

STATE OF RHODE ISLAND

KENT, SC.

SUPERIOR COURT

(FILED: May 14, 2024)

HALEY BUNKER
Plaintiff,

v.

NICHOLAS BOYD
Defendant.

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C.A. No. KD-2023-1139

DECISION

McHUGH, J. Before this Court is Plaintiff Haley Bunker’s (Ms. Bunker or Plaintiff) request for a writ of replevin seeking the recovery of Brandy,¹ an adopted dog described as a Basenji-Pitbull mix, from Defendant Nicholas Boyd (Mr. Boyd or Defendant). This Court would first like to recognize the difficulty in cases involving *canis lupus familiaris*, or “man’s best friend.” The Court recognizes the contentious nature of cases involving pets and in particular dogs because of the emotional attachment that develops between a dog and its owner. The relationship between dog and man is beautifully articulated by Mr. Kyle in the children’s novel, *Where the Red Fern Grows*²:

¹ At the time the parties adopted the dog at issue in this case, the dog was named Jolene. *See* Pl.’s Trial Ex. 1 at 1; *see* Def.’s Trial Ex. A. At some point after adoption, the parties jointly decided to name the dog Brandy. (Hr’g Tr. 18:13-17, Jan. 5, 2024 (Jan. 5 Tr.)) This Court uses the name Brandy to identify the dog involved in this action.

² *Where the Red Fern Grows* is a children’s novel written by American author Wilson Rawls. The novel describes Rawls’s childhood when he hunted for raccoons with his loyal dogs. Laurie Rozakis, *Where the Red Fern Grows by Wilson Rawls*, Scholastic Reference 1, 5-8 (2003), <https://www.scholastic.com/content/dam/teachers/activities/migrated-files-in-body/where-the-red-fern-grows-bookfiles.pdf>. The story is told from the perspective of an adult narrator having a flashback to his childhood. The novel describes in detail Rawls’s childhood canine friends named in the novel, Little Ann—a small intelligent female dog—and Old Dan—a stronger and determined

“[P]eople have been trying to understand dogs ever since the beginning of time. One never knows what they’ll do. You can read every day where a dog saved the life of a drowning child, or lay down his life for his master. Some people call this loyalty. I don’t. I may be wrong, but I call it love—the deepest kind of love.” Wilson Rawls, *Where the Red Fern Grows*, 242-43 (Yearling 2016) (1961).

This action began in the District Court and was appealed to this Court. After having conducted a *de novo* three-day bench trial on the merits, this Court now renders its decision as to Plaintiff’s request for a writ of replevin and Plaintiff’s request for ownership over Brandy. This Court has jurisdiction in this action pursuant to G.L. 1956 § 9-12-10³.

While recognizing the difficulty in cases involving pets, this Courts finds and holds as follows.

I

Facts and Travel

A

Evidence Presented to the Court

Over the course of the three-day bench trial, the parties presented various exhibits and the Court heard testimony from Ms. Bunker, Mr. Boyd, Ms. Shannon Paul (Ms. Paul), a records clerk

male dog. *Id.* at 39-40. The novel is an ode to the bond shared between humankind and our canine companions.

³ G.L. 1956 § 34-21-1 grants jurisdiction to the Superior Court on writs of replevin whenever the goods or chattels are worth more than \$5,000 in value. Section 34-21-1. Section 34-21-2 gives the District Court jurisdiction to issue a writ of replevin where the goods or chattels to be replevied is \$5,000 or less. Section 34-21-2. This case was first heard in the District Court where judgment was entered in favor of Defendant, Nicholas Boyd. *See Bunker v. Boyd*, 3CA-2023-05519, December 14, 2023 (Judgment in favor of Defendant). The action before this Court is an appeal of the decision made in District Court. This Court has jurisdiction of this matter under G.L. 1956 § 9-12-10 which states: “[I]n all civil cases in the district court, any party may cause the case to be removed for trial on all questions of law and fact to the superior court for the county in which division the suit is pending by claiming an appeal from the judgment of the district court[.]” Section 9-12-10. Plaintiff has appropriately appealed the District Court judgment, and this Court now has jurisdiction pursuant to § 9-12-10.

for the North Kingstown Police Department, and Ms. Rachel Schilkowsky (Ms. Schilkowsky), Plaintiff's former landlord at 97 Sharon Street in Providence, Rhode Island (97 Sharon Street). The exhibits included an adoption application, various veterinary records and bills, text messages between Ms. Bunker and Mr. Boyd, a Facebook post, and pictures of Brandy at various points in time.

B

Pre-Brandy and the Dating Relationship

Ms. Bunker and Mr. Boyd began their dating relationship during the summer of 2018. *See* Hr'g Tr. 2:3-5, Jan. 5, 2024 (Jan. 5 Tr.); *see also* Hr'g Tr. 8:24-9:1, Jan. 12, 2024 (Jan. 12 Tr.). Ms. Bunker testified that she and Mr. Boyd never resided together during their relationship. (Jan. 5 Tr. 2:6-8.) She testified to having several residential addresses over the course of knowing Mr. Boyd including: 738 Social Street in Woonsocket, Rhode Island; 97 Sharon Street in Providence, Rhode Island; and 125 Underwood Avenue in Warwick, Rhode Island. *Id.* at 1:10-13; 22:8-14; 48:8-10. Mr. Boyd testified that at the beginning of their relationship Ms. Bunker was living in New Hampshire. (Jan. 12 Tr. 9:5-7.) He testified that at some point during the relationship, around winter or spring of 2019, Ms. Bunker moved to Rhode Island which made it easier and allowed them to spend more time together. *Id.* at 9:8-22. Ms. Bunker testified that at the time of Brandy's adoption she was living at 125 Underwood Avenue in Warwick, Rhode Island. (Jan. 5 Tr. 48:8-14.) Mr. Boyd testified that at or near the time of Brandy's adoption he was living with his parents in Connecticut. (Jan. 12 Tr. 19:10-14.)

Near the time of Brandy's adoption, Ms. Bunker had another dog, a twelve-year-old Wheaton Terrier mix named Mally. (Jan. 5 Tr. 4:5-12.) At the time of Brandy's adoption, she had owned Mally for approximately eight years and had rescued Mally from a rescue league based in

the south of the United States. *Id.* at 4:13-18. Ms. Bunker testified that she was seeking to adopt another dog to have Mally train in alerting Ms. Bunker for seizures. *Id.* at 4:19-25. She testified that she is seizure prone and that Mally would alert her to a potential episode by licking Ms. Bunker's palm. *Id.* at 5:8-12. Although Ms. Bunker was successful in training Mally to alert her of potential seizures, she admitted that she was unable to transfer the training over to Brandy. *Id.* at 5:5-15.

Regarding the lead up to Brandy's adoption, Mr. Boyd testified that he and Ms. Bunker had discussed the idea of adopting a dog together. (Jan. 12 Tr. 11:1-15.) Ms. Bunker testified that they discussed the idea of adopting a dog; however, she stated that the discussion did not involve the joint adoption of a dog. (Jan. 5 Tr. 52:18-25.) She testified that she was looking to get a second dog because Mally was getting old, and she wanted a second dog to try to assist her and have Mally assist in the training of the new dog. *Id.* at 4:19-25. Mr. Boyd also stated that they felt that Mally was getting old, and they wanted to get a new dog to ease the transition whenever Mally passed on. (Jan. 12 Tr. 11:12-15.) Ms. Bunker testified to searching for another dog on the internet including visiting various rescue leagues' websites; however, none of those places had a dog fitting her needs. (Jan. 5 Tr. 5:16-19.) She then said that she came across the North Kingstown Animal Shelter's (the Animal Shelter) Facebook page advertising that Brandy was up for adoption. *Id.* at 5:19-24. Mr. Boyd acknowledged that Ms. Bunker was the one who saw the Animal Shelter's Facebook post that prompted them to go to the Animal Shelter and adopt Brandy. (Jan. 12 Tr. 11:18-23.) Ms. Bunker testified that she reached out to the Animal Shelter seeking a time to meet with Brandy. Jan. 5 Tr. 6:6-9. She further testified that the Animal Shelter set up a time and that she went to the Animal Shelter with Mr. Boyd. *Id.* at 6:10-12.

C

Brandy's Adoption

On March 14, 2019, both Ms. Bunker and Mr. Boyd went to the Animal Shelter responding to their Facebook post seeking an adopter for a dog described as a Basenji-Pitbull mix, at the time named Jolene. (Jan. 5 Tr. 5:16-6:17; Jan. 12 Tr. 11:16-23.) At the Animal Shelter, Ms. Bunker filled out the adoption paperwork. *See* Pl.'s Ex. 1, Pet Adoption Application (Application); Jan. 5 Tr. 7:12-14. While she filled out the adoption paperwork, Mr. Boyd held onto the leashes of both Brandy and Ms. Bunker's dog Mally. (Jan. 12 Tr. 13:1-10.)

The Application required various information, including the name of the adopter, the address, including the street address, city, state, and zip code, home and cell phone numbers, an e-mail address, a driver's license number, adopter's date of birth, and the adopter's occupation. *See* Application at 1. The Application also required information on the animal the adopter is trying to adopt. *See id.* The Application required information about other animals in the home, asked about the adopter's intentions regarding the amount of time she will spend with the animal, and asked where the animal will live. *See id.* at 2. The Application contains space to provide a personal reference. *See id.* The Application concludes with a statement stating that the undersigned absolves the Animal Shelter of any future damage caused by the adoptive animal, that the Animal Shelter may seize the adopted animal if any terms of the agreement have been violated, and stating that the undersigned certifies the information given in the Application is true. *See id.* The Application then contains a space for the adopter's signature and date signed, the signature of the Animal Control Officer and date signed, and spaces to provide the town fee received and the donation received, if any. *See id.*

On January 5, 2024, Ms. Paul testified before the Court regarding the instant action. *See* Jan. 5 Tr. 76:1-87:25. She testified that she is the records clerk for the North Kingstown Police Department. *Id.* at 76:5-12. Ms. Paul stated that part of her duties include the maintenance of records for the Animal Shelter. *Id.* at 76:22-24. As the record keeper for the Animal Shelter, Ms. Paul is also involved with pet adoption. *Id.* at 76:25-77:7. She also testified that prior to being the records clerk for the North Kingstown Police Department, she was an animal control officer. *Id.* at 77:8-12. Ms. Paul testified that she was an animal control officer from October 2018 to August 2019. *Id.* at 77:15-16. She also testified that as an animal control officer she handled pet adoptions. *Id.* at 77:17-20.

Ms. Paul testified that both Ms. Bunker and Mr. Boyd were active in the adoption process and that they introduced themselves to her as a couple. *Id.* at 83:20-84:5. She testified as to the contents of the adoption application. *See id.* at 85:2-87:25. Ms. Paul testified that Ms. Bunker filled out adoption paperwork and signed the last page of the Application. *Id.* at 79:20-80:2; 80:12-24. When looking at the adoption application, Ms. Paul stated that the application calls for the singular name of an adopter, has room for one address, one city, one e-mail address, one date of birth, and one driver's license number. *Id.* at 85:8-86:6. While testifying that the application has room for only one name, Ms. Paul stated that she has seen instances where more than one name is put down on the application. *Id.* at 86:14-17. Ms. Paul stated that it was typical for married couples to put down just one of their names. *Id.* at 86:7-17. She also testified that she has sometimes seen co-existing couples put down both of their names on the application. *Id.* at 86:18-23.

On Brandy's Application, the name section contains Ms. Bunker's name, Warwick address, cell phone number, e-mail address, date of birth, driver's license number, and her occupation.

Application at 1. When asking about where the adopted animal was staying and what time the adopter would be home, Ms. Bunker filled out the Application stating that Brandy would be inside with her and that she would be gone zero to two hours at a time. *Id.* at 2. Ms. Bunker's signature, dated March 14, 2019, also appears on the Application. *Id.* The Application also contains a liability waiver stating that Ms. Bunker absolves the Animal Shelter of all responsibility for any damage Brandy may cause in the future. *Id.* Along with the liability waiver provision, the Application contains a provision stating that the Animal Shelter may seize the adopted animal if the terms of the adoption agreement were to be violated. *Id.* According to Ms. Bunker, part of the promise to the Animal Shelter was the ability to fully care for the pet. (Jan. 5 Tr. 16:8-12.) She also stated that the agreement required the adopter to return the animal to the shelter if the adopter could no longer care for the animal. *Id.* at 16:13-18. Ms. Bunker also testified that under the adoption agreement she was not able to give Brandy away. *Id.* at 16:19-17:4.

Regarding the payment of the fees associated with Brandy's adoption, Ms. Bunker testified to paying the \$25 town fee and a \$100 donation with cash, although she did not remember where the cash came from. *Id.* at 58:13-59:6. Mr. Boyd testified to providing Ms. Bunker with \$130 in cash to pay for the \$25 application fee and the \$100 donation. (Jan. 12 Tr. 12:18-23.) He also stated that he did not receive any change from Ms. Bunker. *Id.* at 12:24-25.

Regarding the approval of the application for Brandy's adoption, Ms. Paul testified that she did not investigate Mr. Boyd as a potential adopter. (Jan. 5 Tr. 87:8-11.) She testified that there is room on the application for another name and another address if an adopter were to add this information. *Id.* at 87:12-19. Ms. Paul also testified that, based on her experience, once the adoption application was approved the transfer of ownership for Brandy would have gone from animal control over to Ms. Bunker. *Id.* at 87:20-25. Upon the approval of Brandy's adoption

application, the Animal Shelter announced Brandy's adoption on Facebook and called Ms. Bunker, Mr. Boyd, Mally, and Brandy a family. (Def.'s Ex. A, North Kingstown Animal Shelter & Support Foundation Facebook post.)

D

Brandy Time-Share and Support During the Relationship

Ms. Bunker testified that during her relationship with Mr. Boyd, Brandy lived with her. (Jan. 5 Tr. 34:11-15.) On the rare occasion that Brandy would go to Mr. Boyd's house, it would be for a day or two. *Id.* Mr. Boyd, on the other hand, testified that during the relationship Brandy would spend about three nights per week with him at his parents' house in Connecticut and the other four nights Brandy would spend at Ms. Bunker's house. (Jan. 12 Tr. 18:4-19:19.) Ms. Bunker testified that Mr. Boyd did not regularly take Brandy to his parents' house in Connecticut during their dating relationship. (Jan. 5 Tr. 55:10-56:2.)

Mr. Boyd testified that when Brandy was with him at his parents' house or when he was staying with Ms. Bunker and Brandy, he would take Brandy on walks, let her out to use the bathroom, give her food, and play with her. (Jan. 12 Tr. 19:25-21:13.) He also testified that he would do all those activities with Brandy in the morning and upon returning from work at night he would do them again. *Id.*

Regarding Brandy's expenses during the dating relationship including food and veterinary care, Ms. Bunker testified that the intention was to split the expenses fifty-fifty, and that the bills were split fifty-fifty. (Jan. 5 Tr. 63:9-64:4.) Mr. Boyd testified to splitting the costs relating to Brandy's care right down the middle, fifty-fifty. (Jan. 12 Tr. 32:18-25.)

E

Breakup Aftermath and Brandy Time-Share Agreement

1

Brandy and the Breakup

In February of 2020, Ms. Bunker and Mr. Boyd unamicably ended their dating relationship. (Jan. 5 Tr. 2:3-5; Jan. 12 Tr. 21:13-20.) Mr. Boyd testified that immediately upon the relationship ending between himself and Ms. Bunker he took Brandy with him. (Jan. 12 Tr. 21:21-24.) Brandy stayed solely with him for about three to four weeks after the break-up. *Id.* at 22:4-5; Jan. 5 Tr. 34:16-17. At some point after this stay, Mr. Boyd spoke with Ms. Bunker and the two engaged in a Brandy time-share agreement. (Jan. 12 Tr. 22:6-11.) He testified that the time-share arrangement was his idea. *Id.* at 22:9-16. Ms. Bunker testified that she allowed the time-share arrangement because she knew that Mr. Boyd loved Brandy and that Brandy loved him. (Jan. 5 Tr. 34:18-20.) She also stated that she wanted them to be able to spend time together. *Id.*

According to Mr. Boyd, Ms. Bunker sent him a text message stating that Brandy was now his. (Hr'g Tr. 8:14-25, Jan. 18, 2024 (Jan. 18 Tr.)) Mr. Boyd took this to mean that moving forward the decision making for Brandy was his. *Id.* at 8:14-25.

2

Amount of Time Brandy Spent with Ms. Bunker and Mr. Boyd Post-Breakup

After the breakup, both Mr. Boyd and Ms. Bunker came to an agreement to share time with Brandy. *See* Jan. 5 Tr. 34:16-17; *see also* Jan. 12 Tr. 22:9-11. However, Mr. Boyd and Ms. Bunker disagree as to the amount of time each spent with Brandy post-breakup.

Ms. Bunker testified that in 2020 Brandy spent a majority of the time with her. (Jan. 5 Tr. 40:16-21.) She then testified that in 2021, Brandy spent a majority of the time with her. *Id.* at

40:22-23. Ms. Bunker testified that in 2022, the share was about fifty-fifty. *Id.* at 40:24-25. She testified that in 2023 the time-share amount changed because that was the first year Mr. Boyd had Brandy for significantly more time than Ms. Bunker had Brandy. *Id.* at 41:1-4. She explained that her health was a significant contributor to the time-share change in 2023. *Id.* at 41:5-9. She testified that in 2023 she was undergoing chemotherapy treatments and rather than finding a dog sitter, she gave Mr. Boyd extra time with Brandy. *Id.* Ms. Bunker stated that because she already trusted Mr. Boyd in caring for Brandy, it was easier to give him more time with Brandy than find a new dog sitter. *Id.* She stated that she did not gift Brandy to Mr. Boyd, that she did not divest her interest in Brandy to Mr. Boyd, that she did not tell Mr. Boyd he could keep Brandy, but she did state that she gave him more time with Brandy due to her health issues. *Id.* at 41:14-42:1.

Mr. Boyd testified that the time spent with Brandy by each party was about fifty-fifty from 2020 to June of 2023. (Jan. 12 Tr. 26:2-23.) He further testified that the fifty-fifty time-share schedule remained pretty much the same from their relationship to post-breakup; however, he recognized that there was a gradual shift of time in his favor. *Id.* at 26:24-27:2. Mr. Boyd also stated that the reason for time shifting in his favor was mostly due to Ms. Bunker's health. *Id.* at 27:3-7.

3

How and How Often Would the Parties Exchange Brandy

On January 12, 2024, Ms. Schilkowsky testified regarding the instant action. *See* Jan. 12 Tr. 2:1-8:2. She testified that she is the landlord of the property located at 97 Sharon Street in Providence, Rhode Island. *Id.* at 2:12-21. Ms. Schilkowsky testified that Ms. Bunker rented a room from her and that they both lived at 97 Sharon Street. *Id.* at 2:13-15. She stated that prior to living at 97 Sharon Street full-time, Ms. Bunker had rented the room as a guest on Airbnb. *Id.* at

2:10-11. Ms. Schilkowsky then stated that Ms. Bunker lived at 97 Sharon Street from June of 2020 to March of 2022. *Id.* at 3:12-14. She testified that she knew Mr. Boyd as Ms. Bunker's ex-boyfriend. *Id.* at 3:23-4:6. Ms. Schilkowsky also testified that she allowed Ms. Bunker to have pets at 97 Sharon Street. *Id.* at 4:14-19.

Ms. Schilkowsky testified that during Ms. Bunker's residence at 97 Sharon Street, Mr. Boyd and Ms. Bunker would exchange Brandy. *Id.* at 5:9-13. She noted that the exchanges were regular and that "Brandy usually went to stay with [Mr. Boyd] about once a week or a day or two at a time." *Id.* at 4:23-5:1. Ms. Schilkowsky stated that the exchanges would happen in the driveway of 97 Sharon Street. *Id.* at 5:1-8. She testified that the exchanges occurred usually once a week and dependent on the parties' schedules. *Id.* at 7:9-12. Ms. Schilkowsky also stated that Brandy would be with Ms. Bunker for about five days out of the week. *Id.* at 7:14-16.

The exchange schedule concluded on June 4, 2023 when Mr. Boyd refused to give Brandy to Ms. Bunker at a pre-arranged meeting. *See id.* at 26:21-23.

4

Veterinary Care for Brandy Post-Breakup

Ms. Bunker testified that she would take Brandy to veterinary appointments at North Kingstown Animal Hospital for any care. (Jan. 5 Tr. 24:17-20.) She attested that Mr. Boyd would sometimes meet her and Brandy at the hospital depending on his schedule. *Id.* at 24:21-24. Mr. Boyd testified that both he and Ms. Bunker would be present at Brandy's veterinary appointments, although he acknowledges that he was not able to make Brandy's appointments every single time. (Jan. 12 Tr. 27:17-28:8.) He also attested that he attended almost all of Brandy's appointments. *Id.* at 32:11-13.

Setting up Brandy's Veterinary Appointments

When setting up the initial visits with the North Kingstown Animal Hospital (the Animal Hospital), Ms. Bunker testified to contacting and attempting to set up an account for Brandy's care at the Animal Hospital. (Jan. 5 Tr. 24:4-9.) Both Mr. Boyd and Ms. Bunker testified that it was Mr. Boyd who went to the Animal Hospital and set up Brandy's information at the hospital because she had had a few seizures the morning of the appointment and was unable to get Brandy to the Animal Hospital. *See id.* at 24:10-16.

Documentation Presented to the Court Regarding Brandy's Veterinary Care

Ms. Bunker provided a Consent Treatment form dated March 18, 2021 containing her signature, an initial by the Animal Hospital's staff, her phone number, and Mr. Boyd's name under "Owner." Ex. 3, Consent for Treatment. Ms. Bunker also provided a receipt from the Animal Hospital for an October 28, 2021 procedure on Brandy. *See* Ex. 4, October 28, 2021 Receipt for Brandy's North Kingstown Animal Hospital Treatment. The receipt has Mr. Boyd's name; however, the address and phone number are Ms. Bunker's. *See* Jan. 5 Tr. 22:3-19; *see also* Ex. 4, October 28, 2021 Receipt for Brandy's North Kingstown Animal Hospital Treatment. Ms. Bunker also provided an appointment reminder e-mail which she received on September 27, 2022 at her e-mail address; however, the e-mail was addressed to Mr. Boyd. *See* Ex. 5, September 27, 2022 Confirmation Request E-mail.

As part of his documentation, Mr. Boyd provided a receipt with a payment date of June 1, 2023. Ex. C, June 1, 2023 Receipt for Brandy's North Kingstown Animal Hospital Treatment. The receipt contains his name, his address, and his phone number. *See id.* Mr. Boyd also provided

a copy of a rabies certificate from the Town of Johnston. *See* Ex. B, Rabies Vaccination Certificate. With the Rabies Vaccination Certificate were Brandy's medical records including information throughout Brandy's adoption. *See id.*

iii

Ms. Bunker's Request to be Added on Animal Hospital's Records as Brandy's Owner

After setting up the initial account with the Animal Hospital, Ms. Bunker on numerous occasions requested Mr. Boyd to add her name to Brandy's account as an owner, but he did not do so. Ex. 7, October 15, 2021 Text Messages from Ms. Bunker to Mr. Boyd; Ex. 8., March 18, 2021 and September 28, 2022 Text Messages from Ms. Bunker to Mr. Boyd; *see* Jan. 5 Tr. 32:13-34:4. Mr. Boyd testified that Ms. Bunker did request to have her name on the Animal Hospital records; however, he stated that her name was already on the records and there was nothing for him to do about it because both of their names were on the records. (Jan. 18 Tr. 14:25-15:11.)

iv

Scheduling of Brandy's Veterinary Care

Regarding the scheduling of veterinary appointments, Mr. Boyd testified that Ms. Bunker was the person who did most of the veterinary appointment scheduling because he worked and she did not and she made the appointments to fit around her schedule. (Jan. 12 Tr. 27:17-28:2.)

F

Parties' Ability to Care for Brandy and Impact on Parties

Both Mr. Boyd and Ms. Bunker testified to their ability to properly care for Brandy. *See* Jan. 5 Tr. 74:13-23; *see also* Jan. 12 Tr. 19:25-21:11.

Ms. Bunker testified that she could care for Brandy financially and emotionally, could provide Brandy with shelter, could pay Brandy's veterinary bills, and otherwise provide for

Brandy's well-being. (Jan. 5 Tr. 74:13-23.) She also testified that without Brandy in her life, her depression and anxiety is worse, and she is having more seizures. *Id.* at 74:24-75:4.

Mr. Boyd testified that he cared for Brandy throughout the relationship with Ms. Bunker and continues to take care of Brandy while she is in his care. *See* Jan. 12 Tr. 19:25-21:11. He also testified that he works forty hours per week at a full-time job and works part-time for another seventeen hours per week. (Jan. 18 Tr. 15:12-16:16.) Mr. Boyd testified that he is not able to take Brandy with him to work at either job and that he has a roommate watch Brandy. *Id.* at 16:17-24.

II

Standard of Review

Pursuant to Rule 52(a) of the Superior Court Rules of Civil Procedure, “[i]n all actions tried upon the facts without a jury . . . the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58[.]” Super. R. Civ. P. 52(a). Therefore, in a bench trial, the trial justice acts as a trier of fact and law. *Hood v. Hawkins*, 478 A.2d 181, 184 (R.I. 1984). In this function, the trial justice balances and considers the evidence, determines the credibility of the witnesses, and draws appropriate inferences. *See id.* Furthermore, this “task of determining the credibility of witnesses is peculiarly the function of the trial justice when sitting without a jury.” *Walton v. Baird*, 433 A.2d 963, 964 (R.I. 1981); *see also Rodrigues v. Santos*, 466 A.2d 306, 312 (R.I. 1983) (“The question of who is to be believed is one for the trier of fact.”). Additionally, at a bench trial, drawing inferences from the testimony of witnesses is also within the “province of the trial justice”; and, if reasonable, such inferences are entitled to equal weight upon review as other factual determinations made by the trial justice. *Walton*, 433 A.2d at 964.

III

Analysis

Plaintiff's Complaint filed in the District Court contains a claim for a writ of replevin and a claim for a determination of ownership. In the District Court, judgment was entered in favor of Defendant, Mr. Boyd. *Bunker v. Boyd*, 3CA-2023-05519, December 14, 2023, District Ct. Now on appeal, this Court *de novo* analyzes Plaintiff's request for a writ of replevin, then analyzes Plaintiff's request for declaratory relief seeking this Court to declare which party has superior rights of ownership over Brandy.

A

Writ of Replevin

In Rhode Island, a writ of replevin is statutory in nature. *Brunswick Corporation v. Sposato*, 120 R.I. 673, 676, 389 A.2d 1251, 1253 (1978) (citing to G.L. 1956 § 34-21-1; *McDonald v. Brown*, 61 R.I. 40, 199 A. 750 (1938)). Section 34-21-2 states that property is repleviable on district court writ⁴ “*whenever* any goods or chattels of five thousand dollars (\$5,000) or less shall be unlawfully taken or unlawfully detained from the owner or from the person entitled to the possession thereof[.]” Section 34-21-2. A writ of replevin “is available to persons claiming possession of goods or chattels either wrongfully taken or wrongfully detained. Nothing more than the right of present possession, founded upon a general or special ownership of the goods or chattels, is necessary to enable a plaintiff to maintain the action.” *Brunswick Corporation*, 120 R.I. at 676, 389 A.2d at 1253.

⁴ As previously noted, this action comes before the Court from a District Court appeal. As such, the District Court had jurisdiction to decide whether a writ of replevin was warranted under the facts.

In *Gem Plumbing and Heating Company, Inc. v. Rossi*, 867 A.2d 796 (R.I. 2005), the Rhode Island Supreme Court in a footnote used Black’s Law Dictionary definition to define replevin as an “action for the repossession of personal property wrongfully taken or detained by the defendant, whereby the plaintiff gives security for and holds the property until the court decides who owns it.” *Gem Plumbing and Heating Company, Inc.*, 867 A.2d at 806 n.14 (citing Black’s Law Dictionary 1325 (8th ed. 1999)).

The Rhode Island Supreme Court has further held that in Rhode Island, “[r]eplevin is merely a provisional remedy that applies *prior to* a trial on the merits.” *Goldberg v. Lancellotti*, 503 A.2d 1129, 1130 (R.I. 1986) (emphasis added). When “the plaintiff is seeking a determination as to who has the superior right to possess the property at issue, a trial on the merits is in order.” *Id.* “[Section] 34-21-1 does not divest the Superior Court of its inherent jurisdiction to grant other forms of relief when the right to possession of personal property is in dispute.” *Id.* at 1131.

Here, there was a trial on the merits. Both parties were presented the opportunity to submit evidence, and both parties submitted evidence in the form of witness testimony and exhibits. Furthermore, no party made a request for a trial by jury and, as such, there was a bench trial. Because the Court conducted a trial on the merits, the Court finds that Plaintiff’s request for a writ of replevin is moot. Plaintiff’s writ of replevin is moot because a trial on the merits has concluded here, and the Plaintiff is seeking a determination as to who has the superior right to possess the property at issue. *See Goldberg*, 503 A.2d at 1129. Therefore, the Court now turns its analysis to which party has a superior right of possession over Brandy and denies the request for a writ of replevin as moot.

B

Witness Credibility

Prior to analyzing the crux of Plaintiff's ownership claims, the Court analyzes the credibility of the witnesses presented throughout the bench trial.

“Witness credibility and the weight of the evidence are determinations that are best made by the fact-finder.” *State of Rhode Island v. McCarthy*, 945 A.2d 318, 326 (R.I. 2008) (citing *State of Rhode Island v. Texter*, 896 A.2d 40, 43-44 (R.I. 2006)). During a bench trial, the trial justice sits as the finder of fact.

1

Ms. Bunker's Credibility

Ms. Bunker answered questions both on direct and on cross-examination. Throughout Ms. Bunker's testimony, she answered questions without hesitation. Ms. Bunker's candor especially came through on cross-examination when defense counsel questioned Ms. Bunker on her unfaithfulness during the parties' relationship. (Jan. 5 Tr. 65:24-66:2.) Ms. Bunker without hesitation answered defense counsel's question on whether she had cheated on Mr. Boyd in the affirmative. *Id.* Ms. Bunker's candor was also demonstrated when she was asked about the time she spent without a permanent residence. *Id.* at 48:15-49:5. Ms. Bunker's statements regarding Brandy's time-share and the adoption process were also corroborated through testimony of Ms. Schilkowsky and Ms. Paul. Therefore, the Court finds Ms. Bunker's testimony credible and gives her testimony the weight it so deserves.

Mr. Boyd's Credibility

Mr. Boyd also answered questions on direct and on cross-examination. Mr. Boyd was also forthright when it came to questions concerning Brandy's adoption, as to his care of Brandy, and his work commitments. The Court does have concerns regarding Mr. Boyd's answers regarding the amount of time Mr. Boyd spent with Brandy. On cross-examination, Mr. Boyd was questioned about his Exhibit G containing over one hundred pictures of Brandy over the course of the shared schedule. *See* Ex. G, Pictures of Brandy; *see also* Jan. 18 Tr. 17:21-25-14. Through the admitted evidence and testimony brought out on cross-examination, the Court finds that Exhibit G showing all the time Brandy spent with Mr. Boyd to be misleading. Furthermore, Mr. Boyd did not provide any other witness testimony that could have corroborated his explanation of the amount of time Brandy shared with him. Therefore, the Court finds that most of Mr. Boyd's testimony is credible; however, there is some cause for concern of Mr. Boyd's credibility concerning the amount of time Mr. Boyd had Brandy prior to the end of the time-share agreement and gives his testimony the weight it so deserves.

Non-Party Witness Testimony and Credibility

The Court heard testimony from two non-party witnesses, including Ms. Paul—the records keeper for the Town of North Kingstown—and Ms. Schilkowsky—Plaintiff's former landlord.

The Court finds Ms. Paul's testimony helpful and essential in considering the question of Brandy's ownership. Ms. Paul was present at the time of Brandy's adoption, Ms. Paul was involved in overseeing the adoption process, and Ms. Paul is a records keeper for the Town of North Kingstown where Brandy's adoption occurred. *See* Jan. 5 Tr. 76:5-88:1. Ms. Paul is an

impartial witness and not biased as to who is Brandy's proper owner. Ms. Paul, like any animal control officer, is likely more concerned for Brandy's well-being rather than who owns Brandy. The Application itself states that the Animal Shelter has the right to seize an adopted animal if the signer of the Application mistreats or neglects the adopted animal. (Ex. 1, Application at 2.) This part of the application goes to show the Animal Shelter's concern for the adopted animal's well-being rather than having an interest in who "legally" owns an adopted animal. Therefore, this Court finds Ms. Paul's testimony to be credible, non-biased toward any one particular party, and useful in determining Brandy's ownership status.

The Court finds Ms. Schilkowsky's testimony credible and helpful in explaining the time-share agreement between Mr. Boyd and Ms. Bunker. Although Mr. Boyd objected to all of Ms. Schilkowsky's testimony as not being relevant, the Court finds Ms. Schilkowsky's testimony relevant and helpful because it corroborates Ms. Bunker's description of the time-share agreement. The Court does recognize however that Ms. Schilkowsky's testimony is more biased in favor of Ms. Bunker because Ms. Schilkowsky shares a closer relationship to Ms. Bunker than to Mr. Boyd. The Court gives Ms. Schilkowsky's testimony its due weight in its analysis.

C

1

Declaratory Relief

This Court "upon petition, . . . shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." G.L. 1956 § 9-30-1. "The court may refuse to render or enter a declaratory judgment or decree where the judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding." Section 9-30-6. A superior court justice's "decision to grant a remedy under the

Uniform Declaratory Judgments Act is purely discretionary[.]” *Woonsocket Teachers’ Guild Local Union 951, AFT v. Woonsocket School Committee*, 694 A.2d 727, 729 (R.I. 1997) (citing G.L. 1956 § 9-30-6).

Before the Court is an appeal from a District Court judgment denying Plaintiff’s writ of replevin and a decision to allow Brandy to remain with Mr. Boyd. As part of Plaintiff’s complaint in District Court, Plaintiff requests the court to determine Brandy’s ownership. *See* 3CA-2023-05519, Compl. at 3, District Ct. Ms. Bunker and Mr. Boyd are the only interested parties in Brandy’s ownership. If the Court were to enter a declaration as to Brandy’s ownership, the current controversy over Brandy’s ownership would terminate. Therefore, this Court has jurisdiction to render a declaratory judgment in this case, and a declaratory judgment is proper.

2

Plaintiff’s Claim for Ownership Over Brandy

Our Supreme Court has not yet provided guidance to the Superior Court as to how to analyze actions regarding the ownership of pets, especially those pets or domesticated animals that are close to the hearts of their owners. The Superior Court has articulated two theories on how to decide an issue of pet ownership. The parties cite to two cases, each using its own standard as to how to view pet ownership, *Champagne v. Higgins*, No. KC-2016-0293, December 16, 2016, Rubine, J. and *Dubin v. Pelletier*, No. WC-2010-0825, November 21, 2012, Savage, J. The court in *Dubin* analyzed ownership of dogs under a traditional personal property analysis and declined to adopt a “best interest of all concerned” standard, whereas the court in *Champagne* adopted the best interest of all concerned standard in determining proper ownership of a pet dog.

In *Dubin*—a case involving Mr. Big, a champion show dog turned pet—the court spent a significant part of its decision analyzing under the traditional personal property analysis including

an analysis of whether the plaintiff established a prima facie claim for ownership, whether the plaintiff gifted Mr. Big to the defendant, whether there was an implied contract between the two parties, and analyzed the question of Mr. Big’s ownership under Rhode Island’s statutory scheme. *See Dubin*, No. WC-2010-0825. The court in *Dubin* also provided a brief analysis under the “best interests” standard; however, the court noted that it did not find the application of the best interests standard proper in cases dealing with pets because applying the standard “could open the floodgates to the litigation of pet custody disputes and other issues involving pets.” *Id.* at 40.

In *Champagne*—a case involving Hector, a well-traveled international companion pet dog—the court, although acknowledging that domestic animals and pets are in a majority of jurisdictions viewed as personal property and their property is often determined by property law, found that the “best for all concerned” standard should be the governing principle in cases where a pure property law analysis is not workable. *Champagne*, No. KC-2016-0293 at 8-9.

So as to not be placed in the doghouse and not wanting to bark up the wrong tree, this Court renders its decision analyzing the evidence under both a traditional ownership analysis as articulated in *Dubin* and a “best interest of all concerned” analysis as articulated in *Champagne*.

3

Traditional Ownership Analysis

Although this Court analyzes the present action using both analytical frameworks, this Court believes that the analysis and standard used in *Dubin* is most persuasive because, as noted in *Champagne*, “[i]n Rhode Island as in most jurisdictions, domestic animals and pets are considered personal property or chattels and ownership and possession are determined by property law.” *Champagne*, No. KC-2016-0293 at 7.

Plaintiff's Case of Brandy's Ownership

A party coming before the court seeking ownership of personal property has the burden of proof. *See Cardinal Chemical Co. v. Morton International, Inc.*, 508 U.S. 83, 95 (1993); *see also Sleprow v. Robinson*, 113 R.I. 550, 555, 324 A.2d 321, 325 (1974). Once a party establishes a prima facie case of ownership, the burden then falls to the opposing party to establish the invalidity of that ownership. *See Dufrense v. Cooper*, 64 R.I. 120, 11 A.2d 3, 4 (1940); *see also Society of Holy Transfiguration Monastery, Inc. v. Gregory*, 689 F.3d 29, 40 (1st Cir. 2012). The crux of the issue here in determining whether Ms. Bunker has made her prima facie case of a right of possession over Brandy's ownership is whether Ms. Bunker or Mr. Boyd possesses the superior possessory right over Brandy.

Black's Law Dictionary defines ownership as "[t]he bundle of rights allowing one to use, manage, and enjoy property, including the right to convey it to others. Ownership implies the right to possess a thing, regardless of any actual or constructive control." Black's Law Dictionary 16c (11th ed. 2019). In the District Court, Ms. Bunker pled that she holds the superior possessory rights over Brandy and is Brandy's rightful owner. *See* District Ct. Compl., 3CA-2023-05519.

a

Brandy's Adoption

The Court believes that the most compelling evidence brought as to whether Ms. Bunker has a probability of showing that she has an ownership interest in Brandy is Brandy's adoption and the evidence and testimony surrounding Brandy's adoption. In a case of a pet adoption, there is no seller or buyer in the normal context of animals or property. Although not a contractual sale of a pet *per se*, an adoption essentially acts as a contract between the adopter who signs the

adoption application and the animal shelter. The Application itself contains language that one may see on a sales contract including a provision limiting the Animal Shelter's liability if the adopted pet were to hurt anyone and a provision requiring that the adopter take good care of the adopted pet. (Ex. 1, Application at 2.)

First of all, the lead up to the adoption is important to give context as to why the parties went to the Animal Shelter to adopt Brandy in the first place. Both parties testified that one of the main purposes of adopting a new dog was to lessen the eventual misfortune that was destined to occur to Ms. Bunker's seizure-identifying dog, Mally. (Jan. 5 Tr. 4:19-25; Jan. 12 Tr. 11:12-15.) Ms. Bunker was the one who put in most of the legwork to identify a potential dog to adopt, and Mr. Boyd admitted this fact. *See* Jan. 5 Tr. 5:16-19; 6:6-12; *see also* Jan. 12 Tr. 11:18-23.

On March 14, 2019, the day of Brandy's adoption, Ms. Bunker was the one who filled out the Application. (Ex. 1, Application; Jan. 5 Tr. 7:12-14; Jan. 12 Tr. 13:1-10.) The Application contains Ms. Bunker's name, address,⁵ cell phone number, e-mail address, date of birth, driver's license number, occupation, answers regarding whether there were any other pets in the home, personal reference, answer as to her ability to take care of the adopted pet, and signature. (Ex. 1, Application.) Upon the completion of the Application, Brandy stayed with Ms. Bunker on a trial run to see if Brandy would fit well in Ms. Bunker's home and to see if Brandy would get along with Ms. Bunker's other dog, Mally. (Jan. 5 Tr. 7:17-8:11.) On March 19, 2019, Ms. Bunker's adoption of Brandy became official and the Animal Shelter gave Ms. Bunker ownership of Brandy. *See* Jan. 5 Tr. 8:7-11; 87:12-19.

Although Mr. Boyd attended the adoption, he did not fill out the Application with any of his information, even though according to Ms. Paul he could have done so. (Jan. 5 Tr. 86:14-23.)

⁵ Mr. Boyd testified to never having the same address as Ms. Bunker. (Jan. 18 Tr. 9:20-24.)

Mr. Boyd testified to holding onto the leashes of both Brandy and Mally during the adoption process at the Animal Shelter. (Jan. 12 Tr. 13:1-10.) Mr. Boyd also testified that he provided money to satisfy the \$25 adoption fee and the \$100 donation. *See id.* at 12:18-23. However, Mr. Boyd testified to giving \$130 in cash to Ms. Bunker instead of handing the \$130 to the animal control officer to tender the adoption fee. *Id.* Ms. Bunker was the party to hand the payment of the adoption fee to the animal control officer and, as such, Ms. Bunker was the one that tendered the payment for ownership of Brandy. (Jan. 5 Tr. 58:13-59:6.) Along with tendering the payment, Ms. Bunker was the only party the Animal Shelter investigated to ensure that Brandy was in a safe environment. *See id.* at 87:8-11.

Here, Ms. Bunker was the actual party to tender the application fee and donation fee to the Animal Shelter; she was the party that filled out the Application with only her information; and Ms. Bunker was the party that sought out Brandy's adoption. Therefore, this Court finds that Ms. Bunker has established that she is Brandy's rightful owner by a fair preponderance of the evidence.

b

Animal Hospital Documentation

Although the Application is most probative in determining whether Ms. Bunker has established a probability of being successful in her claim of ownership, there is other evidence that also militates in favor of Ms. Bunker's ownership of Brandy.

The Court recognizes that on documentation from the Animal Hospital, Mr. Boyd's name is present under the section for the name of Brandy's owner. *See* Ex. 3, Consent for Treatment; Ex. 4, October 28, 2021 Receipt for Brandy's Treatment; Ex. 5, September 27, 2022 Appointment Confirmation E-mail. Having records with Mr. Boyd's name, however, is not enough because

although the submitted records have Mr. Boyd's name under the owner's name, all the contact information, including the e-mail, the phone number, and the address to documents pre-dating Mr. Boyd's sole possession over Brandy on June 4, 2023, are that of Ms. Bunker. Ex. 3, Consent for Treatment (containing Boyd under owner but having Ms. Bunker's phone number as the phone number); Ex. 4, October 28, 2021 Receipt for Brandy's Treatment (containing Mr. Boyd's name but providing Ms. Bunker's address and Ms. Bunker's telephone number); Ex. 5, September 27, 2022 Appointment Confirmation E-mail (addressing the e-mail to Mr. Boyd; however, the e-mail was sent to Ms. Bunker's e-mail address).

Furthermore, the only reason that Mr. Boyd's name shows up under the owner information on the Animal Hospital records is because he was the party that attended the first appointment with Brandy. *See* Jan. 5 Tr. 24:10-16. Even though Mr. Boyd's name was the one that appeared under owner on documentation from the Animal Hospital, Ms. Bunker, on numerous occasions, requested Mr. Boyd to add her name to the Animal Hospital records. Ex. 7, October 15, 2021 Text Messages from Ms. Bunker to Mr. Boyd; Ex. 8., March 18, 2021 and September 28, 2022 Text Messages from Ms. Bunker to Mr. Boyd; *see* Jan. 5 Tr. 32:13-34:4. Mr. Boyd testified that he was not able to add Ms. Bunker's name to the Animal Hospital records because her name was already on the records and there was nothing for him to add to the records. (Jan. 18 Tr. 14:25-15:11.)

Therefore, the Court finds that these facts show by a preponderance of the evidence that Ms. Bunker has a superior interest in Brandy's ownership because nearly all the information on Brandy's Animal Hospital records was Ms. Bunker's, including the name on the account that should have already been there according to Mr. Boyd.

Whether Brandy Was a Gift or Given to Mr. Boyd Post-Breakup

“[A] claimant must establish by clear and satisfactory evidence that the donor intended, *in praesenti*, to divest himself [or herself] of the exclusive ownership and control over the subject matter of the alleged gift and to vest such ownership and control jointly in the claimant.” *Slepkow*, 113 R.I. at 555, 324 A.2d at 325 (emphasis added).

Here, Mr. Boyd cannot establish that Ms. Bunker divested any of her ownership rights of Brandy to him. Although Mr. Boyd presented testimony of a text stating that Ms. Bunker told Mr. Boyd that he could have Brandy, that text in itself is not sufficient evidence to show that Ms. Bunker divested her ownership of Brandy to Mr. Boyd. The text itself was never entered into evidence as a full exhibit and, as such, the Court does not consider the text’s contents itself. Instead, the Court looks to the testimony of both parties and the actions of both parties after the text. Both parties recognized that, the breakup was contentious because of Ms. Bunker’s infidelity. *See* Jan. 18 Tr. 7:7-25. In the contentious nature of the breakup, Ms. Bunker desired to give Mr. Boyd some time with Brandy and to give him some space. (Jan. 5 Tr. 34:16-17.)

Mr. Boyd was given Brandy for a short period of time post-breakup; however, no action by Ms. Bunker shows that she had fully given her interest in Brandy to Mr. Boyd. Ms. Bunker and Mr. Boyd continued a drop-off time-sharing arrangement for Brandy. Although Mr. Boyd stated that he was the one that suggested the time-share agreement, the time-sharing was mainly driven by Ms. Bunker. *See* Jan. 12 Tr. 22:9-16; 27:3-28:6. Ms. Bunker also denied having divested any interest she had in Brandy to Mr. Boyd. (Jan. 5 Tr. 46:1-8.)

Therefore, the Court finds that Mr. Boyd has not shown that Ms. Bunker divested her interest in Brandy to him. Furthermore, because of this finding, Ms. Bunker once again has shown by a preponderance of the evidence that she has a superior ownership interest in Brandy.

4

Best Interest of All Concerned Analysis

In *Champagne v. Higgins*, a 2016 Rhode Island Superior Court decision, the court, citing to a New York State case using New York State law, determined that a “best interest” analysis is properly considered when determining ownership of “man’s best friend.” *See Champagne v. Higgins*, No. KC-2016-0293, December 16, 2016, Rubine, J. Unbeknownst to the court at the time of its decision in 2016, New York State would make effective Domestic Relations Law section 236(B)(5)(d)(15)⁶ (Section 236) on October 25, 2021. Section 236 requires New York courts, when determining the ownership of companion animals, such as dogs or cats, to consider the “best interest” of the animal. *See* N.Y. Dom. Rel. Law § 236(B)(5)(d)(15) (McKinney 2024). Under the “best interest of the animal” analysis, New York State courts weigh the following factors when considering the best interest of the animal:

“the involvement, or absence, of each party in the companion animal’s day-to-day life; the availability and willingness of each party to care for the companion animal; each party’s involvement in health and veterinary care decisions; the quality of each party’s respective home environment; the care and affection shown towards the companion animal; and each party’s fitness and caretaking abilities. No single factor is dispositive.” *L.B. v. C.C.B.*, 175 N.Y.S.3d 705, 711 (2022) (Supreme Court, Kings County).

⁶ New York State Domestic Relations Law Section 236(B)(5)(d)(15) states that when “awarding the possession of a companion animal, the court shall consider the best interest of such animal.” N.Y. Dom. Rel. Law § 236(B)(5)(d)(15) (McKinney 2024).

Although this Court recognizes that the Rhode Island General Assembly has not passed any legislation analogous to New York's Section 236 requiring the courts to use the best interest standard in determining ownership of pets, the Court still conducts the below analysis to determine whether Ms. Bunker has established her superior interest in ownership over Brandy by a fair preponderance of the evidence.

i

Parties' Ability to Care for Brandy

Both Ms. Bunker and Mr. Boyd testified to their ability to properly care for Brandy. *See* Jan. 5 Tr. 74:13-23; *see also* Jan. 12 Tr. 19:25-21:11.

Ms. Bunker testified that she could care for Brandy financially, emotionally, provide her with proper veterinary care, and otherwise provide for Brandy's well-being. (Jan. 5 Tr. 74:13-23.) Ms. Bunker also testified that during Brandy's ownership, she was the party involved in scheduling veterinary appointments, and Mr. Boyd agreed that Ms. Bunker was primarily responsible for scheduling the veterinary appointments. (Jan. 5 Tr. 24:4-28:13; Jan. 12 Tr. 27:17-28:2.) Furthermore, Ms. Bunker provided a consent treatment form showing that she made decisions regarding Brandy's care. *See* Ex. 3, Consent for Treatment. Although Mr. Boyd's name is under Brandy's information for the Animal Hospital, Ms. Bunker on numerous occasions tried to have Mr. Boyd add her name under Brandy's owner. Ex. 7, October 15, 2021 Text Messages from Ms. Bunker to Mr. Boyd; Ex. 8., March 18, 2021 and September 28, 2022 Text Messages from Ms. Bunker to Mr. Boyd; *see* Jan. 5 Tr. 32:13-34:4.

Mr. Boyd testified that he cared for Brandy both throughout the relationship with Ms. Bunker and while Brandy was in his sole care. *See* Jan. 12 Tr. 19:25-21:11. Mr. Boyd testified that this care included playing with Brandy, taking her outside to use the bathroom, and giving her

food. *Id.* Mr. Boyd testified that he works forty hours per week at a full-time job and works part-time for another seventeen hours per week. (Jan. 18 Tr. 15:12-16:16.) Mr. Boyd further testified that he is not able to take Brandy to work with him and he has a roommate watch over Brandy. *Id.* at 16:17-24.

Here, most of the factors that New York State courts use to analyze the “best interest” of the companion animal standard as articulated in *L.B. v. C.C.B.*, go in neither party’s favor. Here, both parties are willing, able, and are fit to take care of Brandy. *See* Jan. 5 Tr. 74:13-23; *see also* Jan. 12 Tr. 19:25-21:11. Neither Ms. Bunker nor Mr. Boyd presented facts regarding their respective home environments. However, there are two factors that favor Ms. Bunker. Those factors go to show that Ms. Bunker has a probability of success on showing that Brandy staying with her is in Brandy’s best interest. The two factors in Ms. Bunker’s favor is that she has made veterinary decisions regarding Brandy and the fact that she can spend more time with Brandy than Mr. Boyd can. Mr. Boyd testified that he spends more than forty hours per week working and has to leave Brandy with a roommate during those hours. Furthermore, Ms. Bunker has shown that she was heavily involved in Brandy’s health and veterinary care decisions through the furnishing of Animal Hospital records and her scheduling of veterinary appointments. Although Mr. Boyd attended most of the Animal Hospital appointments, he did not schedule them and he did not provide any evidence showing that he made any veterinary decisions regarding Brandy during the time of the relationship.

Therefore, because Ms. Bunker has more time to spend with Brandy and because she was heavily involved in Brandy’s health and veterinary care decisions, this Court finds that Ms. Bunker has shown by a fair preponderance of the evidence that having ownership over Brandy is in the best interest of both Ms. Bunker and Brandy.

IV

Conclusion

Because the Court has conducted a *de novo* trial on the merits, this Court finds that Plaintiff's request for a writ of replevin is moot and, therefore, Plaintiff's request for a writ of replevin is **DENIED**.

However, Ms. Bunker has shown her superior claim to Brandy by a fair preponderance of the evidence and, as such, this Court finds that judgment shall enter for Plaintiff on her claim for declaratory relief to establish her right of ownership over Brandy.

This Court therefore **DECLARES** that Ms. Bunker is Brandy's rightful owner and, as Brandy's rightful owner, Ms. Bunker is entitled to regain immediate possession of Brandy from Mr. Boyd.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Haley Bunker v. Nicholas Boyd**

CASE NO: **KD-2023-1139**

COURT: **Kent County Superior Court**

DATE DECISION FILED: **May 14, 2024**

JUSTICE/MAGISTRATE: **McHugh, J.**

ATTORNEYS:

For Plaintiff: **Mariah L. Sudgen, Esq.**

For Defendant: **Angelica Bovis, Esq.**