

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

People for the Ethical Treatment of Animals,
Inc., 1536 16th St. NW, Washington, DC
20036, on behalf of itself, consumers, and
the general public,

Plaintiff,

v.

Zoo Med Laboratories, Inc.,
3650 Sacramento Dr.,
San Luis Obispo, CA 93401,

Defendant.

Case No.

**DEMAND FOR JURY
TRIAL**

On behalf of itself, consumers, and the general public, People for the Ethical Treatment of Animals, Inc. (“PETA,” or “Plaintiff”), a non-profit organization, by and through its counsel, brings this action against Zoo Med Laboratories, Inc. (“Zoo Med,” or “Defendant”) pursuant to the District of Columbia Consumer Protection Procedures Act (“DC CPPA”), D.C. Code §§ 28-3901 to -3913, to halt Defendant’s false marketing and sale of inadequate snake enclosures. PETA alleges the following based upon information, belief, and its own testing and evaluation of the consumer goods at issue.

NATURE OF THE ACTION

1. Snakes—though biologically mute, lacking facial muscles, and possessing fixed, transparent eyelids—are sensitive, complex, and intelligent animals. In appropriate environments, they flourish. If abused, they suffer.

2. Zoo Med, the self-proclaimed top retailer in reptile products worldwide, represents to consumers that snakes only require enclosures that are “no shorter than

half the length of the snake” and that all of its enclosures, which are small and inadequately enriched, are not only appropriate but also *ideal* for both specified and other species of snakes. Consumers, believing Defendant, buy these enclosures for the types of snakes Defendant specifies. In many cases, the snakes confined to these enclosures can die within months from maladaptation, stress, malnutrition, emaciation, infection, and other disease. Those who do survive cannot thrive if left in Zoo Med’s enclosures, but will instead suffer a life of deprivation as they grow larger inside enclosures that were never big enough in the first instance.

3. These snakes deteriorate and can die, following weeks or months of pain and other suffering, because Zoo Med lies to consumers. Snakes require adequate space to stretch out for the entire length of their bodies and to move around environments that allow them to climb, burrow, and explore according to species-specific needs. Zoo Med either knows this to be true, or is willful or reckless in not knowing. Yet Zoo Med tells consumers on its website and, upon information and belief, instructs third-party retailers such as Amazon, Walmart, and big box pet stores to tell consumers at the point of sale that its small snake enclosures will allow snakes—some of whom will grow to as long as ten feet in length—to thrive.

4. These lies harm snakes—many of whom will, as a consequence, live and die in a state of suffering, unable to maintain comfort or relieve discomfort and at risk of succumbing to injury or disease because they are unable to adequately move or behave in appropriate and normal ways. These lies also harm the human consumers who are seeking what they reasonably believe to be appropriate enclosures for snakes. As a result, Zoo Med is in violation of the District of Columbia Consumer Protection Procedures Act, D.C. Code §§ 28-3901 to -3913 (the “DC CPPA”).

5. Because of this, PETA brings this lawsuit on its own behalf, on behalf of consumers, and on behalf of the general public and seeks relief including PETA's reasonable attorneys' fees and damages of \$1,500 per violation of the DC CPPA, as well as punitive damages against Defendant in an amount to be determined at trial, for the benefit of the general public of the District of Columbia. PETA also seeks an injunction (1) to halt Defendant's deceptive marketing and sale of inadequate snake enclosures; (2) to enjoin Defendant from taking any action, directly or indirectly, in the false advertising, promotion, branding, or marketing of their inadequate snake enclosures; (3) to enjoin Defendant from making any material misrepresentations regarding the spatial and environmental needs of snakes, including the misrepresentation that snakes only require enclosures that are "no shorter than half the length of the snake"; (4) to inform all customers who have purchased any of its snake enclosures that, in fact, snakes require enclosures at least as long as their entire bodies and are harmed by being kept in enclosures shorter than that; and (5) to provide corrective advertising to inform the public of the accurate spatial and environmental needs of snakes.

6. Defendant's unlawful conduct has deadly consequences. PETA brings this suit to prevent Defendant from continuing to peddle in myths and outdated folklore husbandry that can cause snakes to suffer and die.

JURISDICTION AND VENUE

7. Jurisdiction and venue are proper in this Court. PETA operates out of the District of Columbia.

8. This Court has personal jurisdiction over Defendant pursuant to D.C. Code § 13-423. Defendant, both directly and through its agents, market, distribute, and sell the products at issue throughout the District of Columbia. Defendant is engaged in

deceptive schemes and acts directed at persons residing in, located in, and/or doing business in the District of Columbia, and otherwise purposefully avails itself of the laws of this District through the marketing and sale of the products at issue in this District. Defendant thus has substantial contacts with and receives benefits and income from and through the District of Columbia.

9. This Court has subject matter jurisdiction over this action pursuant to D.C. Code § 28-3905(k)(1) and (k)(2).

10. Venue is proper in this Court and is authorized by D.C. Code § 28-3905(k)(2). Substantial acts in furtherance of Defendant's deceptive conduct, including Defendant's dissemination of false and misleading information regarding the products at issue and the spatial and environmental needs of snakes, occurred within the District of Columbia and the products at issue are available for purchase in the District of Columbia.

PARTIES

11. Plaintiff **PETA** is a certified 501(c)(3) non-profit public interest organization and qualifies as a non-profit organization pursuant to D.C. Code § 28-3901(a)(14).

12. PETA performs its work throughout the District of Columbia. Many PETA staff members work in the District of Columbia. PETA has staff, members, and supporters who reside in the District of Columbia.

13. PETA is the largest animal rights organization in the world with more than 6.5 million members and supporters, including those who reside in the District of Columbia. PETA's mission statement reads: "Animals are not ours to experiment on, eat, wear, use for entertainment, or abuse in any other way." In furtherance of this

mission, PETA advocates in various ways against cruelty to animals, including those kept in the home, such as snakes. For example, for more than two months in late 2012, a PETA investigator worked undercover at Global Captive Breeders, LLC, a company that bred and sold reptiles under cruel conditions. The investigation resulted in multiple guilty pleas to misdemeanor and felony animal cruelty.

14. Defendant's deceptive conduct embodies what PETA opposes, and has significantly impaired PETA in the fulfillment of its mission. Defendant's deceptive conduct has forced PETA to dedicate greater resources than it would have otherwise in order to correct public misconceptions about the spatial and environmental needs of snakes and the harms to snakes caused by enclosures that are too small, including among the general public of the District of Columbia. These resource expenditures include websites, programs, and other literature aimed at informing consumers that snakes require sufficiently large habitats that include adequate enrichment, unlike those specifically manufactured and sold by Defendant. PETA also uses its website to counteract Defendant's false messaging and educate consumers about the suffering of snakes in captivity. The diversion of these resources impairs PETA's ability to work on behalf of other animals, including other companion animals harmed by the retail pet industry as well as animals used in laboratories, those used for food or fiber, and those used for entertainment. As a result, PETA has standing both on its own behalf and for the benefit of consumers and the general public pursuant to D.C. Code § 28-3905(k)(1).

15. Before filing this lawsuit, PETA, through its agents, purchased the products at issue to evaluate their appropriateness for snakes, including those species specified by Defendant in Defendant's deceptive advertising and marketing. The evaluation confirmed that these products are not adequate for snakes.

16. Defendant **Zoo Med Laboratories, Inc.** is a for-profit corporation based in San Luis Obispo, California. It proclaims itself to be “#1 in reptile products worldwide,” and sells Zoo Med-branded products through Amazon, Walmart, and other large retailers, including practically all major retailers of products intended for companion animals in the United States, including in the District of Columbia.

SUBSTANTIVE ALLEGATIONS

I. Snakes Are Sensitive, Intelligent Animals with Specialized Needs

17. Snakes are sentient beings with individual personalities who are highly aware of their environments. In nature, where they have access to abundant space, snakes lead complex lives enriched by a number of natural behaviors. These include the pursuit of prey, companionship, courtship, exploration, and relaxation.

18. Captive snakes, however, are denied the opportunity to flourish in natural environments. Snakes are among the most common of the more than nine million reptiles kept as companion animals in the United States. Keeping snakes as pets is a common “hobby,” and industry stakeholders, particularly Zoo Med, commonly promote the idea that certain species—such as corn snakes, king snakes, hognose snakes, red tailed boas, and ball pythons—“make great pets for the beginning snake keeper.” Andrew Quinn, *Zoo Med’s Guide to Snakes*, Zoo Med Laboratories, Inc. (2014) at 2 (listing purported “beginner” snake species as well as others that are “Excellent Choices for intermediate Keepers”).

19. Key to these myths promoted by Zoo Med are the false premises that snakes are mostly sedentary, suffer anxiety related to open spaces, and can thrive in spaces smaller than their body length. These ideas are false and misleading. *Id.*, at 8

(“Bigger is not always better when it comes to housing young snakes. . . . Young snakes can become stressed if kept in too large or open of a cage.”)

20. They are false and misleading because Zoo Med is deceptively implying that either snakes have uncomplicated, simple, lower-level biological needs and therefore that minimalistic enclosures will suffice, or that Zoo Med enclosures are adequate despite snakes’ high-level needs. Either way, such representations are false and misleading. Contrary to the false premise that these “beginner” captive snake species have limited needs, they are in fact sensitive, intelligent, and inquisitive animals with species-specific behavioral needs.

21. A necessity to prevent suffering for these snakes is adequate space to stretch out and move around. It is widely acknowledged among experts and welfare organizations—and has been for years—that habitats that allow for full body extension are crucial in allowing snakes to fulfill their physical and behavioral needs. This is veterinary consensus. *See, e.g.*, Royal Society for the Prevention of Cruelty to Animals, Corn snake care (“An adult needs a vivarium that matches their length, allowing them to stretch out fully, and the minimum width and height must be a third of their length.”), <https://www.rspca.org.uk/adviceandwelfare/pets/other/cornsnake> (last visited Sept. 23, 2020); British Veterinary Association, Exotic Pets Infographic (stating that the ball python “[n]eeds enough space to stretch out in full.”), <https://www.bva.co.uk/take-action/our-policies/exotic-pets-non-traditional-companion-animals/> (last visited Sept. 23, 2020). The leading treatise on reptile husbandry recommends snakes be provided habitat lengths greater than their body length. *See* J.V. Rossi, *General husbandry and management*, in *REPTILE MEDICINE AND SURGERY* 109, 118-23 (D.R. Mader 3rd ed., 2018).

22. This is because it has long been understood that snake locomotion and other behaviors, comfort, and avoidance of discomfort all depend on snakes' ability to fully extend the entire length of their body. A 2019 study re-confirmed this. In that study of 65 individual snakes—including king snakes, ball pythons, hognosed snakes, milk snakes, and corn snakes—many assumed fully stretched-out postures within just a single hour of observation. See C. Warwick et al., *Spatial considerations for captive snakes*, *Journal of Veterinary Behavior* 30 (2019), at 37-48. The authors concluded, based on these findings and their understanding of snakes' biological adaptations, behavior, and natural environments, that straight-line body postures, *i.e.*, the ability to stretch out, are common behaviors for snakes that are essential to their welfare. *Id.* If these natural behaviors are dramatically constricted, as they are in inadequate enclosures, problematic behaviors and harmful consequences are likely to intensify. *Id.*

23. When given the opportunity, these so-called “beginner” snakes also display significant intelligence. Snakes are born ready and able to pursue prey, avoid predators, seek appropriate temperature levels, avoid discomfort, and find shelter. Snakes are also adept at learning. For example, a study by a neuroscientist at the University of Rochester found that captive-bred corn snakes could use visual and tactile clues to learn how to solve mazes. Snakes that initially took, on average, more than 700 seconds to solve a maze taught themselves, by their fourth day of training, how to solve the maze in about 400 seconds. Particularly quick learners were able to solve the maze in less than 30 seconds.

24. “Beginner” snakes also need to explore their habitats. They respond to environmental enrichment, and require complex environments that not only feature sufficient space but also areas for climbing, burrowing, off-ground resting, and other

behaviors. For example, a 2020 study authored by nine experts from Germany and the United Kingdom and published in an international peer-reviewed journal, shows that a humane habitat for a ball python is one that would include not only sufficient space to stretch out but also multiple shelters providing the opportunity to hide; a water bowl that is large enough to bathe while fully submerged; and appropriate substrate that allows for burrowing.

25. Other necessary environmental enrichments for captive snakes include appropriate lighting, temperature, humidity, ventilation, and substrate. These environmental requirements can be challenging or impossible to provide in small enclosures. For example, snakes generally require at least a 20-degree (Fahrenheit) variation in temperature within their enclosures, in order to modulate their body temperature. Such temperature gradients cannot be achieved in such small spaces, and monitoring them requires more than one thermometer. Similarly, specialized gauges are necessary to manage the humidity level. The substrate must also be carefully tended as subtle differences in substrate can result in disease. The British Veterinary Association noted that because snakes and other reptiles “have very specific requirements for humidity, lighting, nutrition, and temperature,” their “welfare needs are so specialized they can rarely be met in a domestic environment.” British Veterinary Association, Exotic Pets (Non-traditional Companion Animals) Policy Statement, <https://www.bva.co.uk/take-action/our-policies/exotic-pets-non-traditional-companion-animals/> (last visited Sept. 23, 2020).

26. Studies of captive snakes show welfare gains from spacious and adequately enriched habitats. For example, hognosed snakes observed recently by researchers at the Detroit Zoo meaningfully increased their activity, movement, and exploratory

behaviors (such as digging and tongue-flicking, an important chemosensory behavior that indicates that a snake is exploring his or her environment) after being transferred from smaller, more barren enclosures to larger, more enriched habitats.

27. In another study, corn snakes in environments with increased enrichment demonstrated an increased sense of security—spending a significant amount of time exposed to observers—unlike their peers in more limited enclosures who spent almost all of their time in hiding, which is a known sign of stress in snakes.

28. In sum, it is firmly established that snakes held in enclosures that are too small and/or lack adequate enrichment, both cause snakes to suffer and fail to fulfill their behavioral and biological needs. Conversely, snakes are less likely to suffer and more likely to fulfill many of their behavioral and biological needs when provided with habitats that are large enough and include adequate enrichment.

II. Zoo Med Deceives Reasonable Consumers Into Believing That Their Inadequate Enclosures Are Adequate, and Even Ideal, for Snakes

29. Zoo Med, whose website repeatedly refers to snake-keeping as a “hobby,” tells consumers that keeping certain species of snakes will be easy—as easy as purchasing Zoo Med products. To this end, Zoo Med invests significant resources in convincing consumers that Zoo Med snake enclosures are ideally suited for these animals’ behavioral and biological needs. For example, Zoo Med’s website tells consumers that “Ball Pythons are an excellent beginner snake and one of the most popular pet snakes due to their docile nature.”

30. Chief among the myths that Zoo Med peddles to consumers is that all it takes to house these “beginner” snakes is an enclosure that is “no shorter than half the length of the snake.”

31. Zoo Med repeats this same falsehood with respect to other species of snakes. For example, Zoo Med's website falsely tells consumers that corn snakes, king snakes, and red tailed boas only require enclosures that are "no shorter than half the length of the snake."

32. Zoo Med knows the typical size of these species of snakes. For example, Zoo Med informs consumers that ball pythons and corn and king snakes range from three to six feet long, and that red tailed boas range from three to ten feet long. Upon information and belief, Zoo Med is also aware that hognosed snakes and sand boas can grow to more than three feet long, and that milk snakes and garter snakes can grow to more than four feet long.

33. Zoo Med's incentive in teaching consumers that snakes only need such enclosures is straightforward: to sell its own, Zoo Med-branded snake enclosures. On information and belief, Zoo Med knows that very few customers would be interested in purchasing snakes, snake enclosures, or other snake-related Zoo Med products, if customers knew that they would need enclosures up to six feet long (for ball pythons and corn and king snakes) or ten feet long (for red tailed boas). And on information and belief, Zoo Med knows that customers are more willing to purchase and spend more money on such medium- and large-size snakes than on snakes that may be appropriate for smaller enclosures. Thus it deceptively implies that these enclosures are adequate for these snakes.

34. For example, Zoo Med's website shows consumers who scroll down to the "PRODUCTS AVAILABLE FOR THIS ANIMAL" section on its informational page for Ball Pythons—which, as noted above, can grow to be six feet long—that it has a number of enclosures "available for this animal." Thus Zoo Med represents that these enclosures

are appropriate for these snakes, which a reasonable customer would believe. These enclosures include:

- A ReptiHabitat™ Snake Kit that contains a 20 gallon enclosure that is 30 inches long, 12 inches wide, and 12 inches high. It comes with a small eight-watt under-tank heater that is six inches by eight inches; eight quarts of wood-shavings as a substrate; a “Habba Hut” hiding area that is two and three-quarters inches by four and three-quarters inches; an 18 inch artificial plant for “hiding and resting”; a water dish; an analog thermometer; a lamp fixture and a 100-watt bulb made of blue glass that “accentuates your animal’s natural colors for maximum viewing pleasure”; and a two ounce bottle of electrolyte-infused water. Zoo Med states on the product-specific web page that it is “the appropriate habitat for a variety of snakes; such as: Corn Snakes, Milk Snakes, King Snakes, Ball Pythons, Garter Snakes, and more”;
- A ReptiHabitat™ Snake Kit that contains a 40 gallon enclosure that is 36 inches long, 18 inches wide, and 18 inches high. It is accompanied by a medium sized 16-watt under-tank heater that is eight inches by 12 inches; 24 quarts of wood-shavings as a substrate; a “Habba Hut” hiding area that is four inches by nine and a quarter inches; a water dish; a thermometer and humidity gauge; a lamp fixture and a 100watt bulb made of blue glass that “accentuates your animal’s natural colors for maximum viewing pleasure”; and a two ounce bottle of electrolyte-infused water;

- A version of the above that is 36 inches long, 18 inches wide, and 18 inches high and features double doors;
- A 50 Gallon Low Boy™ 50 gallon “breeder styled” glass enclosure that is 48 inches long, 24 inches wide, and 10 inches high. Despite including this enclosure on a list of “PRODUCTS AVAILABLE FOR THIS ANIMAL,” Zoo Med states elsewhere that this enclosure is intended for fish such as “Tetras, Goldfish, Angelfish, Clownfish, and more!”;
- “Designer” 10 and 20 gallon glass enclosures, sold in neon green, ballistic blue, neon pink, and glow-in-the-dark designs, that are 20 inches long, 10 inches wide, and 12 inches high and 30 inches long, 12 inches wide, and 12 inches high, respectively; and
- A Naturalistic Terrarium® that is 18 inches long, 18 inches wide, and 18 inches high.

35. These enclosures are uniformly too small for full-grown ball pythons.

36. In addition, a number of these supplies and purported environmental enrichments are inadequate, or even dangerous products. For example, the under-tank heater that comes with the snake kits—deceptively marketed as all-in-one products—creates the risk of burning. For instance, if the substrate provided is not deep enough for burrowing, the snake will end up resting on the hot glass below. If there is not sufficient radiant heat provided by the heat bulbs, then the snake will be driven to get as close as possible to the under-tank heater, and will end up making direct contact with the hot glass no matter how deep the bedding is. This risk increases over time, as heat bulbs need to grow with the snake and, along with UV bulbs, need to be replaced long before they stop providing visible light.

37. These enclosures also lack other necessary supplies and environmental enrichments. For example, the snake kits lack an additional thermometer (necessary to ensure adequate temperature gradient across different portions of the enclosure); a humidity gauge (to maintain appropriate levels of humidity); timers to control heaters and lamps (to maintain appropriate temperatures); and locks to secure the screened tops (to prevent escape).

38. Consumers who scroll down to the “PRODUCTS AVAILABLE FOR THIS ANIMAL” section on Zoo Med’s informational page for king snakes, red tailed boas, sand boas, hognosed snakes, milk snakes, garter snakes, and corn snakes are shown the exact same misleading set of enclosures described above. While these species vary in length, they are all too long for some or all of the enclosures described above.

39. Zoo Med also promotes false claims about snakes’ husbandry needs elsewhere. Zoo Med boasts that its social media network, Zoo Med Studios, “has become the social hub for providing information, news, product and show updates, and how-to videos.” Indeed, it has approximately 26,000 “subscribers” on YouTube alone.

40. Zoo Med calls itself “#1 in reptile products worldwide,” and sells its products in many of the country’s major retailers in products meant for companion animals. Upon information and belief, Zoo Med provides third-party retailers who operate in the District of Columbia with product descriptions that inform consumers at the point of sale that its snake enclosures are appropriate—and even ideal—for all of the species of snakes mentioned above. For example, Amazon’s product description for Zoo Med’s 20 gallon ReptiHabitat™ Snake Kit states that it is: “**Ideal** for most species of Snakes.” (Emphasis added.) Pet Supplies Plus informs consumers that this same enclosure “[i]ncludes **everything** you need to properly set-up a **natural** habitat for

many different snake species” and “[t]akes the guess work out of setting up the **appropriate** habitat for a variety of snakes; such as: Corn Snakes, Milk Snakes, King Snakes, Ball Pythons, Garter Snakes, and more.” (Emphases added.) Walmart, in marketing this same enclosure, repeats these two claims almost verbatim. Pets Warehouse, in marketing this same enclosure, repeats all three of these claims.

41. Zoo Med’s misleading, deceptive, and false marketing successfully convinces reasonable consumers that its small, inadequately enriched enclosures are appropriate for snakes. Below is representative consumer feedback from an Amazon listing for the ReptiHabitat™ Snake Kit that contains a 20 gallon enclosure that is 30 inches long, 12 inches wide, and 12 inches high:

- “It is perfect for my Corn Snake. It has lots of room and I love the fact it has pins in the top to keep the screen top shut. It for sure comes with almost everything you need. . . . This is great for beginners like me. . . . The snake loves it.”
- “C[ame] right on time and nothing was broken love the tank gonna be using it for a ball python comes with everything you need . . .”
- “Met expectations well. . . . This habitat is being used for a baby ball python and will be large enough for several years.”

42. Studies also show that, because of messages like those disseminated by Zoo Med, snake owners overwhelmingly hold incorrect views about the physical, environmental, and spatial needs of snakes, and that most snake owners have enclosures that are too small and feature inadequate environmental enrichment.

43. Zoo Med spreads these falsehoods to reasonable consumers despite the fact that Zoo Med has either known, or has been reckless or willful in not knowing, that

the above enclosures do not fulfill many of the behavioral and biological needs of snakes. Thus, Zoo Med has known, or has been reckless or willful in not knowing, that the snake enclosures they sell cause snakes to suffer and die.

III. Zoo Med Enclosures Are Not ‘Ideal,’ But Instead Cause Snakes to Suffer and Die

44. Snakes housed in the small, inadequately enriched Zoo Med enclosures described above will not “adapt” to their inappropriate environments. Snakes, like all reptiles, have biological needs. These animals need environments that meet their behavioral, psychological, physiological, and anatomical needs. Captive environments that lack adequate size, temperature, lighting, humidity, and other environmental enrichments lead to disease, illness, and self-inflicted injury. When frustrated by their environments, snakes suffer both psychologically and physically. Given this, small and inadequately enriched enclosures such as those sold by Zoo Med harm even the so-called “beginner” snakes discussed above.

45. As snakes housed in insufficient Zoo Med enclosures suffer, they will likely visibly manifest frustration, fear, and stress. These manifestations include:

- **Interaction with transparent boundaries (ITB)**, *i.e.*, attempts to push against, penetrate, trace, crawl up, dig under or around transparent enclosure barriers.
- **Hyperalertness**, *i.e.*, abnormally high levels of alertness to environmental stimuli.
- **Rapid body movement**, *i.e.*, abnormal movements or jumping.
- **Flattened body posture**, *i.e.*, flattening the body against a surface, a behavior snakes often display along with hyperalertness.

- **Head-hiding**, *i.e.*, deliberate seclusion of the head including under objects or substrates.
- **Inflation of the body** and **hissing**, which may or may not occur in concert with each other.
- **Co-occupant aggression**, including aggressive or defensive displays, biting, and chasing of cage mates.
- **Human-directed aggression**, including both mock and real strikes.
- **Clutching**, *i.e.*, a snake tightly grasping a human or object.
- **Loop-pushing**, in which a snake uses the “arch” of his or her body to resist and deflect physical contact from cage mates or humans.
- **Freezing**, in which a snake in the presence of an observer engages in a freezing posture and tense immobility.
- **Hesitant mobility**, in which a snake uncharacteristically moves in fits and starts.
- **Wincing**, in which hypersensitivity to minor stimuli causes a snake to retract his or her head or tail.

46. In addition to causing fear and stress, Zoo Med’s small and inadequately enriched enclosures can cause a number of physical injuries and conditions associated with the above stress-related behaviors. These include lesions and other skin conditions, over-feeding, anorexia, reproductive diseases and disorders, skeletal diseases and disorders, infections, parasitic infestations, and gastro-intestinal diseases and disorders:

Issue	Possible cause	Signs
Anal abrasions	Friction associated with repeated attempts at escape.	Inflamed or necrotized lesion on tip of snout, systemic disease.
Ventral contact dermatitis	Insufficient ground space and accumulation of excessive substrate moisture.	Inflamed or otherwise discolored ventral or ventro-lateral skin, systemic disease.
Over feeding	Under stimulation, insufficient exercise, excessive food.	Obesity, disease.
Cyanosis	Physiological deficiencies, improper thermal, humidity and resting facilities, overcrowding.	Egg or fetal retention and associated behaviors, disease.
Opportunistic infections	Immune suppression.	Disease.
Respiratory issues, disease	Poor ventilation, inappropriate humidity, low air-bug clearance, immune suppression.	Infection.
Set constant or minimally varied thermal conditions or insufficient thermal gradients	Inability to thermoregulate.	Hypoactivity, hyperactivity, other stress-related behaviors, disease.
Suboptimal lighting and	Inability to maintain normal activity patterns.	Hypoactivity, hyperactivity, other stress-related behaviors, disease.
UV deficiency	Inability to convert UV influences to vitamin D.	Disease, hypovitaminosis D.
Excessive reproduction	Under stimulation.	Atypically frequent clutches/secretes.
Reproductive underperformance/sterility	Multiple stresses.	Atypically infrequent clutches/secretes.
Parasitic infestations	Close contact housing.	Parasite presence, disease.
Contagion risk	Close contact housing.	Epidemiological outbreaks.
Bite injuries	Feeding live food in minimalistic space.	Injury lesions.
Inappropriate substrate	Substrate ingestion.	Dysentery of gut, constipation, constipation, anorexia, sudden loss of condition.
Insufficient volume of substrate.	Inability to "burrow" to depth appropriate for species.	Hyperactivity, hypoactivity, inappetence; decline in general condition; gastro-intestinal disorders.
Insufficient enclosure height	Inability to climb.	Hyperactivity, hypoactivity, and/or attempts to hole.
Inadequate and/or inappropriate cage furnishings, including excessively small cages.	Physical and psychological understimulation.	Hyperactivity, hypoactivity anorexia, absence of mating activity, excessive mating activity.
Potential issues of additional concern:		
Rarely constipation and obstruction risk	Inability to properly urinate and defecate.	Defecation infrequency.
Glandular overfilling and dysfunction	Underactivity and reduced mobility.	Disease.
Cloacal and hemipenis disorders or urinary tract disease	Underactivity and reduced mobility.	Disease.
Musculoskeletal disorders, compromised spinal articulation, and degenerative joint disease of the spinal joints	Underactivity and reduced mobility.	Disease.

Source: C. Warwick et al., *Spatial considerations for captive snakes*, Journal of Veterinary Behavior 30 (2019), at 42.

47. These conditions are not rare. Rather, they are typical for snakes cared for by hobbyists and “beginners” who purchase enclosures from sellers such as Zoo Med. In addition, because snakes, unlike other companion animals, do not whine, yelp or otherwise audibly signal that they are suffering, their suffering as a result of inadequate enclosures often goes unnoticed by inexperienced human caretakers and untreated for far too long or even for the snake’s entire life. In the words of one prominent snake and reptile veterinarian, “[i]t is not uncommon to see a snake that has not eaten in months, has mites, is emaciated, is septic (bacterial infection), has pneumonia and is immunocompromised by a viral infection.” Douglas R. Mader, MS, DVM, DABVP (C/F, R/A), DECZM (HERPETOLOGY), *Snake Health 101: Common medical problems in snakes*, REPTILES Magazine, <http://www.reptilesmagazine.com/Snakes/Snake-Health-101/> (last visited Sept. 23, 2020). Surveys show that veterinarians believe that

many owners of reptiles, snakes included, lack even a basic understanding of the needs of their companion animals.

48. Ultimately, common side effects of inappropriate enclosures for captive snakes are morbidity and premature death. Despite the aspirations of consumers—and the fact that snakes such as ball pythons and corn snakes can live for decades—snakes housed in a Zoo Med enclosure are less likely to survive to an age approximating their genetic potential. Studies have shown shockingly high rates of mortality among captive reptiles, including snakes. For example, a 2012 peer-reviewed study found that 75 percent of reptiles, a population that includes snakes, die within a year in the home. These deaths are frequently the culmination of weeks and months of pain and suffering from stress, maladaptation, malnutrition, emaciation, infection, and other disease—because of inadequate enclosures like those Zoo Med claims are ideal.

CAUSE OF ACTION

VIOLATIONS OF THE DISTRICT OF COLUMBIA CONSUMER PROTECTION PROCEDURES ACT (D.C. Code § 28-3901 to -3913)

49. PETA incorporates by reference all of the allegations of the Complaint.

50. PETA is a “person,” a “non-profit organization,” and a “public interest organization” within the meaning of D.C. Code § 28-3901(a)(1), (14) and (15).

51. Pursuant to D.C. Code § 28-3905(k)(1)(C), “[a] nonprofit organization may, on behalf of itself or any of its members, or on any such behalf and on behalf of the general public, bring an action seeking relief from the use of a trade practice in violation of a law of the District, including a violation involving consumer goods or services that the organization purchased or received in order to test or evaluate qualities pertaining to use for personal, household, or family purposes.”

52. Pursuant to D.C. Code § 28-3905(k)(1)(D)(i), “a public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.”

53. PETA has been significantly impaired in the fulfillment of its mission, and thus harmed by the misleading, deceptive, and false trade practices of Defendant, including the advertising, promotion, branding, marketing, and sale of Zoo Med snake enclosures. Specifically, these practices have forced PETA to dedicate greater resources than it would have otherwise in order to correct public misconceptions about the spatial and environmental needs of snakes.

54. PETA has a sufficient nexus to the general public harmed by the misleading, deceptive, and false trade practices of Defendant, including the advertising, promotion, branding, marketing, and sale of Zoo Med snake enclosures, to adequately represent the general public’s interests and to pursue this cause of action against Zoo Med on behalf of the general public of the District of Columbia.

55. Zoo Med is a “person” within the meaning of D.C. Code § 28-3901(a)(1), is a merchant under § 28-3901(3), and provides “goods” within the meaning of § 28-3901(a)(7).

56. The advertising, promotion, branding, marketing, and sale of Zoo Med snake enclosures represent to consumers that snakes only require enclosures that are “no shorter than half the length of the snake” and that Zoo Med snake enclosures are appropriate and ideal for both specified and other species of snakes without limitation.

57. These statements and material omissions are misleading, deceptive, and false, because Zoo Med snake enclosures are too small and feature inadequate enrichment for both specified and other species of snakes. Upon information and belief, these Zoo Med snake enclosures have caused, and will cause, snakes to suffer and die.

58. The facts as alleged above demonstrate that Defendant has violated the DC CPPA, D.C. Code § 28-3901 *et seq.* Specifically, Defendant has violated D.C. Code § 28-3904, which makes it an unlawful trade practice to:

- “represent that goods . . . have . . . accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have,” D.C. Code § 28-3904(a);
- “represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another,” D.C. Code § 28-3904(d);
- “misrepresent as to a material fact which has a tendency to mislead,” D.C. Code § 28-3904(e);
- “fail to state a material fact if such failure tends to mislead,” D.C. Code § 28-3904(f); or
- “[u]se innuendo or ambiguity as to a material fact, which has a tendency to mislead,” D.C. Code § 28-3904(f-1).

59. Defendant has violated the DC CPPA by engaging in the misleading, deceptive, and false trade practices described above, including the advertising, promotion, branding, marketing, and sale of Zoo Med snake enclosures described above, which offend public policies and are immoral, unethical, unscrupulous, and substantially injurious to the general public. Specifically, Defendant tells consumers, and, upon information and belief, causes consumers to be told, that snakes only require

enclosures that are “no shorter than half the length of the snake” and that Zoo Med snake enclosures are appropriate and ideal for both specified and other species of snakes. In reality, Zoo Med snake enclosures are too small and feature inadequate enrichment for both specified and other species of snakes and, upon information and belief, have caused, and will cause, snakes to suffer and die.

60. The DC CPPA makes such conduct unlawful “whether or not any consumer is in fact misled, deceived, or damaged thereby.” D.C. Code § 28-3904. Nevertheless, upon information and belief, members of the general public have relied on Defendant’s misleading, deceptive, and false trade practices and have been deceived.

61. Pursuant to D.C. Code § 28-3905(k)(2), PETA may recover or obtain the following remedies:

- “Treble damages, or \$1,500 per violation, whichever is greater, payable to the consumer,” D.C. Code § 28-3905(k)(2)(A);
- “Reasonable attorney’s fees,” D.C. Code § 28-3905(k)(2)(B);
- “Punitive damages,” D.C. Code § 28-3905(k)(2)(C);
- “An injunction against the use of the unlawful trade practice,” D.C. Code § 28-3905(k)(2)(D);
- “[A]dditional relief as may be necessary to restore to the consumer money or property, real or personal, which may have been acquired by means of the unlawful trade practice,” D.C. Code § 28-3905(k)(2)(E); and
- “Any other relief which the court determines proper,” D.C. Code § 28-3905(k)(2)(F).

62. As a result, this Court should award PETA its reasonable attorneys' fees and damages of \$1,500 per violation of the DC CPPA, as well as punitive damages against Defendant in an amount to be determined at trial, for the benefit of the general public of the District of Columbia.

63. This Court should also (1) halt Defendant's deceptive marketing and sale of inadequate snake enclosures; (2) enjoin Defendant from taking any action, directly or indirectly, in the false advertising, promotion, branding, or marketing of its inadequate snake enclosures; (3) enjoin Defendant from making any material misrepresentations of fact regarding the spatial and environmental needs of snakes, including the misrepresentation that snakes only require enclosures that are "no shorter than half the length of the snake"; and (4) require Defendant to provide a corrective advertising campaign to inform the public of the accurate spatial and environmental needs of snakes.

64. If Defendant's misleading, deceptive, and false trade practices, including Defendant's advertising, promotion, branding, marketing, and sale of Zoo Med snake enclosures are not so enjoined, snakes will, upon information and belief, continue to suffer and die.

JURY DEMAND AND PRAYER FOR RELIEF

PETA demands a jury trial on all issues.

Plaintiff prays for relief as follows:

1. A declaration that Defendants have committed the violations of law alleged herein;

2. An injunction (1) to halt Defendant's deceptive marketing and sale of inadequate snake enclosures; (2) to enjoin Defendant from taking any action, directly or

indirectly, in the false advertising, promotion, branding, or marketing of their inadequate snake enclosures; (3) to enjoin Defendant from making any material misrepresentations regarding the spatial and environmental needs of snakes, including the misrepresentation that snakes only require enclosures that are “no shorter than half the length of the snake”; (4) to inform all customers who have purchased any of its snake enclosures that, in fact, snakes require enclosures at least as long as their entire bodies and are harmed by being kept in enclosures shorter than that; and (5) to provide corrective advertising to inform the public of the accurate spatial and environmental needs of snakes.

3. Compensatory damages as requested herein;
4. Punitive damages as requested herein, in an amount sufficient to punish Defendants and deter others from similar wrongdoing;
5. Judgment for interest at the legal rate on the foregoing sums;
6. Costs and reasonable attorneys’ fees; and
7. Any and all other general and equitable relief as this Court may deem just and proper.

Date September 24, 2020
Baltimore, Maryland

Respectfully submitted,

/s/ Adam B. Abelson
Adam B. Abelson (#1011291)
ZUCKERMAN SPAEDER LLP
100 East Pratt Street, Suite 2440
Baltimore, Maryland 21202
(410) 332-0444; (410) 659-0436 (fax)
aabelson@zuckerman.com

Asher Smith (NY Bar #5379714)*
Jenni James (CA Bar #286460)*
PETA FOUNDATION
1536 16th Street NW
Washington, DC 20036
(202) 483-7382; (202) 540-2208 (fax)
ashers@petaf.org
jennij@petaf.org

* Application to appear *pro hac vice* forthcoming.

*Counsel for Plaintiff People for the Ethical
Treatment of Animals, Inc.*



Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.,

Plaintiff

vs.

Case Number _____

ZOO MED LABORATORIES, INC.,

Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Adam B. Abelson, Esq. (Bar # 1011291)

Clerk of the Court

Name of Plaintiff's Attorney

Zuckerman Spaeder LLP

Address

100 East Pratt Street - Suite 2440, Baltimore, MD 21202

410-332-0444; aabelson@zuckerman.com

Telephone

By _____

Deputy Clerk

Date _____

如需翻译, 请打电话 (202) 879-4828

Veuillez appeler au (202) 879-4828 pour une traduction

Để có một bản dịch, hãy gọi (202) 879-4828

번역을 원하시면, (202) 879-4828 로 전화하십시오

የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይጻውሩ

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation
Vea al dorso la traducción al español

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH INFORMATION SHEET

People for the Ethical Treatment of Animals, Inc.

Case Number: _____

vs

Date: 9/24/2020

Zoo Med Laboratories, Inc.

☐ One of the defendants is being sued
in their official capacity.

Name: <i>(Please Print)</i> Adam B. Abelson, Esq.	Relationship to Lawsuit <input checked="" type="checkbox"/> Attorney for Plaintiff <input type="checkbox"/> Self (Pro Se) <input type="checkbox"/> Other: _____
Firm Name: Zuckerman Spaeder LLP	
Telephone No.: 410-332-0444 Six digit Unified Bar No.: #1011291	

TYPE OF CASE: ☐ Non-Jury ☐ 6 Person Jury ☒ 12 Person Jury
Demand: \$ TBD; >\$10,000 Other: _____

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.: _____ Judge: _____ Calendar #: _____

Case No.: _____ Judge: _____ Calendar#: _____

NATURE OF SUIT: *(Check One Box Only)*

A. CONTRACTS

COLLECTION CASES

- | | | |
|---|---|---|
| <input type="checkbox"/> 01 Breach of Contract | <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 16 Under \$25,000 Consent Denied |
| <input type="checkbox"/> 02 Breach of Warranty | <input type="checkbox"/> 17 OVER \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 18 OVER \$25,000 Consent Denied |
| <input type="checkbox"/> 06 Negotiable Instrument | <input type="checkbox"/> 27 Insurance/Subrogation | <input type="checkbox"/> 26 Insurance/Subrogation |
| <input type="checkbox"/> 07 Personal Property | Over \$25,000 Pltf. Grants Consent | Over \$25,000 Consent Denied |
| <input type="checkbox"/> 13 Employment Discrimination | <input type="checkbox"/> 07 Insurance/Subrogation | <input type="checkbox"/> 34 Insurance/Subrogation |
| <input type="checkbox"/> 15 Special Education Fees | Under \$25,000 Pltf. Grants Consent | Under \$25,000 Consent Denied |
| | <input type="checkbox"/> 28 Motion to Confirm Arbitration | |
| | Award (Collection Cases Only) | |

B. PROPERTY TORTS

- | | | |
|---|---|--------------------------------------|
| <input type="checkbox"/> 01 Automobile | <input type="checkbox"/> 03 Destruction of Private Property | <input type="checkbox"/> 05 Trespass |
| <input type="checkbox"/> 02 Conversion | <input type="checkbox"/> 04 Property Damage | |
| <input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102 (a) | | |

C. PERSONAL TORTS

- | | | |
|---|--|--|
| <input type="checkbox"/> 01 Abuse of Process | <input type="checkbox"/> 10 Invasion of Privacy | <input type="checkbox"/> 17 Personal Injury- (Not Automobile, Not Malpractice) |
| <input type="checkbox"/> 02 Alienation of Affection | <input type="checkbox"/> 11 Libel and Slander | <input type="checkbox"/> 18 Wrongful Death (Not Malpractice) |
| <input type="checkbox"/> 03 Assault and Battery | <input type="checkbox"/> 12 Malicious Interference | <input type="checkbox"/> 19 Wrongful Eviction |
| <input type="checkbox"/> 04 Automobile- Personal Injury | <input type="checkbox"/> 13 Malicious Prosecution | <input type="checkbox"/> 20 Friendly Suit |
| <input checked="" type="checkbox"/> 05 Deceit (Misrepresentation) | <input type="checkbox"/> 14 Malpractice Legal | <input type="checkbox"/> 21 Asbestos |
| <input type="checkbox"/> 06 False Accusation | <input type="checkbox"/> 15 Malpractice Medical (Including Wrongful Death) | <input type="checkbox"/> 22 Toxic/Mass Torts |
| <input type="checkbox"/> 07 False Arrest | <input type="checkbox"/> 16 Negligence- (Not Automobile, Not Malpractice) | <input type="checkbox"/> 23 Tobacco |
| <input type="checkbox"/> 08 Fraud | | <input type="checkbox"/> 24 Lead Paint |

SEE REVERSE SIDE AND CHECK HERE IF USED

Information Sheet, Continued

C. OTHERS

- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA) |
| <input type="checkbox"/> 02 Att. Before Judgment | (D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 05 Ejectment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 09 Special Writ/Warrants
(DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify,
Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input type="checkbox"/> 31 Housing Code Regulations |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

- | | | |
|--|---|--|
| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena
[Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as
Judgment [D.C. Code § | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | 2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 23 Rule 27(a)(1)
(Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code § | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage
Certificate | 42-3301, et seq.) | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

- | | |
|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |

/s/ Adam B. Abelson

Attorney's Signature

9/24/2020

Date