeal an adverse ruling  
14 enjoining disclosure of the records it requested, and such a ruling would, in effect, prevent PETA  
15 from obtaining the information it seeks. *See Glickman*, 256 F.3d at 378-80.

16 Third, none of the existing parties to this action adequately represent PETA’s interest.  
17 UW has little, if any, incentive to vigorously advocate for the disclosure of the records PETA  
18 seeks, particularly since some IACUC members are university faculty or otherwise affiliated  
19 with the university. *See Burt*, 168 Wn.2d at 835 (“because of the parties’ employee/employer  
20 relationship, no party was in a position to zealously advocate for the release of the records, which  
21 made for a proceeding that was not truly adversarial”). Indeed, UW has essentially conceded as  
22 much by acknowledging that, in PRA injunction actions, the requestor is generally a necessary  
23 party.<sup>1</sup> (ECF No. 13 (citing *Burt*.) UW has also already indicated its non-opposition to the  
24 temporary injunctive relief sought in this case (*see* ECF No. 14), which (other than its duration)  
25 is the same as the preliminary and permanent injunctive relief that Plaintiffs seek. That is a

26 \_\_\_\_\_  
27 <sup>1</sup> While Plaintiffs do not oppose this motion, Plaintiffs’ counsel has advised that Plaintiffs do not  
concede that PETA is a necessary party.

1 further indication that UW’s representation of PETA’s interest may be inadequate. *See*  
2 *Glickman*, 256 F.3d at 380-81 (USDA’s failure to contest the TRO or preliminary injunction  
3 indicates inadequacy); *Burt*, 168 Wn.2d at 835-36 (“Considering the parties’ identical positions,  
4 no party was able to oppose nondisclosure or to ensure that the party bearing the burden of proof  
5 met that burden. The only person who wanted to see the records disclosed in this case was the  
6 person left out of the action, [the requestor].”).

7 Finally, there is no question regarding the timeliness of this motion. This action has just  
8 begun, and PETA has sought to intervene within days of its filing. Moreover, by indicating their  
9 non-opposition to this motion, the existing parties apparently do not claim any prejudice from  
10 PETA’s joinder at this time. *See Glickman*, 256 F.3d at 376 (discussing factors for determining  
11 timeliness of intervention motion).

12 Alternatively, the Court should permit PETA’s intervention under Fed. R. Civ.  
13 P. 24(b)(1)(B). As shown by the proposed answer attached as Exhibit A, PETA “has a...defense  
14 that shares with the main action a common question of law or fact.” Moreover, as just noted,  
15 PETA’s intervention will not “unduly delay or prejudice the adjudication of the original parties’  
16 rights.” Fed. R. Civ. P. 24(b)(3).

17  
18 DATED this 2nd day of March, 2022.

19 **ANGELI LAW GROUP LLC**

20 *s/ Peter D. Hawkes*

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27 Attorneys for People for the Ethical  
Treatment of Animals, Inc.

The Honorable Richard A. Jones

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JANE SULLIVAN and P. POES 1-75,  
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THE UNIVERSITY OF WASHINGTON, a  
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of Washington, in their official capacity,

Defendants,

and

PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS, INC., a  
Virginia nonstock corporation,

Intervenor-Defendant.

Case No. 2:22-cv-00204-RAJ

**INTERVENOR-DEFENDANT  
PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS, INC.’S  
ANSWER TO COMPLAINT**

In answer to Plaintiffs’ Complaint, Intervenor-Defendant People for the Ethical Treatment of Animals, Inc. (“PETA”) admits, denies, and alleges as follows. Except to the extent expressly admitted herein, PETA denies each and every allegation of the Complaint.<sup>1</sup>

<sup>1</sup> Plaintiffs’ Complaint contains three unnumbered prefatory paragraphs that appear to be a summary of its claims and legal positions, but that do not constitute any part of Plaintiffs’ allegations. Accordingly, PETA does not respond to that introductory material.

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**I. PARTIES**

**Proposed Class Representatives**

1. PETA admits the allegations of paragraph 1.

2. PETA is without sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 2, and therefore denies them.

3. PETA is without sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 3, and therefore denies them.

4. PETA is without sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 4, and therefore denies them.

5. In answer to paragraph 5, PETA admits that Plaintiffs' complaint purports to seek to proceed as a class action but denies that class treatment is appropriate in this case.

**Defendants**

6. PETA admits the allegations of paragraph 6.

7. PETA admits the allegations of paragraph 7.

**II. JURISDICTION AND VENUE**

8. PETA admits the allegations of paragraph 8.

9. In answer to paragraph 9, PETA admits that this Court has jurisdiction under 28 U.S.C. § 1331, but denies that this Court has jurisdiction under 28 U.S.C. § 1343.

10. PETA admits the allegations of paragraph 10.

11. PETA admits the allegations of paragraph 11.

**II. FACTS**

12. PETA admits the allegations of paragraph 12.

13. PETA admits that every institution that accepts government funding for experiments involving the use of animals is required by federal law to have an IACUC to review, approve, and monitor all current or proposed projects involving covered animals, but denies any implication that the UW IACUC adequately ensures animal welfare or scientific practices as described in paragraph 13.

1 14. PETA admits the allegations of paragraph 14.

2 15. In answer to paragraph 15, PETA admits that the UW IACUC has a website at the  
3 address indicated, but denies that the website constitutes a full and accurate description of the  
4 UW IACUC's organization and activities.

5 16. In answer to paragraph 16, PETA admits the allegations accurately quote from the  
6 contents of the UW IACUC's website. PETA is without sufficient information to form a belief as  
7 to whether the quoted contents of the UW IACUC's website are substantively accurate and  
8 complete, and therefore deny them.

9 17. In answer to paragraph 17, PETA admits the allegations accurately quote the UW  
10 IACUC's website. PETA is without sufficient information to form a belief as to whether the  
11 quoted contents of the UW IACUC's website are substantively accurate and complete, and  
12 therefore deny them.

13 18. In answer to paragraph 18, PETA admits the allegations accurately quote the UW  
14 IACUC's website. PETA is without sufficient information to form a belief as to whether the  
15 quoted contents of the UW IACUC's website are substantively accurate and complete, and  
16 therefore deny them.

17 19. PETA admits the allegations of paragraph 19.

18 20. In answer to paragraph 20, PETA admits that the UW IACUC has monthly  
19 meetings that are observable to some extent by the public and that include a public comment  
20 period, but denies that those meetings "are open to the public" as required by Washington's  
21 Open Public Meetings Act. PETA further admits that minutes of some monthly IACUC meetings  
22 and the UW IACUC's semi-annual reports to the Institutional Official are available on its  
23 website, but denies that those materials are accurate, complete, or legally compliant.

24 21. In answer to paragraph 21, PETA denies that the UW IACUC's meetings "are  
25 open to the public" as required by Washington's Open Public Meetings Act. PETA admits that  
26 UW and the UW IACUC have for some time operated with anonymity for its members and  
27

1 alternates, but denies that such anonymity is “limited.” PETA denies the remaining allegations of  
2 paragraph 21.

3 22. In answer to paragraph 22, PETA admits that, to some extent, the public can view  
4 and comment at IACUC meetings. PETA denies that, as alleged in paragraph 22, members of the  
5 public are making or have made comments to Committee members that can fairly be  
6 characterized as “harassing and threatening.” PETA is without sufficient information to form a  
7 belief as to the remaining allegations of paragraph 22, and therefore denies them.

8 23. In answer to paragraph 23, PETA denies that the First Amendment-protected  
9 conduct described therein can fairly be described as “harassing and threatening.” PETA is  
10 without sufficient information to form a belief as to the remaining allegations of paragraph 23,  
11 and therefore denies them.

12 24. PETA denies the allegations of paragraph 24.

13 25. PETA is without sufficient information to form a belief as to the allegations of  
14 paragraph 25, and therefore denies them.

15 26. PETA admits the allegations of paragraph 26.

16 27. PETA admits the allegations of paragraph 27.

17 28. In answer to paragraph 28, PETA admits that it encourages its supporters to make  
18 their views known, including via email. PETA further admits that it currently advocates for the  
19 closure of the WaNPRC, and that the quotation from PETA’s website is accurate. Except to the  
20 extent admitted herein, PETA denies the allegations of paragraph 28.

21 29. PETA admits the allegations of paragraph 29.

22 30. PETA admits the allegations of paragraph 30.

23 31. PETA admits the allegations of paragraph 31.

24 32. In answer to paragraph 32, PETA admits that IACUC appointment letters would  
25 contain information reflecting the identities or affiliations of Committee members and alternates.  
26 PETA is without sufficient information to form a belief as to the remaining allegations of  
27 paragraph 32, and therefore denies them.





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**FIRST CAUSE OF ACTION**

**VIOLATION OF CONSTITUTIONAL FREEDOM TO ASSOCIATE**

45. In answer to paragraph 45, PETA repeats its admissions or denials of each and every allegation contained in the preceding paragraphs as if fully set forth herein.

46. PETA denies the allegations of paragraph 46.

47. PETA denies the allegations of paragraph 47.

48. PETA denies the allegations of paragraph 48.

49. PETA denies the allegations of paragraph 49.

**SECOND CAUSE OF ACTION**

**INJUNCTIVE RELIEF (RCW 42.56.540)**

50. In answer to paragraph 50, PETA repeats its admissions or denials of each and every allegation contained in the preceding paragraphs as if fully set forth herein.

51. PETA admits the allegations of paragraph 51.

52. PETA admits the allegations of paragraph 52.

53. PETA denies the allegations of paragraph 53.

54. PETA denies the allegations of paragraph 54.

**THIRD CAUSE OF ACTION**

**DECLARATORY JUDGMENT**

55. In answer to paragraph 55, PETA repeats its admissions or denials of each and every allegation contained in the preceding paragraphs as if fully set forth herein.

56. PETA denies the allegations of paragraph 56.

57. PETA denies the allegations of paragraph 57.

**DEFENSES AND AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

**(Failure to State a Claim)**

58. Plaintiffs fail to state a claim upon which relief can be granted.

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**SECOND DEFENSE**

**(Lack of Subject Matter Jurisdiction)**

59. The claims asserted by one or more of the Plaintiffs and/or the proposed class members are moot or otherwise nonjusticiable, thereby depriving this Court of subject matter jurisdiction.

**FIRST AFFIRMATIVE DEFENSE**

**(Estoppel/Waiver)**

60. By accepting appointment as members or alternates of the UW IACUC, Plaintiffs have waived their claims, and/or are estopped from asserting them.

**RESERVATION OF ADDITIONAL DEFENSES AND AFFIRMATIVE DEFENSES**

61. PETA reserves the right to assert additional defenses or affirmative defenses that come to its attention through further litigation and discovery in this matter.

NOW, WHEREFORE, having answered Plaintiffs' Complaint and stated its defenses and affirmative defenses, PETA prays for relief as follows:

- A. Dismissal of Plaintiffs' claims with prejudice;
- B. Denial of any preliminary or permanent injunctive relief enjoining the disclosure of the public records PETA has requested;
- C. Denial of class certification, the appointment of Plaintiffs as class representatives, and/or the appointment of Plaintiffs' counsel as class counsel;
- D. A declaratory judgment that UW must release the documents PETA seeks pursuant to the PRA; and
- E. Such other and further relief as may be proper pursuant to the PRA or as the Court deems proper.

DATED this \_\_\_\_ day of March, 2022.

**ANGELI LAW GROUP LLC**

INTERVENOR-DEFENDANT PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS, INC.'S ANSWER TO COMPLAINT - 7

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s/ Peter D. Hawkes  
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INTERVENOR-DEFENDANT PEOPLE FOR THE ETHICAL  
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