

2-29-16

1 Kevin D. Hughes (SBN 188749)  
khughes@t-nlaw.com  
2 Linda J. Kim (SBN 181122)  
lkim@t-nlaw.com  
3 TISDALE & NICHOLSON, LLP  
4 2029 Century Park East, Suite 900  
Los Angeles, California 90067  
5 Telephone: (310) 286-1260  
Facsimile: (310) 286-2351  
6

**FILED**  
Superior Court of California  
County of Los Angeles  
AUG 29 2016  
Sherri B. Carter, Executive Officer/Clerk  
By Raul Sanchez Deputy

7 Attorneys for Defendants  
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES  
11

12 CATHY GREEN, an individual, individually ) CASE NO.: BC 598098  
and on behalf of the public; JONATHAN )  
13 FAIRBANKS, an individual, individually and ) [Assigned for all purposes to the Honorable Susan  
on behalf of the public; KIMBERLY ) Bryant-Deason, Dept. 52]  
14 WRIGHT, an individual, individually and on )  
15 behalf of the public; KRISTINA WARNER, ) ANSWER TO VERIFIED THIRD AMENDED  
an individual, individually and on behalf of ) COMPLAINT  
16 the public; SETH WASKOW, an individual, )  
individually and on behalf of the public; )  
17 YASMIN WASKOW, an individual, )  
18 individually and on behalf of the public, )

19 Plaintiffs, )

20 vs. )

21 MELISSA BACELAR, an individual; GAIL )  
22 BACELAR, an individual; THE WYLDER )  
FOUNDATION, a California nonprofit public )  
23 benefit corporation; WYLDER'S SWEET )  
SHOP, LLC, California corporation dba )  
24 WYLDER'S PET CENTER & RESCUE; )  
WYLDER'S HOLISTIC PET CENTER, )  
25 INC., a Delaware corporation dba THE )  
26 WAGMOR; and DOES 1 to 15, Inclusive. )

27 Defendants. )  
28

Fees paid on

2/29/16 \$2175 (MG)

08/19/2016

1 Defendants Melissa Bacelar, Gail Bacelar, The Wylder Foundation, Wylder's Sweet Shop,  
2 LLC, and Wylder's Holistic Pet Center, Inc. ("Defendants") answer the Verified Third Amended  
3 Complaint ("Third Amended Complaint") herein, in accordance with the numbered paragraphs  
4 thereof, as follows:

5 **INTRODUCTION**

6 1. Defendants lack information or belief sufficient to answer the allegations contained  
7 in this numbered paragraph 1 of the Third Amended Complaint, and therefore deny such  
8 allegations.

9 2. Defendant The Wylder Foundation admits that it does not rescue all of its dogs from  
10 shelters. The remaining Defendants deny any inference that they, as opposed to The Wylder  
11 Foundation, rescue and place dogs for adoption. Defendants deny the remaining allegations  
12 contained in this numbered paragraph 2 of the Third Amended Complaint.

13 3. Defendants admit that Studio City is located within the City of Los Angeles. The  
14 remaining allegations constitute legal conclusions for which no answer is required. Defendants  
15 deny any remaining allegations contained in this numbered paragraph 3 of the Third Amended  
16 Complaint.

17 4. Defendants admit that defendants Melissa Bacelar and Gail Bacelar are President  
18 and Vice President, respectively, of The Wylder Foundation. Defendants deny the remaining  
19 allegations contained in this numbered paragraph 4 of the Third Amended Complaint.

20 5. Defendants lack information or belief sufficient to answer the allegations contained  
21 in this numbered paragraph 5 of the Third Amended Complaint, and therefore deny such  
22 allegations.

23 6. Defendants deny each and every allegation contained in this numbered paragraph 6  
24 of the Third Amended Complaint.

25 7. Defendants lack information or belief sufficient to answer the allegations contained  
26 in numbered paragraph 7 of the Third Amended Complaint, and therefore deny such allegations.

27 8. Defendants deny each and every allegation contained in this numbered paragraph 8  
28

1 of the Third Amended Complaint.

2 9. Defendants deny each and every allegation contained in this numbered paragraph 9  
3 of the Third Amended Complaint.

4 10. Defendants deny each and every allegation contained in this numbered paragraph 10  
5 of the Third Amended Complaint.

6 11. Defendant The Wylder Foundation admits that it places adult dogs and puppies for  
7 adoption. Defendants deny each and every remaining allegation contained in this numbered  
8 paragraph 11 of the Third Amended Complaint.

9 12. Defendants deny each and every allegation contained in this numbered paragraph 12  
10 of the Third Amended Complaint.

11 **PARTIES**

12 13. Defendants lack information or belief sufficient to answer the allegations contained  
13 in this numbered paragraph 13 of the Third Amended Complaint, and therefore deny such  
14 allegations.

15 14. Defendants lack information or belief sufficient to answer the allegations contained  
16 in this numbered paragraph 14 of the Third Amended Complaint, and therefore deny such  
17 allegations.

18 15. Defendants lack information or belief sufficient to answer the allegations contained  
19 in this numbered paragraph 15 of the Third Amended Complaint, and therefore deny such  
20 allegations.

21 16. Defendants lack information or belief sufficient to answer the allegations contained  
22 in this numbered paragraph 16 of the Third Amended Complaint, and therefore deny such  
23 allegations.

24 17. Defendants lack information or belief sufficient to answer the allegations contained  
25 in this numbered paragraph 17 of the Third Amended Complaint, and therefore deny such  
26 allegations.

27 18. Defendants admit that Melissa Bacelar is a resident of Los Angeles County, State of  
28

0107167100

1 California; that she is the President of Defendant Wylder Foundation; that she is a shareholder of  
2 Defendant Wylder's Holistic Pet Center, Inc. dba The Wagmor; that Wylder's Sweet Shop, LLC  
3 and Wylder's Holistic Pet Center, Inc. each do business in Los Angeles County, State of  
4 California. Defendants deny the remaining allegations contained in this numbered paragraph 18  
5 of the Third Amended Complaint.

6 19. Defendants admit that Gail Bacelar is a resident of Los Angeles County, State of  
7 California; and that she is the Vice President of Defendant The Wylder Foundation. Defendants  
8 deny the remaining allegations contained in this numbered paragraph 19 of the Third Amended  
9 Complaint.

10 20. Defendants admit the allegations contained in the first two sentences of this  
11 numbered paragraph 20 of the Third Amended Complaint. Defendants deny the remaining  
12 allegations contained in this numbered paragraph 20 of the Third Amended Complaint.

13 21. Defendants admit the allegations contained in paragraph 21 of the Third Amended  
14 Complaint.

15 22. Defendants deny and each and every allegation contained in this numbered  
16 paragraph 22 of the Third Amended Complaint.

17 23. Defendants deny and each and every allegation contained in this numbered  
18 paragraph 23 of the Third Amended Complaint.

19 24. Defendants deny and each and every allegation contained in this numbered  
20 paragraph 24 of the Third Amended Complaint.

21 25. Defendants lack information or belief sufficient to answer the allegations contained  
22 in this numbered paragraph 25 of the Third Amended Complaint, and therefore deny such  
23 allegations.

24 26. Defendants lack information or belief sufficient to answer the allegations contained  
25 in this numbered paragraph 26 of the Third Amended Complaint, and therefore deny such  
26 allegations.

001261001

1 **JURISDICTION AND VENUE**

2 27. Defendants admit that they reside and/or transact business in the County of Los  
3 Angeles. The remaining allegations constitute legal conclusions for which no answer is required.  
4 Defendants deny any remaining allegations contained in this numbered paragraph 27 of the Third  
5 Amended Complaint.

6  
7 **ALTER EGO ALLEGATIONS**

8 28. Defendants deny each and every allegation contained in this numbered paragraph 28  
9 of the Third Amended Complaint.

10 29. Defendants deny each and every allegation contained in this numbered paragraph 29  
11 of the Third Amended Complaint.

12 30. Defendants deny each and every allegation contained in this numbered paragraph 30  
13 of the Third Amended Complaint.

14 31. Defendants deny each and every allegation contained in this numbered paragraph 31  
15 of the Third Amended Complaint.

16 32. Defendants deny each and every allegation contained in this numbered paragraph 32  
17 of the Third Amended Complaint.

18 33. Defendants deny each and every allegation contained in this numbered paragraph 33  
19 of the Third Amended Complaint.

20 **GENERAL FACTUAL BACKGROUND**

21 34. Defendants admit that the website at www.wydersholisticpetcenter.com contains  
22 statements regarding Melissa Bacelar, the contents of which speak for themselves. Defendants  
23 deny the allegations of this paragraph to the extent they inaccurately quote, mischaracterize or  
24 otherwise attempt improperly to recharacterize the contents of such website. Defendants deny the  
25 remaining allegations of this paragraph.

26 35. Defendants admit that Defendant The Wylder Foundation is a California nonprofit  
27 public benefit corporation. The contents of Exhibits A and C speak for themselves, and  
28

08/15/16

1 Defendants deny the allegations of paragraph 35 to the extent they inaccurately quote,  
2 mischaracterize or otherwise attempt improperly to recharacterize the contents of such documents.  
3 Defendants deny the remaining allegations of this paragraph.

4         36.     The contents of Exhibit C speak for themselves, and Defendants deny the  
5 allegations of paragraph 36 to the extent they inaccurately quote, mischaracterize or otherwise  
6 attempt improperly to recharacterize the contents of such document. Defendants deny the  
7 remaining allegations of this paragraph.

8         37.     Defendants admit that Wylder's Sweet Shop, LLC is an entity located in Studio  
9 City, California but lack information or belief sufficient to answer the allegation that it is a "pet  
10 boutique" insofar as it is unclear what is meant thereby, and therefore deny such allegation. Its  
11 website speaks for itself, and Defendants deny the allegations of this paragraph to the extent they  
12 inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize the contents  
13 of such website. Defendants deny the remaining allegations of this paragraph.

14         38.     Defendants deny each and every allegation contained in this numbered paragraph 38  
15 of the Third Amended Complaint.

16         39.     The contents of Exhibit C and the referenced website speak for themselves, and  
17 Defendants deny the allegations of paragraph 39 to the extent they inaccurately quote,  
18 mischaracterize or otherwise attempt improperly to recharacterize the contents of such document.  
19 Defendants admit that no member of The Wylder Foundation visited the homes of the Plaintiffs.  
20 Defendants deny the remaining allegations of this numbered paragraph 39.

21         40.     Defendants admit that Plaintiffs Seth Waskow and Yasmin Waskow provided to  
22 The Wylder Foundation an adoption fee of \$600 for their puppy but deny any inference that the  
23 \$600 did not constitute a donation. Defendants deny each and every remaining allegation  
24 contained in this numbered paragraph 40 of the Third Amended Complaint.

25         41.     Defendants currently lack information or belief sufficient to answer the allegations  
26 contained in the first sentence of this numbered paragraph 41, and therefore deny such allegations.  
27 Defendants deny the allegations contained in the second sentence of this numbered paragraph 41.  
28

1 The www.Petfinder.com postings speak for themselves. Defendants deny the allegations of this  
2 paragraph to the extent they inaccurately quote, mischaracterize or otherwise attempt improperly to  
3 recharacterize the contents of such postings. Defendants currently lack information or belief  
4 sufficient to answer the remaining allegations of this numbered paragraph 41 and therefore deny  
5 such allegations.

6 42. Defendants deny each and every allegation contained in this numbered paragraph  
7 42 of the Third Amended Complaint.

8 43. Defendants deny each and every allegation contained in this numbered paragraph  
9 43 of the Third Amended Complaint.

10 44. Defendants admit that Gail Bacelar is the Vice-President, and thus an employee, of  
11 the Wylder Foundation. Defendants also admit that Gail Bacelar is the mother of Melissa Bacelar.  
12 With the exception of the allegations contained in the last sentence, Defendants deny the remaining  
13 allegations contained in this numbered paragraph 44. With respect to the allegations contained in  
14 the last sentence, Defendants currently lack information or belief sufficient to answer such  
15 allegations and therefore deny such allegations.

16 45. Defendants currently lack information or belief sufficient to answer the allegations  
17 contained in the first sentence and therefore deny such allegations. Defendants deny each and  
18 every remaining allegation contained in this numbered paragraph 45 of the Third Amended  
19 Complaint.

20 46. Defendants deny each and every allegation contained in this numbered paragraph 46  
21 of the Third Amended Complaint.

22 47. Defendants deny each and every allegation contained in this numbered paragraph 47  
23 of the Third Amended Complaint.

24 48. Defendants deny each and every allegation contained in this numbered paragraph 48  
25 of the Third Amended Complaint.

26 49. Defendants deny each and every allegation contained in this numbered paragraph 49  
27 of the Third Amended Complaint.  
28

0012571016

1           50. Defendants deny each and every allegation contained in this numbered paragraph 50  
2 of the Third Amended Complaint.

3           51. Defendants deny each and every allegation contained in this numbered paragraph 51  
4 of the Third Amended Complaint.

5           52. Defendants deny each and every allegation contained in this numbered paragraph 52  
6 of the Third Amended Complaint.

7           53. Defendants deny each and every allegation contained in this numbered paragraph 53  
8 of the Third Amended Complaint.

9           54. Defendants deny each and every allegation contained in this numbered paragraph 54  
10 of the Third Amended Complaint.

11           55. Defendants deny each and every allegation contained in this numbered paragraph  
12 55 of the Third Amended Complaint.

13           56. Defendants deny each and every allegation contained in this numbered paragraph 56  
14 of the Third Amended Complaint.

15           57. Defendants deny each and every allegation contained in this numbered paragraph 57  
16 of the Third Amended Complaint.

17           58. Defendants deny each and every allegation contained in this numbered paragraph 58  
18 of the Third Amended Complaint.

19           59. Defendants deny each and every allegation contained in this numbered paragraph 59  
20 of the Third Amended Complaint.

21           60. Defendants deny each and every allegation contained in this numbered paragraph 60  
22 of the Third Amended Complaint.

23                           **FACTUAL BACKGROUND RELATING TO THUMPER'S DEATH**

24           61. Defendants lack information or belief sufficient to answer the allegations contained  
25 in this numbered paragraph 61 of the Third Amended Complaint, and therefore deny such  
26 allegations.

27           62. Defendants admit that Plaintiff Green called Defendant Wylder's Sweet Shop, LLC  
28



1 and spoke with Defendant Gail Bacelar. Defendants deny each and every remaining allegation of  
2 this numbered paragraph 62 of the Third Amended Complaint.

3 63. Defendants lack information or belief sufficient to answer the allegations contained  
4 in the first sentence of this numbered paragraph 63 of the Third Amended Complaint, and therefore  
5 deny such allegations. Defendants deny the remaining allegations contained in this numbered  
6 paragraph 63 of the Third Amended Complaint.

7 64. Defendants deny the allegations contained in the first two sentences of this  
8 numbered paragraph 64 of the Third Amended Complaint. Defendants lack information or belief  
9 sufficient to answer the allegations contained in the last sentence of this numbered paragraph 64 of  
10 the Third Amended Complaint, and therefore deny such allegations.

11 65. Defendants admit that Plaintiff Green picked out one of the Multi-poo puppies and  
12 that Plaintiff Green had the puppy socialize with Bambi in an isolated, sterilized area of the store.  
13 Defendants deny each and every remaining allegation contained in this numbered paragraph 65 of  
14 the Third Amended Complaint.

15 66. Defendants deny each and every allegation contained in this numbered paragraph 66  
16 of the Third Amended Complaint.

17 67. Defendants currently lack information or belief sufficient to answer the allegations  
18 contained in this numbered paragraph 67 of the Third Amended Complaint, and therefore deny  
19 such allegations.

20 68. Defendants deny any implication that "Winona" is the same puppy as the one  
21 adopted by Plaintiff Green. Defendants admit that Plaintiff Green was given a voucher for her  
22 puppy to receive micro-chipping and sterilization. Defendants admit the allegations contained in  
23 the last sentence of this paragraph. Except as expressly admitted, Defendants deny each and every  
24 allegation contained in this numbered paragraph 68 of the Third Amended Complaint.

25 69. Defendants deny each and every allegation contained in this numbered paragraph 69  
26 of the Third Amended Complaint.

27 70. Defendants deny each and every allegation contained in this numbered paragraph 70  
28

918767139

1 of the Third Amended Complaint.

2 71. Defendants deny each and every allegation contained in this numbered paragraph 71  
3 of the Third Amended Complaint.

4 72. Bambi's medical records indicate Bambi was sick prior to September 4, 2015.  
5 Defendants admit the allegations contained in the last sentence of this numbered paragraph 72 of  
6 the Third Amended Complaint. Defendants lack information or belief sufficient to answer the  
7 remaining allegations contained in this numbered paragraph 72 of the Third Amended Complaint,  
8 and therefore deny such allegations.

9 73. Defendants lack information or belief sufficient to answer the allegations contained  
10 in this numbered paragraph 73 of the Third Amended Complaint, and therefore deny such  
11 allegations.

12 74. Defendants lack information or belief sufficient to answer the allegations contained  
13 in this numbered paragraph 74 of the Third Amended Complaint, and therefore deny such  
14 allegations.

15 75. Defendants lack information or belief sufficient to answer the allegations contained  
16 in this numbered paragraph 75 of the Third Amended Complaint, and therefore deny such  
17 allegations.

18 76. Defendants deny each and every allegation contained in this numbered paragraph 76  
19 of the Third Amended Complaint.

20 77. Defendants lack information or belief sufficient to answer the allegations as to  
21 whether and when Plaintiff Green received the email attached as Exhibit "E" and therefore deny  
22 such allegations. Defendants also deny any allegation that the email was from all Defendants. The  
23 email speaks for itself. Defendants deny the allegations of this paragraph to the extent they  
24 inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize the contents  
25 of such email.

26 78. Defendants deny each and every allegation contained in this numbered paragraph 78  
27 of the Third Amended Complaint.  
28

0107167100

1           79. Defendants currently lack information or belief sufficient to answer the allegations  
2 contained in the first two sentences and last sentence of this numbered paragraph 79 of the Third  
3 Amended Complaint, and therefore deny such allegations. Defendants currently lack information  
4 or belief sufficient to answer any allegations as to the date of Plaintiff Green's telephone call.  
5 Defendants deny each and every remaining allegation contained in this numbered paragraph 79 of  
6 the Third Amended Complaint.

7           80. Defendants lack information or belief sufficient to answer the allegations as to  
8 whether and when Plaintiff Green received the email attached as Exhibit "F" and therefore deny  
9 such allegations. Defendants also deny any allegation that the email was from all Defendants. The  
10 email speaks for itself. Defendants deny the allegations of this paragraph to the extent they  
11 inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize the contents  
12 of such email. Defendants deny the remaining allegations contained in this numbered paragraph  
13 80 of the Third Amended Complaint.

14           81. The email attached as Exhibit "F" speaks for itself. Defendants deny the allegations  
15 of this paragraph to the extent they inaccurately quote, mischaracterize or otherwise attempt  
16 improperly to recharacterize the contents of such email. Defendants deny the allegations contained  
17 in the last sentence of this numbered paragraph 81 of the Third Amended Complaint.

18           82. Defendants currently lack information or belief sufficient to answer the allegations  
19 as to whether and when Thumper died and whether and when Plaintiff Green received the email  
20 attached as Exhibit "G" and therefore deny such allegations. The email speaks for itself.  
21 Defendants deny the allegations of this paragraph to the extent they inaccurately quote,  
22 mischaracterize or otherwise attempt improperly to recharacterize the contents of such email.  
23 Defendants deny the remaining allegations contained in this numbered paragraph 82 of the Third  
24 Amended Complaint.

25           83. Defendants currently lack information or belief sufficient to answer the allegations  
26 contained in this numbered paragraph 83 of the Third Amended Complaint, and therefore deny  
27 such allegations.  
28

0012612015

1           84. Defendants currently lack information or belief sufficient to answer the allegations  
2 contained in this numbered paragraph 84 of the Third Amended Complaint, and therefore deny  
3 such allegations.

4           85. Defendants lack information or belief sufficient to answer the allegations as to  
5 whether and when Plaintiff Green received the cease and desist letter and therefore deny such  
6 allegations. The letter speaks for itself. Defendants deny the allegations of this paragraph to the  
7 extent they inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize  
8 the contents of such letter.

9           86. Defendants currently lack information or belief sufficient to answer the allegations  
10 contained in this numbered paragraph 86 of the Third Amended Complaint, and therefore deny  
11 such allegations.

12           87. Defendants deny the allegations contained in the first sentence of this numbered  
13 paragraph 87 of the Third Amended Complaint. Defendants currently lack information or belief  
14 sufficient to answer the remaining allegations contained in this numbered paragraph 87 of the  
15 Third Amended Complaint, and therefore deny such allegations.

16           **FACTUAL BACKGROUND RELATING TO KOBI & WALTER'S DEATHS**

17           88. Defendants currently lack information or belief sufficient to answer the allegations  
18 contained in this numbered paragraph 88 of the Third Amended Complaint, and therefore deny  
19 such allegations.

20           89. Defendants currently lack information or belief sufficient to answer the allegations  
21 contained in this numbered paragraph 89 of the Third Amended Complaint, and therefore deny  
22 such allegations.

23           90. Defendants admit that Plaintiff Wright spoke with Defendant Melissa Bacelar and  
24 that Plaintiff Wright inquired into the origin of the Mini Schnauzers mentioned on  
25 www.Petfinder.com. Defendants deny each and every remaining allegation of this numbered  
26 paragraph 90 of the Third Amended Complaint.

27           91. Defendants currently lack information or belief sufficient to answer the allegations  
28

00111111

1 contained in this numbered paragraph 91 of the Third Amended Complaint, and therefore deny  
2 such allegations.

3 92. Defendants deny the allegations contained in the second sentence of this numbered  
4 paragraph 92 of the Third Amended Complaint. Defendants currently lack information or belief  
5 sufficient to answer the remaining allegations contained in this numbered paragraph 92 of the  
6 Third Amended Complaint, and therefore deny such allegations.

7 93. Defendants deny each and every allegation contained in this numbered paragraph 93  
8 of the Third Amended Complaint.

9 94. Defendants admit that the donation of \$1200.00 was paid for the Mini Schnauzer  
10 puppies and that the puppies were renamed Kobi and Walter. Defendants deny each and every  
11 remaining allegation contained in this numbered paragraph 94 of the Third Amended Complaint.

12 95. Defendants currently lack information or belief sufficient to answer the allegations  
13 contained in this numbered paragraph 95 of the Third Amended Complaint, and therefore deny  
14 such allegations.

15 96. Defendants currently lack information or belief sufficient to answer the allegations  
16 contained in this numbered paragraph 96 of the Third Amended Complaint, and therefore deny  
17 such allegations.

18 97. Defendants deny each and every allegation contained in this numbered paragraph 97  
19 of the Third Amended Complaint.

20 98. Defendants currently lack information or belief sufficient to answer the allegations  
21 contained in this numbered paragraph 98 of the Third Amended Complaint, and therefore deny  
22 such allegations.

23 99. Defendants currently lack information or belief sufficient to answer the allegations  
24 contained in this numbered paragraph 99 of the Third Amended Complaint, and therefore deny  
25 such allegations.

26 100. Defendants admit that Melissa Bacelar did not inform Plaintiff Wright that puppies  
27 that were never placed for adoption died of the Parvovirus in April 2015. Defendants currently  
28

08/16/15

1 lack information or belief sufficient to answer the remaining allegations contained in this  
2 numbered paragraph 100 of the Third Amended Complaint, and therefore deny such allegations.

3 101. Defendants currently lack information or belief sufficient to answer the allegations  
4 contained in this numbered paragraph 101 of the Third Amended Complaint, and therefore deny  
5 such allegations.

6 102. Defendants currently lack information or belief sufficient to answer the allegations  
7 contained in this numbered paragraph 102 of the Third Amended Complaint, and therefore deny  
8 such allegations.

9 103. The text message attached as Exhibit "H" speaks for itself. Defendants deny the  
10 allegations of this paragraph to the extent they inaccurately quote, mischaracterize or otherwise  
11 attempt improperly to recharacterize the contents of such message. Defendants currently lack  
12 information or belief sufficient to answer the remaining allegations contained in this numbered  
13 paragraph 103 of the Third Amended Complaint, and therefore deny such allegations.

14 104. Defendants currently lack information or belief sufficient to answer the allegations  
15 contained in this numbered paragraph 104 of the Third Amended Complaint, and therefore deny  
16 such allegations.

17 105. Defendants currently lack information or belief sufficient to answer the allegations  
18 contained in this numbered paragraph 105 of the Third Amended Complaint, and therefore deny  
19 such allegations.

20 106. The referenced text messages from Plaintiff Wright and Defendant Melissa Bacelar  
21 attached as part of Exhibit "I" speak for themselves. Defendants deny the allegations of this  
22 paragraph to the extent they inaccurately quote, mischaracterize or otherwise attempt improperly to  
23 recharacterize the contents of such messages. Defendants admit that Defendant Melissa Bacelar is  
24 the writer of the two text messages attributed to Melissa Bacelar in this paragraph but currently  
25 lack information or belief sufficient to answer the remaining allegations contained in this  
26 numbered paragraph 106 of the Third Amended Complaint, including but not limited to allegations  
27 regarding the date and time of the text messages, and therefore deny such allegations.  
28

9107167100

1           107. Defendants currently lack information or belief sufficient to answer the allegations  
2 contained in this numbered paragraph 107 of the Third Amended Complaint, and therefore deny  
3 such allegations.

4           108. Defendants admit that Defendant Mélissa Bacelar informed Plaintiff Wright that  
5 she had spoken with the two owners of the other two Mini Schnauzers, that she had been advised  
6 that the other two Mini Schnauzers were not sick, and that she had suggested that the two owners  
7 take their puppies to The Wylder Foundation's veterinarian. Defendants deny each and every  
8 remaining allegation contained in this numbered paragraph 108 of the Third Amended Complaint.

9           109. Defendants currently lack information or belief sufficient to answer the allegations  
10 contained in this numbered paragraph 109 of the Third Amended Complaint, and therefore deny  
11 such allegations.

12           110. Defendants currently lack information or belief sufficient to answer the allegations  
13 contained in this numbered paragraph 110 of the Third Amended Complaint, and therefore deny  
14 such allegations.

15           111. Defendants deny any allegation that Defendants engaged in any intentional  
16 misrepresentations. Defendants admit that Plaintiff Wright started her own fundraising page.  
17 Defendants currently lack information or belief sufficient to answer the remaining allegations  
18 contained in this numbered paragraph 111 of the Third Amended Complaint, and therefore deny  
19 such allegations.

20           112. The allegations contained in this numbered paragraph 112 of the Third Amended  
21 Complaint are unintelligible. Thus, Defendants lack information or belief sufficient to answer the  
22 allegations contained in this numbered paragraph 112 of the Third Amended Complaint, and  
23 therefore deny such allegations.

24           113. Defendants admit that The Wylder Foundation refunded \$1000 to Plaintiffs  
25 Fairbanks and Wright but deny the remaining allegations of this numbered paragraph 113 of the  
26 Third Amended Complaint.

27           114. The referenced text message from Defendant Melissa Bacelar attached as part of  
28

08/23/2016

1 Exhibit "I" speaks for itself. Defendants deny the allegations of this paragraph to the extent they  
2 inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize the contents  
3 of such message. Defendants admit that Defendant Melissa Bacelar is the author of the text  
4 message attributed to Melissa Bacelar in this paragraph but currently lack information or belief  
5 sufficient to answer the allegations regarding the date of the text message, and therefore deny such  
6 allegations. Defendants currently lack information or belief sufficient to answer the remaining  
7 allegations contained in this numbered paragraph 114 of the Third Amended Complaint, and  
8 therefore deny such allegations.

9           115. The referenced text message from Defendant Melissa Bacelar attached as part of  
10 Exhibit "K" speaks for itself. Defendants deny the allegations of this paragraph to the extent they  
11 inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize the contents  
12 of such message. Defendants admit that Defendant Melissa Bacelar is the author of the text  
13 message attributed to Melissa Bacelar in this paragraph, but Defendants deny that Defendant  
14 Melissa Bacelar admits to puppy flipping. Defendants lack information or belief sufficient to  
15 answer the remaining allegations of this numbered paragraph 115 of the Third Amended  
16 Complaint, and therefore deny such allegations.

17           116. Defendants lack information or belief sufficient to answer the allegations contained  
18 in this numbered paragraph 116 of the Third Amended Complaint, and therefore deny such  
19 allegations.

20           117. The referenced text message from Defendant Melissa Bacelar attached as part of  
21 Exhibit "L" speaks for itself. Defendants deny the allegations of this paragraph to the extent they  
22 inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize the contents  
23 of such message. Defendants lack information or belief sufficient to answer the remaining  
24 allegations contained in this numbered paragraph 117 of the Third Amended Complaint, and  
25 therefore deny such allegations.

26           118. Defendants admit that an attorney representing Defendant Melissa Bacelar sent an  
27 email on or about September 18, 2015 to the attorney for Plaintiffs Fairbanks and Wright. The  
28

08/15/16



1 email speaks for itself. Defendants deny the allegations of this paragraph to the extent they  
2 inaccurately quote, mischaracterize or otherwise attempt improperly to recharacterize the contents  
3 of such email. Defendants deny any remaining allegations contained in this numbered paragraph  
4 118 of the Third Amended Complaint.

5 119. Defendants currently lack information or belief sufficient to answer the allegations  
6 contained in this numbered paragraph 119 of the Third Amended Complaint, and therefore deny  
7 such allegations.

8 **FACTUAL BACKGROUND RELATING TO DAKOTA'S DEATH**

9 120. Defendants lack information or belief sufficient to answer the allegations contained  
10 in this numbered paragraph 120 of the Third Amended Complaint, and therefore deny such  
11 allegations.

12 121. Defendants deny each and every allegation contained in this numbered paragraph  
13 121 of the Third Amended Complaint.

14 122. Defendants lack information or belief sufficient to answer the allegations contained  
15 in this numbered paragraph 122 of the Third Amended Complaint, and therefore deny such  
16 allegations.

17 123. Defendants deny any inference that the \$600 did not constitute a donation.  
18 Defendants currently lack information or belief sufficient to answer the remaining allegations  
19 contained in this numbered paragraph 123 of the Third Amended Complaint, and therefore deny  
20 such allegations.

21 124. Defendants currently lack information or belief sufficient to answer the allegations  
22 contained in this numbered paragraph 124 of the Third Amended Complaint, and therefore deny  
23 such allegations.

24 125. Defendants currently lack information or belief sufficient to answer the allegations  
25 contained in this numbered paragraph 125 of the Third Amended Complaint, and therefore deny  
26 such allegations.

27 126. Defendants currently lack information or belief sufficient to answer the allegations  
28

0107167199

1 contained in this numbered paragraph 126 of the Third Amended Complaint, and therefore deny  
2 such allegations.

3 127. Defendants currently lack information or belief sufficient to answer the allegations  
4 contained in this numbered paragraph 127 of the Third Amended Complaint, and therefore deny  
5 such allegations.

6 128. Defendants admit the allegations contained in the first sentence of this numbered  
7 paragraph 128 of the Third Amended Complaint. Defendants also admit that one \$200 donation  
8 was paid directly to the veterinarian whom Plaintiff Warner indicated was the veterinarian treating  
9 the puppy she adopted from The Wylder Foundation. Defendants currently lack information or  
10 belief sufficient to answer the remaining allegations contained in this numbered paragraph 128 of  
11 the Third Amended Complaint, and therefore deny such allegations.

12 129. Defendants currently lack information or belief sufficient to answer the allegations  
13 contained in this numbered paragraph 129 of the Third Amended Complaint, and therefore deny  
14 such allegations.

15 130. Defendants currently lack information or belief sufficient to answer the allegations  
16 contained in this numbered paragraph 130 of the Third Amended Complaint, and therefore deny  
17 such allegations.

18 131. Defendants deny each and every allegation contained in this numbered paragraph  
19 131 of the Third Amended Complaint.

20 **FACTUAL BACKGROUND RELATING TO OLIVER**

21 132. Defendants admit that on December 8, 2015, Plaintiff Yasmin Waskow, who upon  
22 information and belief is the wife of Plaintiff Seth Waskow, visited the premises of Defendants  
23 Wylder's Sweet Shop, LLC and The Wylder Foundation. Defendants deny any remaining  
24 allegation contained in this numbered paragraph 132 of the Third Amended Complaint.

25 133. Defendants deny each and every allegation contained in this numbered paragraph  
26 133 of the Third Amended Complaint.

27 134. Defendants admit that Donovan was removed from Panorama Pet Hospital on  
28

01017021700

1 December 8, 2015 but deny any implication or allegation that Donovan was taken to the premises  
2 of Defendants Wylder's Sweet Shop, LLC and The Wylder Foundation on December 8, 2015.  
3 Defendants admit that Donovan tested negative for the Parvovirus on or about December 16, 2015;  
4 that Donovan was thereafter placed for adoption and that Donovan was adopted on or about  
5 December 24, 2015. Defendants deny each and every remaining allegation contained in this  
6 numbered paragraph 134 of the Third Amended Complaint.

7 135. Defendants deny any implication or allegation that Holden required treatment for  
8 the Parvovirus insofar as Defendants deny that Holden had contracted the Parvovirus. Defendants  
9 admit that Holden tested negative for the Parvovirus on or about December 16, 2015; that Holden  
10 was thereafter placed for adoption and that Holden was adopted on or about December 16, 2015.  
11 Defendants admit that Holden initially tested positive for the Parvovirus but deny any implication  
12 or allegation that Holden had actually contracted Parvovirus. Defendants deny each and every  
13 remaining allegation contained in this numbered paragraph 135 of the Third Amended Complaint.

14 136. Defendants deny any implication or allegation that Tristan required treatment for  
15 the Parvovirus insofar as Defendants deny that Tristan had contracted the Parvovirus. Defendants  
16 admit that Tristan tested negative for the Parvovirus on or about December 16, 2015; that Tristan  
17 was thereafter placed for adoption and that Tristan was adopted on or about December 17, 2015.  
18 Defendants admit that Tristan initially tested positive for the Parvovirus but deny any implication  
19 or allegation that Tristan had actually contracted Parvovirus. Defendants deny each and every  
20 remaining allegation contained in this numbered paragraph 136 of the Third Amended Complaint.

21 137. The first sentence of this numbered paragraph 137 of the Third Amended Complaint  
22 is unintelligible. Defendants thus lack information or belief sufficient to answer the allegations  
23 contained in the first sentence of this numbered paragraph 137 of the Third Amended Complaint,  
24 and therefore deny such allegations. Defendants also currently lack information or belief sufficient  
25 to answer the allegations contained in the second sentence of this numbered paragraph 137 of the  
26 Third Amended Complaint, and therefore deny such allegations. Defendants deny each and every  
27 remaining allegation contained in this numbered paragraph 137 of the Third Amended Complaint.  
28

1 138. Defendants currently lack information or belief sufficient to answer the allegations  
2 contained in this numbered paragraph 138 of the Third Amended Complaint, and therefore deny  
3 such allegations.

4 139. Defendants currently lack information or belief sufficient to answer the allegations  
5 contained in this numbered paragraph 139 of the Third Amended Complaint, and therefore deny  
6 such allegations.

7 **FIRST CAUSE OF ACTION**

8 **(Negligent Misrepresentation Against All Defendants)**

9 Defendants adopt and reallege their responses to paragraphs 1 through 125 of the Third  
10 Amended Complaint.

11 140. Defendants deny each and every allegation contained in this numbered paragraph  
12 140 of the Third Amended Complaint.

13 141. Defendants deny each and every allegation contained in this numbered paragraph  
14 141 of the Third Amended Complaint.

15 142. Defendants deny each and every allegation contained in this numbered paragraph  
16 142 of the Third Amended Complaint.

17 143. Defendants deny each and every allegation contained in this numbered paragraph  
18 143 of the Third Amended Complaint.

19 144. Defendants deny each and every allegation contained in this numbered paragraph  
20 144 of the Third Amended Complaint.

21 145. Defendants deny each and every allegation contained in this numbered paragraph  
22 145 of the Third Amended Complaint.

23 **SECOND CAUSE OF ACTION**

24 **(Intentional Misrepresentation Against All Defendants)**

25 Defendants adopt and reallege their responses to paragraphs 1 through 131 of the Third  
26 Amended Complaint.

27 146. Defendants deny each and every allegation contained in this numbered paragraph  
28

05/21/2016

1 146 of the Third Amended Complaint.

2 147. Defendants deny each and every allegation contained in this numbered paragraph  
3 147 of the Third Amended Complaint.

4 148. Defendants deny each and every allegation contained in this numbered paragraph  
5 148 of the Third Amended Complaint.

6 149. Defendants deny each and every allegation contained in this numbered paragraph  
7 149 of the Third Amended Complaint.

8 150. Defendants deny each and every allegation contained in this numbered paragraph  
9 150 of the Third Amended Complaint.

10 151. Defendants deny each and every allegation contained in this numbered paragraph  
11 151 of the Third Amended Complaint.

12 152. Defendants deny each and every allegation contained in this numbered paragraph  
13 152 of the Third Amended Complaint.

14 153. Defendants deny each and every allegation contained in this numbered paragraph  
15 153 of the Third Amended Complaint.

16 **THIRD CAUSE OF ACTION**

17 **(Concealment Against All Defendants)**

18 Defendants adopt and reallege their responses to paragraphs 1 through 139 of the Third  
19 Amended Complaint.

20 154. Defendants deny each and every allegation contained in this numbered paragraph  
21 154 of the Third Amended Complaint.

22 155. Defendants deny each and every allegation and pregnant implication contained in  
23 this numbered paragraph 155 of the Third Amended Complaint.

24 156. Defendants deny each and every allegation contained in this numbered paragraph  
25 156 of the Third Amended Complaint.

26 157. Defendants deny each and every allegation contained in this numbered paragraph  
27 157 of the Third Amended Complaint.  
28

08/29/2015

1 158. Defendants deny each and every allegation contained in this numbered paragraph  
2 158 of the Third Amended Complaint.

3 159. Defendants deny each and every allegation contained in this numbered paragraph  
4 159 of the Third Amended Complaint.

5 160. Defendants deny each and every allegation contained in this numbered paragraph  
6 160 of the Third Amended Complaint.

7 161. Defendants deny each and every allegation contained in this numbered paragraph  
8 161 of the Third Amended Complaint.

9 162. Defendants deny each and every allegation contained in this numbered paragraph  
10 162 of the Third Amended Complaint.

11 163. Defendants deny each and every allegation contained in this numbered paragraph  
12 163 of the Third Amended Complaint.

13 **FOURTH CAUSE OF ACTION**

14 **(Intentional Infliction of Emotional Distress Against All Defendants)**

15 Defendants adopt and reallege their responses to paragraphs 1 through 149 of the Third  
16 Amended Complaint.

17 164. Defendants deny each and every allegation contained in this numbered paragraph  
18 164 of the Third Amended Complaint.

19 165. Defendants deny each and every allegation contained in this numbered paragraph  
20 165 of the Third Amended Complaint.

21 166. Defendants deny each and every allegation contained in this numbered paragraph  
22 166 of the Third Amended Complaint.

23 **FIFTH CAUSE OF ACTION**

24 **(Negligent Infliction of Emotional Distress Against All Defendants)**

25 Defendants adopt and reallege their responses to paragraphs 1 through 152 of the Third  
26 Amended Complaint.

27 167. Defendants deny each and every allegation contained in this numbered paragraph  
28

08/12/2016

1 167 of the Third Amended Complaint.

2 168. Defendants deny each and every allegation contained in this numbered paragraph  
3 168 of the Third Amended Complaint.

4 169. Defendants deny each and every allegation contained in this numbered paragraph  
5 169 of the Third Amended Complaint.

6 170. Defendants deny each and every allegation contained in this numbered paragraph  
7 170 of the Third Amended Complaint.

8 **SIXTH CAUSE OF ACTION**

9 **(Unfair and Fraudulent Business Practices in**

10 **Violation of Cal. Bus. & Prof. Code §§17200 *et seq.* Against All Defendants)**

11 Defendants adopt and reallege their responses to paragraphs 1 through 156 of the Third  
12 Amended Complaint.

13 171. Defendants deny each and every allegation contained in this numbered paragraph  
14 171 of the Third Amended Complaint.

15 172. Defendants deny each and every allegation contained in this numbered paragraph  
16 172 of the Third Amended Complaint.

17 173. Defendants deny each and every allegation contained in this numbered paragraph  
18 173 of the Third Amended Complaint.

19 174. Defendants deny each and every allegation contained in this numbered paragraph  
20 174 of the Third Amended Complaint.

21 175. Defendants deny each and every allegation contained in this numbered paragraph  
22 175 of the Third Amended Complaint.

23 176. Defendants deny each and every allegation contained in this numbered paragraph  
24 176 of the Third Amended Complaint.

25 177. Defendants deny each and every allegation contained in this numbered paragraph  
26 177 of the Third Amended Complaint.

27 178. Defendants deny each and every allegation contained in this numbered paragraph  
28

0000000000

1 178 of the Third Amended Complaint.

2 179. Defendants deny each and every allegation contained in this numbered paragraph  
3 179 of the Third Amended Complaint.

4 **SEVENTH CAUSE OF ACTION**

5 **(Unlawful Business Practices in**

6 **Violation of Cal. Bus. & Prof. Code §§17200 et seq. Against All Defendants)**

7 Defendants adopt and reallege their responses to paragraphs 1 through 165 of the Third  
8 Amended Complaint.

9 180. Defendants deny each and every allegation contained in this numbered paragraph  
10 180 of the Third Amended Complaint.

11 181. Defendants deny each and every allegation contained in this numbered paragraph  
12 181 of the Third Amended Complaint.

13 182. Defendants deny each and every allegation contained in this numbered paragraph  
14 182 of the Third Amended Complaint.

15 183. Defendants deny each and every allegation contained in this numbered paragraph  
16 183 of the Third Amended Complaint.

17 184. Defendants deny each and every allegation contained in this numbered paragraph  
18 184 of the Third Amended Complaint.

19 185. Defendants deny each and every allegation contained in this numbered paragraph  
20 185 of the Third Amended Complaint.

21 186. Defendants deny each and every allegation contained in this numbered paragraph  
22 186 of the Third Amended Complaint.

23 **EIGHTH CAUSE OF ACTION**

24 **(False & Misleading Advertising in**

25 **Violation of Cal. Bus. & Prof. Code §§17500 et seq. Against All Defendants)**

26 Defendants adopt and reallege their responses to paragraphs 1 through 172 of the Third  
27 Amended Complaint.  
28

0011511016



1 187. Defendants deny each and every allegation contained in this numbered paragraph  
2 187 of the Third Amended Complaint.

3 188. Defendants deny each and every allegation contained in this numbered paragraph  
4 188 of the Third Amended Complaint.

5 189. Defendants deny each and every allegation contained in this numbered paragraph  
6 189 of the Third Amended Complaint.

7 190. Defendants deny each and every allegation contained in this numbered paragraph  
8 190 of the Third Amended Complaint.

9 191. Defendants deny each and every allegation contained in this numbered paragraph  
10 191 of the Third Amended Complaint.

11 192. Defendants deny each and every allegation contained in this numbered paragraph  
12 192 of the Third Amended Complaint.

13 193. Defendants deny each and every allegation contained in this numbered paragraph  
14 193 of the Third Amended Complaint.

15 194. Defendants deny each and every allegation contained in this numbered paragraph  
16 194 of the Third Amended Complaint.

17 **NINTH CAUSE OF ACTION**

18 **(Negligence and Negligence Per Se Against All Defendants)**

19 Defendants adopt and reallege their responses to paragraphs 1 through 180 of the Third  
20 Amended Complaint.

21 195. Defendants deny each and every allegation contained in this numbered paragraph  
22 195 of the Third Amended Complaint.

23 196. Defendants deny each and every allegation contained in this numbered paragraph  
24 196 of the Third Amended Complaint.

25 197. Defendants admit that The Wylder Foundation, Wylder's Sweet Shop, LLC and  
26 Wylder's Holistic Pet Center, Inc. are located in the City of Los Angeles. Defendants lack  
27 information or belief as to what it means for an individual to be "located" in the City of Los  
28

9101/01/00

1 Angeles and on that basis deny that Melissa Bacelar and Gail Bacelar are located in the City of Los  
2 Angeles. Defendants deny each and every remaining allegation contained in this numbered  
3 paragraph 197 of the Third Amended Complaint.

4 198. Defendants deny each and every allegation contained in this numbered paragraph  
5 198 of the Third Amended Complaint.

6 199. Defendants deny each and every allegation contained in this numbered paragraph  
7 199 of the Third Amended Complaint.

8 200. Defendants deny each and every allegation contained in this numbered paragraph  
9 200 of the Third Amended Complaint.

10 201. Defendants deny each and every allegation contained in this numbered paragraph  
11 201 of the Third Amended Complaint.

12 202. Defendants deny each and every allegation contained in this numbered paragraph  
13 202 of the Third Amended Complaint.

14 203. Defendants deny each and every allegation contained in this numbered paragraph  
15 203 of the Third Amended Complaint.

16 **TENTH CAUSE OF ACTION**

17 **(Injunctive Relief Against All Defendants)**

18 Defendants adopt and reallege their responses to paragraphs 1 through 189 of the Third  
19 Amended Complaint.

20 204. Defendants deny each and every allegation contained in this numbered paragraph  
21 204 of the Third Amended Complaint.

22 205. Defendants deny each and every allegation contained in this numbered paragraph  
23 205 of the Third Amended Complaint.

24 **PRAYER FOR RELIEF**

25  
26 Defendants deny the allegations contained in the Prayer For Relief section of the Third  
27 Amended Complaint. Defendants further deny that Plaintiffs are entitled to judgment against any  
28

9107167128

1 or all of the Defendants or to any relief whatsoever.

2 **FIRST AFFIRMATIVE DEFENSE**

3 (Failure to State a Claim)

4 1. The Third Amended Complaint, and each and every purported cause of action  
5 therein asserted against Defendants, fails to state facts sufficient to constitute a claim upon which  
6 relief may be granted.

7 **SECOND AFFIRMATIVE DEFENSE**

8 (Waiver)

9 2. Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.

10 **THIRD AFFIRMATIVE DEFENSE**

11 (Estoppel)

12 3. Plaintiffs' claims are barred, in whole or in part, by the doctrine of estoppel.

13 **FOURTH AFFIRMATIVE DEFENSE**

14 (Release)

15 4. Plaintiffs' claims are barred, in whole or in part, on the grounds and to the extent that  
16 they released their claims.

17 **FIFTH AFFIRMATIVE DEFENSE**

18 (Assumption of Risk)

19 5. Plaintiffs' claims are barred, in whole or in part, due to the Plaintiffs' voluntary  
20 assumption of risk.

21 **SIXTH AFFIRMATIVE DEFENSE**

22 (Unclean Hands)

23 6. Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands.

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 (Contributory and/or Comparative Negligence)

26 7. Plaintiffs' claims are barred, in whole or in part, by the doctrines of contributory  
27 and/or comparative negligence. Any alleged damages must be reduced in direct proportion to the  
28 percentage of fault attributable to others, including but not limited to Plaintiffs and third parties.

2107157180

1 **EIGHTH AFFIRMATIVE DEFENSE**

2 (Intervening or Superseding Causation)

3 8. Plaintiffs' claims are barred, in whole or in part, by the doctrine of intervening or  
4 superseding causation.

5 **NINTH AFFIRMATIVE DEFENSE**

6 (In Pari Delicto)

7 9. Plaintiffs' claims are barred, in whole or in part, by the doctrine of *in pari delicto*.

8 **TENTH AFFIRMATIVE DEFENSE**

9 (Failure to Mitigate)

10 10. Plaintiffs' claims are barred, in whole or in part, as a result of Plaintiffs' failure to  
11 mitigate their alleged damages, negligence and/or failure to exercise reasonable care and diligence.

12 **ELEVENTH AFFIRMATIVE DEFENSE**

13 (Speculative Damages)

14 11. Plaintiffs' claims are barred, in whole or in part, because their alleged damages, if  
15 any, are speculative.

16 **TWELFTH AFFIRMATIVE DEFENSE**

17 (Set-Off)

18 12. Plaintiffs' claims are barred, in whole or in part, by the doctrine of set-off.

19 **THIRTEENTH AFFIRMATIVE DEFENSE**

20 (Lack of Standing)

21 13. Plaintiffs' claims are barred, in whole or in part, on the grounds and to the extent that  
22 they lack standing to assert their claims.

23 **FOURTEENTH AFFIRMATIVE DEFENSE**

24 (Failure to Allege Class Action and/or to Meet Class Action Requirements)

25 14. Plaintiffs' claims are barred, in whole or in part, on the grounds and to the extent that  
26 they have failed to allege a representative action as a class action and/or to meet the requirements of  
27 a class action.

08/12/2016

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FIFTEENTH AFFIRMATIVE DEFENSE**

(Abstention)

15. Plaintiffs' claims are barred, in whole or in part, by the doctrine of abstention:

**SIXTEENTH AFFIRMATIVE DEFENSE**

(Punitive and Exemplary Damages Barred by Due Process Clause)

16. Plaintiffs' claims for punitive and exemplary damages against Defendants are barred by the Due Process Clause of the United States Constitution.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

(Conduct Not "Unlawful")

17. Plaintiffs' claims are barred, in whole or in part, on the grounds and to the extent that Defendants have complied with applicable statutes, ordinances and/or regulations.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

(Conduct Not "Fraudulent" Nor "Likely to Mislead")

18. Plaintiffs' claims are barred, in whole or in part, on the grounds and to the extent that Defendants' conduct was neither fraudulent nor likely to mislead the public.

**NINETEENTH AFFIRMATIVE DEFENSE**

(Regulatory Approval)

19. Plaintiffs' claims are barred, in whole or in part, on the grounds and to the extent that Defendants received regulatory approval for their conduct.

**TWENTIETH AFFIRMATIVE DEFENSE**

(Additional Affirmative Defenses)

20. Defendants reserve their right to assert additional affirmative defenses upon revelation of more definitive facts, and/or upon discovery and investigation in this matter.

05/15/18

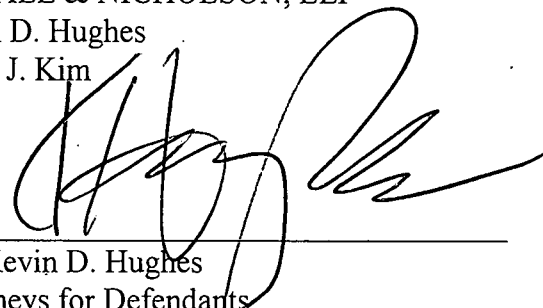
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

WHEREFORE, Defendants pray as follows:

1. That Plaintiffs take nothing by their Third Amended Complaint;
2. For Defendants' attorneys' fees and costs; and
2. For such other and further relief as the Court deems just and proper.

DATED: August 29, 2016

TISDALE & NICHOLSON, LLP  
Kevin D. Hughes  
Linda J. Kim

By:   
Kevin D. Hughes  
Attorneys for Defendants

08/29/16

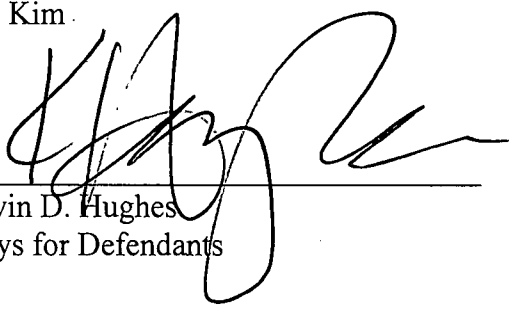
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**JURY DEMAND**

Defendants respectfully request a jury trial on all issues raised in the Third Amended Complaint.

DATED: August 29, 2016

TISDALE & NICHOLSON, LLP  
Kevin D. Hughes  
Linda J. Kim

By:   
Kevin D. Hughes  
Attorneys for Defendants

08/29/16

VERIFICATION

STATE OF CALIFORNIA ) ss  
COUNTY OF LOS ANGELES )

I have read the foregoing ANSWER TO VERIFIED THIRD AMENDED COMPLAINT and know its contents.


\_\_\_\_\_ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

XX I am XX an officer of Wylder's Holistic Pet Center, Inc., a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. X I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.    The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_ I am one of the attorneys for \_\_\_\_\_, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on August \_\_, 2016, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
\_\_\_\_\_  
Melissa Bacelar

91021621288



VERIFICATION

STATE OF CALIFORNIA ) ss  
COUNTY OF LOS ANGELES )

I have read the foregoing ANSWER TO VERIFIED THIRD AMENDED COMPLAINT and know its contents.

\_\_\_\_\_ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

XX I am XX an officer of The Wylder Foundation, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. X I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.    The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_ I am one of the attorneys for \_\_\_\_\_, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on August \_\_, 2016, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Melissa Bacelar

0107167180

VERIFICATION

STATE OF CALIFORNIA ) ss  
COUNTY OF LOS ANGELES )

I have read the foregoing ANSWER TO VERIFIED THIRD AMENDED COMPLAINT and know its contents.

XX I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_ I am \_\_\_\_\_ an officer \_\_\_\_\_ of a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. \_\_\_\_\_ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. \_\_\_\_\_ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_ I am one of the attorneys for \_\_\_\_\_, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on August \_\_\_, 2016, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
Melissa Bacelar

917767130

VERIFICATION

STATE OF CALIFORNIA ) ss  
COUNTY OF LOS ANGELES )

I have read the foregoing ANSWER TO VERIFIED THIRD AMENDED COMPLAINT and know its contents.

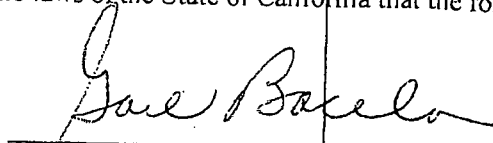
XX I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_ I am \_\_\_\_\_ an officer \_\_\_\_\_ of a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. \_\_\_\_\_ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. \_\_\_\_\_ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_ I am one of the attorneys for \_\_\_\_\_, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on August \_\_\_\_, 2016, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Gail Bacelar

9102/67/80

VERIFICATION

STATE OF CALIFORNIA ) ss  
COUNTY OF LOS ANGELES )

I have read the foregoing ANSWER TO VERIFIED THIRD AMENDED COMPLAINT and know its contents.

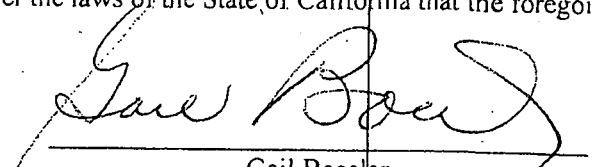
\_\_\_\_\_ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

XX I am XX an officer or owner of WYLDER'S SWEET SHOP, LLC, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. X I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.    The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

\_\_\_\_\_ I am one of the attorneys for \_\_\_\_\_, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on August \_\_, 2016, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
\_\_\_\_\_  
Gail Bacelar

08/28/16

PROOF OF SERVICE

STATE OF CALIFORNIA,  
COUNTY OF LOS ANGELES

I am employed in the aforesaid County, State of California; I am over the age of 18 years and not a party to the within action; my business address is 2029 Century Park East, Suite 900, Los Angeles, California 90067.

On August 29, 2016, I served the foregoing documents known as **ANSWER TO VERIFIED THIRD AMENDED COMPLAINT** on interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Kimberly A. Wright Attorneys for  
Law Office of Kimberly A. Wright Plaintiffs  
120 Tustin Ave., C-1033  
Newport Beach, CA 92663

Jill L. Ryther, Esq. Attorneys for  
Ryther Law Group Plaintiffs  
8560 West Sunset Blvd., Suite #500  
West Hollywood, CA 90069


Mathew K. Higbee, Esq. Attorneys for  
Higbee & Associates Plaintiffs  
1504 Brookhollow Dr., Suite #112  
Santa Ana, CA 92705

X BY MAIL

X As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

X (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 29, 2016, at Los Angeles, California.

  
Shawn Sato

9107/61738