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Electronically FILED by
Superior Court of California,
County of Los Angeles
1/29/2024 5:35 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By S. Bolden, Deputy Clerk

8 [Additional Counsel On Signature Page]

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES—UNLIMITED CIVIL**

11 **MELISSA BACELAR, an individual;**
12 **WAGMOR PETS, a California non-**
13 **profit corporation; WYLDER’S**
14 **HOLISTIC PET CENTER, INC. dba**
15 **THE WAGMOR, a Delaware**
16 **Corporation;**

17 Plaintiffs,

18 v.

19 **KIM SILL, aka KIMBERLY DAWN**
20 **DAWSON, an Individual; SHELTER**
21 **HOPE PET SHOP, Inc., a California**
22 **Non-Profit Corporation; MATT**
23 **FRIEDMAN, an Individual; FAITH**
24 **BALLIN, an Individual; and DOES 1**
25 **through 500, inclusive,**

26 Defendants.

Case No.: 24STCV01638

**OBJECTION TO NOTICE OF RELATED
CASE**



I. INTRODUCTION

Class Action Plaintiffs Talia [REDACTED]n, Nathan [REDACTED], and Kristen [REDACTED] (together, the “Class Action Plaintiffs”) through their respective counsel submit this Objection to the Notice of Related Case filed by Melissa Bacelar, Wagmor Pets, and Wylder’s Holistic Pet Center, Inc. d/b/a The Wagmor (together, the “Wagmor”), which was served on Class Action Plaintiffs on January 23, 2024.¹ For the reasons set forth below, Wagmor’s Notice of Related Case, which seeks to relate a class action for unfair business practices (Case No. 22STCV20771, the “Class Action”) to this newly filed and unrelated defamation case (Case No. 24STCV01638, the “Defamation Case”), should be denied in its entirety.

II. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

On June 24, 2022, Class Action Plaintiffs filed the Class Action on behalf of themselves and all other similarly situated persons within the state of California against Wagmor to challenge Wagmor’s business practices of advertising and selling dogs in violation of California law. As alleged in the now operative First Amended Complaint (“FAC”), filed on December 29, 2022, Class Action Plaintiffs contend Wagmor’s actions violate: (1) California’s Unfair Competition Law, Bus. & Prof. Code § 17200, *et seq.* (“UCL”); (2) California’s False Advertising Law, Bus. & Prof. Code § 17500, *et seq.* (“FAL”); (3) California’s Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.* (“CLRA”); and constitute (4) Intentional Misrepresentation and Fraud; (5) Negligent Misrepresentation, and (6) Unjust Enrichment. The Class Action is deemed Complex according to Rule 3.400 of the California Rules of Court, and Class Action Plaintiffs paid the complex filing fee. *See* July 6, 2022 Order (“By this order, the Court determines this case to be Complex.”).

The factual underpinnings of the Class Action center around various misrepresentations concerning the origin and health of dogs sold by Wagmor, and Wagmor’s alleged failure to comply with Health and Safety Code § 122354.5. As alleged in the FAC, Health and Safety Code § 122354.5 only permits a retailer to provide space for the display of dogs, cats or rabbits for adoption if the animals are displayed by a public animal control agency, shelter or animal rescue group. *See* FAC, ¶¶ 2, 38. A rescue group providing these types of animals for adoption must have tax-exempt status under § 501(c)(3) of the Internal Revenue Code and it must not have obtained animals in exchange for payment from any person. *Id.* ¶¶ 2, 36. In January of 2021, California expanded Health and Safety Code § 122354.5 to add the additional requirements that dogs, cats and rabbits displayed for adoption

¹ Pursuant to rule 3.300(g), Class Action Plaintiffs have filed this objection “in all pending cases listed in the notice.”

1 shall: (1) be sterilized and (2) have an adoption fee that does not exceed \$500. FAC ¶¶ 4-5. On March
2 23, 2023, Wagmor filed a demurrer to the FAC, which Class Action Plaintiffs opposed on April 14,
3 2023. On May 1, 2023, the Court issued an order overruling Wagmor’s demurrer in its entirety. The
4 parties engaged in written discovery in the Class Action from July of 2023 to December of 2023. The
5 Class Action is currently stayed until February 23, 2024, with discovery deadlines resuming on March
6 1, 2024. The Court set a Status Conference for March 5, 2024 in the Class Action.

7 On January 22, 2024, Wagmor filed the Defamation Case against four completely unrelated
8 persons/entities. The allegations in the Defamation Case, based on Class Action Plaintiffs’ counsel’s
9 review of the Complaint and the Notice of Related Case, are based on alleged defamatory statements
10 made online during January of 2024—which occurred over a year and a half *after* the Class Action
11 case was filed.

12 **III. THE CLASS ACTION CASE AND THE DEFAMATION CASE ARE NOT RELATED**

13 Wagmor improperly seeks to relate the Class Action with this entirely unrelated Defamation
14 Case that fails to meet any of the four enumerated criteria set forth by the California Rules of Court.
15 Indeed, these two actions: (1) do not involve the same parties or claims, (2) do not arise from the
16 same event, (3) do not involve claims against the same property, and (4) will not require duplication
17 of judicial resources if heard by a different judge. As a result, the Court should decline to relate these
18 two separate actions and issue an order finding that the Class Action and the Defamation Case are not
19 related within the meaning of California Rules of Court, rule 3.300(a).

20 California Rules of Court, rule 3.300 governs related cases and provides that:

21 A pending civil case is related to another pending civil case . . . if the
22 cases: (1) Involve the same parties and are based on the same or similar
23 claims; (2) Arise from the same or substantially identical transactions,
24 incidents, or events requiring the determination of the same or
25 substantially identical questions of law or fact; (3) Involve claims
26 against, title to, possession of, or damages to the same property; or (4)
27 Are likely for other reasons to require substantial duplication of judicial
28 resources if heard by different judges.

See California Rule of Court, rule 3.300(a) (emphasis added).

First, the Class Action and the Defamation Case do not “[i]nvolve the same parties and are
[not] based on the same or similar claims.” See *id.* Indeed, the Class Action case was filed by named
Class Action Plaintiffs ([REDACTED]) on behalf of a California
class against Melissa Bacelar, Wagmor Pets, and Wylder’s Holistic Pet Center, Inc. d/b/a The
Wagmor. The Defamation Case, on the other hand, was filed by Melissa Bacelar, Wagmor Pets, and
Wylder’s Holistic Pet Center, Inc. d/b/a The Wagmor against defendants Kim Sill, Shelter Hope Pet

1 Shop, Inc., [REDACTED]. These third-party defendants are not included, nor
 2 mentioned, in the Class Action FAC. In Attachment 1h to the Notice of Related Case, Wagmor
 3 includes a purported basis for the Defamation Case and the Class Action to be related. However, a
 4 review of the Complaint filed in the Defamation Case demonstrates that such summary includes
 5 factual assertions that are *not* alleged in the Defamation Case Complaint. Namely, the allegations in
 6 the first and second paragraphs of Attachment 1h (which Class Action Plaintiffs dispute are true) are
 7 not at issue in the Defamation Case Complaint. And former counsel for Class Action Plaintiffs
 8 Kimberly [REDACTED] (who withdrew from the Class Action on November 1, 2022) is also not named in
 9 the Defamation Case as a party or *even mentioned at all* in that Complaint. As a result, the only
 10 overlap among the parties in these two cases is Melissa Bacelar, Wagmor Pets, and Wylder’s Holistic
 11 Pet Center, Inc. d/b/a The Wagmor.

12 Additionally, the Class Action and the Defamation Case do not involve the same or similar
 13 claims. The named Class Action Plaintiffs each purchased a puppy from Wagmor in April of 2022.
 14 *See* FAC, ¶¶ 59, 80. The allegations in the Class Action are tied to whether Wagmor made
 15 misrepresentations in connection with the origin, labeling, advertising, marketing, promotion, and
 16 sale of dogs, and whether Wagmor violated the \$500 statutory cap on adoption in connection with the
 17 sale of dogs, thereby violating Health & Safety Code § 122354.5. *See, e.g., id.* at ¶ 104 (Common
 18 Questions of Law and Fact Predominate). The Defamation Case involves false statements purportedly
 19 made by unrelated third parties in January of 2024 concerning the alleged stalking of a minor by
 20 Wagmor. *See* paragraphs 3-6 in Attachment 1h to the Notice of Related Case; *see also*, Defamation
 21 Case Complaint filed on January 22, 2024, at ¶¶ 11-15. Simply put, *none of the allegations in the*
 22 *Defamation Case have any relation or nexus to the claims in the Class Action.*

23 Second, the claims in the Class Action and the Defamation Case do not “[a]rise from the same
 24 or substantially identical transactions, incidents, or events requiring the determination of the same or
 25 substantially identical questions of law or fact.” California Rule of Court, rule 3.300(a). As noted
 26 above, the facts giving rise to these two actions occurred nearly two years apart, involve completely
 27 different parties, and have no overlap of fact or law. *Compare* Defamation Case Complaint filed on
 28 January 22, 2024, at ¶¶ 11-15 *with* at FAC at ¶ 104. Whether these unknown third-party defendants
 in the Defamation Case indeed made defamatory statements about Wagmor in January of 2024 has
 no bearing on whether Class Action Plaintiffs can certify the proposed class in the Class Action, and
 whether Wagmor will be found to have violated the UCL, FAL, CLRA; engaged in intentional
 misrepresentation, fraud, and negligent misrepresentation; and were unjustly enriched.

Third, these two actions do no “[i]nvolve claims against, title to, possession of, or damages to



1 the same property.” California Rule of Court, rule 3.300(a). Indeed, the Defamation Case seeks
2 damages for the alleged defamatory statements in an amount that exceeds \$100,000. Defamation Case
3 Complaint, at ¶ 17. Whereas Class Action Plaintiffs in the Class Action are seeking equitable relief,
4 declaratory relief, injunctive relief, actual damages, punitive damages, and attorneys’ fees and costs
5 on behalf of themselves and those similarly situated as a result of Wagmor’s unfair and unlawful
6 business practices. *See* FAC, Prayer for Relief.

7 Fourth, should these cases not be deemed related, it would not “require substantial duplication
8 of judicial resources if heard by different judges.” California Rule of Court, rule 3.300(a). Indeed,
9 these two actions involve different parties and claims, seek different relief, require different
10 discovery, and are at vastly different procedural stages. As such there is no reason that these cases
11 cannot be heard by two different judges.

12 Additionally, the Class Action has been deemed complex under Rule 3.4000, which means
13 the Court has determined that this action “requires exceptional judicial management to avoid placing
14 unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and
15 promote effective decision making by the court, the parties, and counsel.” *See* California Rules of
16 Court, rule 3.400(a). While, based on Class Action Plaintiffs’ counsel’s review of the publicly
17 available docket, the Defamation Case has not been deemed complex—nor could it likely meet the
18 factors set forth in California Rules of Court, rule 3.400(b).

19 **IV. CONCLUSION**

20 In sum, the Court should decline to relate these two separate actions and issue an order finding
21 that the Class Action and the Defamation Case are not related within the meaning of California Rules
22 of Court, rule 3.300(a).

23 Dated: January 29, 2024

24 Respectfully submitted,

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ATTORNEYS FOR CLASS ACTION PLAINTIFFS
CASE No.: 22STCV20771

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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Kazerouni Law Group, APC, 245 Fischer Avenue, Suite D1, Costa Mesa, CA 92626. On January 29, 2024, I served the within document(s):

• **OBJECTION TO NOTICE OF RELATED CASE**

- EMAIL - by transmitting electronically via email the document(s) listed above to counsel of record on this date before 11:59 p.m.

Steven A. Schuman, Esq.
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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 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 29, 2024, at Costa Mesa, California.



Pamela E. Prescott

