

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA**

**WILLIAM HALL and
ELMA HALL,**

Plaintiffs,

vs.

Case No.: 2021-CA-000998-NC

PETCO ANIMAL SUPPLIES STORES, INC.,

Defendant.

SECOND AMENDED COMPLAINT

Plaintiffs, WILLIAM HALL and ELMA HALL (collectively referred to as the “Halls”), by and through their undersigned attorney, sue Defendant, PETCO ANIMAL SUPPLIES STORES, INC. (“Petco”), and allege:

PARTIES, JURISDICTION & VENUE

1. This is an action for damages that exceed \$30,000.00, exclusive of attorneys’ fees, interest, and costs.
2. WILLIAM HALL is an individual and a resident of Sarasota County, Florida and was a co-owner of the dog that is the subject of this action - Max Hall (“Max”).
3. ELMA HALL is an individual and a resident of Sarasota County, Florida and was a co-owner of Max.
4. Petco is, and at all times relevant to this action, a for profit corporation doing business in the County of Sarasota, Florida, organized and existing under the laws of the State of Delaware, with its principal place of business located at 10850 Via Frontera, San Diego, CA

92127. Petco is one of the largest corporations in the US retail pet industry, offers grooming services for pets and was ranked by Forbes as the 107th largest private company in America in 2020.

5. Petco advertises on its website that it is “[t]he grooming destination that puts your pet’s health first” and that “[f]rom start to finish, we make your pet’s health & wellness our top priorities.”

6. Petco owns and operates retail store locations all over America including a store located at 1651 U.S. 41 Bypass S., Venice, FL 34293 (the “Venice Petco”).

7. As stated herein, the causes of action identified in this Complaint accrued in Sarasota County, Florida and Petco has an office for the transaction of its customary business in Sarasota County, Florida and therefore Venue is proper in Sarasota County, FL pursuant to Section 47.011, Florida Statutes.

8. Any and all conditions precedent to this action have been satisfied or waived.

9. The Plaintiffs have retained the undersigned law firm to represent them in this action and are obligated to pay a reasonable fee for bringing this action.

BACKGROUND & GENERAL ALLEGATIONS

10. Max was a three-and-a-half-year-old healthy English Bulldog and was the only child of the Halls. The Halls loved and cared for Max as though he were a human. Mrs. Hall’s only biological child was murdered at the age of two. The Halls raised Max, provided for Max (including providing health insurance and regular veterinary welfare visits for Max) and enjoyed emotional companionship that Max provided.

11. At all times material hereto, Max was a young healthy dog with no underlying health conditions. Max had never suffered from a health disorder that would have made him vulnerable to the typical industry standard conditions presented during a routine grooming.

12. On or around January 18, 2021, the Halls brought Max into Venice Petco for a routine grooming session. The Halls considered Max's grooming sessions to be a wholly innocuous "spa-like" trip for their son. The Halls relied upon Petco's assurances that it placed animals' health and safety first. The Halls' trust in Petco was reasonable as Petco was and is a national retailer with the resources to stand by its promise to place animals' health first. However, despite being one of the largest retailers in America, Petco chose to place profits first – not animal health. Petco's decisions caused Max to die.

13. During drop off for his grooming at Venice Petco, Elma Hall noticed that Max was placed in what appeared to be a tight harness that was too small for the size of his neck. Mrs. Hall inquired as to whether that harness was safe for her dog. In response, Petco groomer Dakota Nelson firmly asserted that the harness was the proper harness for Max. Ms. Nelson's statement was false and misleading and Ms. Nelson knew or should have known it was false.

14. Elma relied upon Ms. Nelson's deceptive statements and assumed that one of the largest pet retailer stores in the world - who prided itself on safety - was acting in conformance to the absolute safest industry protocols in the world.

15. Unfortunately, Petco made a deliberate decision to groom English Bulldogs with a Groomer's Helper which is a noose apparatus. At the time Petco used the Groomer's Helper on Max, it knew or should have known that it was not safe for use on flat face breeds such as English Bulldogs as it can cause asphyxiation and other injury.

16. Ms. Nelson affixed Max's neck to the Groomer's Helper for his grooming. At all times during the grooming attempt, Max's neck was tightly constrained in a fixed position.

17. During the grooming attempt, Max became restless and began to move. Seemingly unhappy with Max's distress, Ms. Nelson (who is estimated to weigh in excess of 200lbs) began wrestling Max in an attempt to stop him from moving.

18. Ms. Nelson witnessed Max collapse on the grooming table multiple times. Instead of calling off the grooming and/or releasing Max's neck from the noose, Ms. Nelson called additional employees to assist in constraining Max even further.

19. Ms. Nelson and other employees wrestled Max for over five minutes during which time he fell and was moved around while his neck remained in a fixed position. Instead of calling off the grooming or releasing Max from the noose, Ms. Nelson wanted Max to comply with her directions at any cost. That cost eventually became Max's life.

20. Max collapsed on the grooming table unconscious.

21. Max either died on the grooming table or shortly after while in Petco's control.

22. Upon information and belief, Ms. Nelson and the other employees of Petco took no action to resuscitate Max who was eventually carried out of the store in a crate.

23. Within around 15 minutes of Max's drop off for his grooming at Petco, Elma Hall received a phone call from an employee of Venice Petco that Max was being transported to an animal hospital somewhere in Sarasota, Florida.

24. As any reasonable individual would react, Elma Hall was shocked that her entirely healthy dog could have found himself in transport to a hospital during a basic grooming. Elma Hall inquired as to what happened and as to where her son was being transported.

25. Alarming, Venice Petco employees refused to inform Elma Hall what happened to Max.

26. William Hall contacted Venice Petco and demanded notice of what happened to Max.

27. Finally, following a threat of contacting law enforcement, Venice Petco employees informed William Hall that Max was being transported to a veterinarian in Sarasota for injuries. Despite said disclosure, Petco, without any justification, refused to disclose what happened to Max and the condition he was in.

28. Had the employees of Venice Petco disclosed to the Halls the facts surrounding Max's injuries, the Halls had access to more immediate medical care by Max's veterinarian who was located in Venice, Florida – much closer to Venice Petco than the Sarasota veterinarian that Max was taken to.

29. The Halls were deprived of all ability to make medical decisions for Max due to the refusal of Venice Petco employees to provide them with information about Max.

30. Shortly after being made aware that Max was somehow in medical distress, the Halls were informed that he had died.

31. The Halls had not only lost their only child – due to absolutely no fault of their own – they had been prevented from attempting to save him or to spend his last moments of life with him. The Halls were in utter shock as it was unimaginable to them that a fully healthy, young dog could be killed during a routine grooming session at a national company priding itself on safety.

32. The Halls had invested their love and money into Max's care and expected to have his companionship for many years. However, Petco fully deprived the Halls of their companionship and subjected them to severe emotional distress.

33. Certainly, an objectively reasonable person would assume that the death of a healthy dog in the hands of a dog retail company would be alarming and of concern to the company; however, Petco continued its misconduct against the Halls.

34. The Halls were prevented from taking control of the health and care of Max and were informed by employees of Petco that Max would not be autopsied and that his body would be disposed of.

35. The Halls, again, demanded information about what happened to Max.

36. At all times material hereto, Petco has engaged in a calculated effort to ensure that the Halls were never informed as to what happened to Max. In fact, as of the date of this complaint, the Halls are still without complete information as to what happened to Max.

37. Upon information and belief, Petco Venice has either temporarily or permanently shut down its grooming services.

38. Attached as Exhibit A are photographs of a healthy young Max on his way to the subject grooming.

39. Attached as Exhibit B are photographs of Max within minutes of drop off for his grooming.

40. Following the death of Max, the Halls were made aware that the noose used on Max during his grooming was considered an unsafe apparatus. The proper method of restraining an English Bulldog during grooming is depicted in the photograph attached hereto as Exhibit "C."

41. After Max's death, Petco continued making false and deceptive statements to the Halls. Petco employees asserted that Max received immediate resuscitation effort by employees which never occurred.

42. Petco also told the Halls that it could not continue possessing Max until a necropsy could be performed and advised the Halls that, if they wanted a necropsy, they would have to keep Max in their personal freezer.

43. Petco employees then falsely told the Halls that they were required to allow Petco to have Max immediately cremated and demanded their acquiescence to same or that they would have to take immediate possession of Max's corpse.

44. Ms. Nelson's conduct was not only negligent and grossly negligent, it was also criminal.

45. Section 828.12, provides as follows:

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, commits animal cruelty, a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.

46. Ms. Nelson unnecessarily caused Max to be overloaded and killed in violation of subsection (1).

47. Additionally, Ms. Nelson had control over Max and failed to act to prevent his cruel death in violation of subsection (2).

48. The conduct of Petco towards the Halls goes beyond all bounds of decency and should be regarded as utterly intolerable in a civilized community.

COUNT I
VIOLATION OF FDUTPA

49. The Halls re-allege and incorporate by reference as though fully set forth herein, paragraphs 1-48 of this Second Amended Complaint.

50. This is an action by the Halls against Petco for violation of the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”).

51. Petco violated Chapter 501, Florida Statutes, including but not limited to §§ 501.204 and 501.211, by engaging in unconscionable acts or practices and unfair or deceptive acts or practice.

52. Specifically, as outlined above, Petco falsely advertised that it provides the highest-level safety to animals during grooming when in fact it failed to follow basic reasonably safe protocols. Petco’s advertisement was nothing more than an attempt to instill false trust in the minds of consumers such as the Halls and to obtain profits from its grooming operations.

53. Prior to bringing Max in for grooming, the Halls relied upon the advertising by Petco that it adhered to the highest safety standings and placed their trust in Petco.

54. Additionally, Petco employee Dakota Nelson falsely informed the Halls that the Groomer’s Helper that was to be used on Max was safe when she knew or should have known that not to be the case.

55. Petco knew before Max's grooming that using a Groomer's Helper on an English Bulldog could cause death, but it chose to ignore that risk.

56. Additionally, Ms. Nelson's violations of Section 828.12 constitute independent per se violations of FDUTPA based on Section 501.201(3)(c), and/or are supportive of general violations of FDUTPA.

57. Following the death of Max during his grooming, the Halls were informed that Petco failed to follow the highest safety standards and that their advertising and Ms. Nelson's statements were in fact deceptive.

58. The Halls reliance on Petco's deceptive advertising induced them to bring Max to Petco for grooming which ultimately led to the death of Max.

59. Additionally, the Halls reliance on Ms. Nelson's statements induced them to proceed with the grooming which eventually killed Max.

60. Petco considers Max to be nothing more than personal property as stated in its Motion to Dismiss filed in this action. As such, Petco understood the grooming transaction to be consumer services involving personal property (i.e. Max) for profit. Max was the subject of the consumer transaction and was destroyed by Petco.

61. Thus, the Halls sustained actual damages to their personal property due to the deceptive advertising and statements of Petco as well as the animal cruelty committed by Ms. Nelson.

62. Additionally, after harming Max, Petco unfairly refused to notify the Halls of the nature of his injury and failed to provide timely medical attention for Max. These unfair acts caused the Halls to incur damages as Max's life could have been saved had Petco acted fairly by

immediately notifying the Halls of his injury(ies) and allowing them to transport him to their local veterinarian who was close in proximity to Max and who had previously seen Max for health checkups. As a result, the Halls sustained damages in that Max was destroyed by Petco.

63. Petco's unfair and deceptive acts towards the Halls were the proximate and actual cause of damages sustained by the Halls.

WHEREFORE, the Halls demand judgment against Petco adjudicating that Petco is liable to the Halls for damages, attorney's fees, costs and any such other relief as allowable by law and/or that this Court deems just.

COUNT II
NEGLIGENCE

64. The Halls re-allege and incorporate by reference as though fully set forth herein, paragraphs 1-48 of this Complaint.

65. This is an action by the Halls against Petco for negligence under Florida law.

66. Petco owed a duty to the Halls to conform to the reasonable standard of care in providing grooming services to Max.

67. Additionally, Petco owed a duty to the Halls to conform to a reasonable standard of care in responding to Max's injury and reasonably informing the Halls of the injury.

68. Petco breached its duties owed to the Halls by engaging in conduct that failed to conform with the appropriate standard of care during the grooming and subsequent care for Max.

69. Petco's breaches of its duties owed to the Halls caused the Halls to sustain damages. Petco's breaches of its duties owed to the Halls were the direct, actual, and proximate cause of the damages sustained by the Halls.

WHEREFORE, the Halls demand judgment against Petco adjudicating that Petco is liable

to the Halls for damages and costs.

COUNT III
GROSS NEGLIGENCE

70. The Halls re-allege and incorporate by reference as though fully set forth herein, paragraphs 1-48 of this Complaint.

71. This is an action by the Halls against Petco for gross negligence under Florida law.

72. Petco owed a duty to the Halls to conform to the reasonable standard of care in providing grooming services to Max.

73. Additionally, Petco owed a duty to the Halls to conform to a reasonable standard of care in responding to Max's injury and reasonably informing the Halls of the injury.

74. Petco affixed a noose harness around Max's neck that is known in the industry to present a clear and present danger to English Bulldogs. Petco, a large national animal retailer, knew that the noose was dangerous for English Bulldogs but failed to implement proper safety protocols to address the dangerous situation.

75. Even upon Elma Hall expressing concern over the noose, the Petco groomer wrongfully dismissed any possible danger relating to the noose and proceeded with the grooming while Max was being injured by the noose and acts of the groomers.

76. However, it is not just the use of the noose that caused Petco to be liable for gross negligence. As outlined above, Ms. Nelson and other employees wrestled with Max on the grooming table in excess of five minutes while he collapsed multiple times. The employees refused to release Max's neck from the noose and refused to stop the grooming. Instead, they demanded that Max submit to their demands to constrain him. The physical abuse to Max endured until such time that he became unconscious and/or died on the grooming table.

77. The Petco groomers knew that Max was in distress during the grooming but willfully ignored the distress and continued with the grooming until Max was in a state of medical emergency and/or dead.

78. Ms. Nelson's despicable physical actions toward Max caused him to die. She knew or should have known that her wrestling Max for minutes while he was collapsing in distress with his neck hanging from a noose would either cause severe bodily injury or death. Ms. Nelson's actions were not merely negligent, they constitute criminal animal cruelty.

79. Petco's use of the noose and its groomer's conscious disregard for the life and safety of max constitute gross negligent and/or reckless or intentional acts.

80. Petco breached its duties owed to the Halls by engaging in gross negligence and/or reckless or intentional conduct during the grooming and subsequent care for Max.

81. Petco's breaches of its duties owed to the Halls caused the Halls to sustain damages. Petco's breaches of its duties owed to the Halls were the direct, actual, and proximate cause of the damages sustained by the Halls.

WHEREFORE, the Halls demand judgment against Petco adjudicating that Petco is liable to the Halls for all appropriate remedies under Florida law including but not limited to actual and general damages, mental anguish, intrinsic value loss of companionship, worry, fear, distress, frustration, costs and any such other relief as allowable by law and/or that this Court deems just.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of October, 2021, I electronically filed the foregoing with the Clerk of the Court by using the Florida Court E-Filing Portal, and designated that a copy of the filing be served on Schuyler A. Smith, Esq. and Jamie Nakoa, Esq. of the law firm of Hamilton, Miller, & Birthisel, LLP, 150 Southeast Second Ave., Ste. 1200, Miami, FL 33131 at ssmith@hamiltonmillerlaw.com, jnakoa@hamiltonmillerlaw.com, ccarvalho@hamiltonmillerlaw.com and tsimmons@hamiltonmillerlaw.com.

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EXHIBIT A.



EXHIBIT.B.





EXHIBIT.C.





