

IN THE CIRCUIT COURT IN AND FOR
THE ELEVENTH JUDICIAL CIRCUIT,
MIAMI-DADE COUNTY, FLORIDA

CASE NO:

11-38180CA02

JENNIFER PAPA; PHILIP MICHAS;
KAREN LELAND; MICHELLE LEE;
MICHAEL ULERY; SHELLY
ERICKSON, et al.,

Plaintiffs,

vs.

PUREBRED BREEDERS, LLC, a Florida limited
liability company; and JASON M. HALBERG, a
Florida resident,

Defendants.

THE ORIGINAL FILED
ON NOV 15 2011
IN THE OFFICE OF
CIRCUIT COURT DADE CO. FL
CIVIL DIVISION

COMPLAINT

Plaintiffs, JENNIFER PAPA; PHILIP MICHAS; KAREN LELAND; MICHELLE LEE;
MICHAEL ULERY; SHELLY ERICKSON; KENNETH MAGEE; KELLIE DOYLE; NICOLE
SAIA; MATTHEW ALLSUP; and KATE BONNER sue the Defendants, PUREBRED
BREEDERS, LLC, a Florida limited liability company, and JASON M. HALBERG, a Florida
resident, and allege:

NATURE OF THE CASE

1. This case seeks to end the unlawful and deceptive practices of Purebred Breeders, LLC, and Jason M. Halberg relating to the marketing and sale of sick puppies from sub-standard breeders to consumers in Florida and across the nation, and recover monies for the plaintiffs, all of whom were victimized by the Defendants' unscrupulous conduct. The plaintiffs include members of The Humane Society of the United States. As detailed

below, Defendants intentionally deceive consumers into believing the puppies they sell come only from quality, responsible breeders and are healthy and well-adjusted, while they know that, instead, many of the puppies they sell come from large-scale, unsanitary, and inhumane breeding facilities frequently referred to as “puppy mills” and, as a result, often suffer from various ailments, including some very serious, life-threatening ailments, when they arrive at the purchaser’s home. By misrepresenting the puppies they sell as healthy and the breeders they associate with as responsible and ethical, Defendants are able to sell many thousands of puppies annually, at a tremendous profit, to the detriment of plaintiffs and other consumers, in violation of Florida law.

JURISDICTION AND PARTIES

2. This is an action for damages and injunctive relief, which is within the original jurisdiction of this Court pursuant to section 26.012.
3. Plaintiff Jennifer Papa is an individual over 18 years of age and is a resident of Chatham, New Jersey.
4. Plaintiff Karen Leland is an individual over 18 years of age and is a resident of Tequesta, Florida.
5. Plaintiff Philip Michas is an individual over 18 years of age and is a resident of Salt Lake City, Utah.
6. Plaintiff Michelle Lee is an individual over 18 years of age and is a resident of Crown Point, Indiana.
7. Plaintiff Michael Ulery is an individual over 18 years of age and is a resident of San Jose, California.

8. Plaintiff Shelly Erickson is an individual over 18 years of age and is a resident of Hermantown, Minnesota.
9. Plaintiff Kenneth Magee is an individual over 18 years of age and is a resident of Ann Arbor, Michigan.
10. Plaintiff Kate Bonner is an individual over 18 years of age and is a resident of Coral Gables, Florida.
11. Plaintiff Nicole Saia is an individual over 18 years of age and is a resident of Harrisburg, Pennsylvania.
12. Plaintiff Matthew Allsup is an individual over 18 years of age and is a resident of Harrisburg, Pennsylvania.
13. Plaintiff Kellie Doyle is an individual over 18 years of age and is a resident of Chicago, Illinois.
14. Defendant PUREBRED BREEDERS, LLC, ("PBB") is a Florida limited liability company with its principal place of business at 5722 S. Flamingo Road, #254, Cooper City, Florida 33330. PBB's registered agent is Tony Pornprinya, Esq., 10800 Biscayne Blvd., #988, Miami, Florida 33161.
15. Defendant JASON M. HALBERG, a Florida resident, owns the controlling interest in Defendant PBB. At all times material, Defendant HALBERG dominated the activities of Defendant PBB to the extent that PBB manifested no separate corporate interest of its own, but functioned solely to achieve the purposes of Defendant HALBERG.
16. Venue of this action is proper in Miami-Dade County because each of the Plaintiffs entered into contracts with Defendant PBB that specify "jurisdiction for litigation arising

out of or related to this contract shall lie exclusively in Miami-Dade County.” (See Exhibit A, Terms and Conditions of Sale Agreement).

GENERAL ALLEGATIONS

17. Defendant PBB and its owner, JASON M. HALBERG, are in the business of selling puppies over the internet. Defendants never take possession of the puppies they sell—they broker deals between customers looking to purchase puppies with breeders looking to sell puppies. Once PBB closes a sale, the breeder ships the puppy directly to the customer. However, Defendants severely restrict communication between the buyers and the breeders, preferring to control all communication with the customers. On information and belief, Defendants sell approximately 1200 to 1400 puppies every month to customers throughout the United States, including Florida, and Canada, at a mark-up of approximately one hundred to two hundred per cent per puppy. On information and belief, PBB is the largest volume seller of puppies over the internet in the country.
18. PBB and HALBERG are “pet dealers” under section 828.29(13), Florida Statutes, because they, in the ordinary course of business, engage in the sale of more than 20 dogs per year to the public.

A. Defendants’ Misrepresentations

19. As a means to induce customers to purchase puppies from Defendants at a premium price, Defendants make several misrepresentations on their website <http://purebredbreeders.com>, including the following:

- a. As shown below, Defendants represent that PBB is a “devoted group of dog breeders offering only the best purebred puppies for sale from across America” and holds itself out to consist of “America’s Top Breeders.”



- b. Defendants represent that “Purebred Breeders is a network of responsible and professional dog breeders. . . . We have established a thorough screening process that each breeder must go through before we accept them into our network. Once accepted, our Breeder Department stays in consistent contact with the breeders to guarantee they continue to follow our stringent policies. We do this to assure our families that no matter when they choose their new addition, they can be confident they will receive a happy and healthy puppy.”
<http://purebreedbreeders.com/about/>, last visited November 3, 2011.

- c. Defendants claim to have a strict policy of screening breeders before allowing them into their “network” and selling their dogs: “Our nationwide network of professional dog breeders upholds our commitment to responsible breeding by adhering to our Code of Ethics. We have created an intense screening process that each breeder must go through before we accept them into our network If

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accepted as a Purebred Breeder, our Breeder Department stays in constant contact with the breeders to guarantee they continue to follow our stringent policies. We do this to assure our families that no matter when they choose their new addition, they can be confident they will have a happy, healthy puppy join their family.”

<http://purebreedbreeders.com/about/breeder-screening-process/>, *last visited* November 3, 2011.

d. Defendants represent that they “fight against” and do not associate with puppy mills: “Puppy mills produce puppies with no breeding programs in place. Little attention is paid to puppy placement, health, and socialization practices. Conditions in puppy mills are generally substandard. Both puppies and adult dogs may be malnourished, sickly, and may have poor temperaments. We at Purebred Breeders constantly review and assess our procedures and protocols for screening and monitoring breeders. We do everything possible to ensure that we only represent professional and responsible breeders. Our organization has a Zero Tolerance Policy for breeders who do not follow any item in our code of ethics.” <http://purebreedbreeders.com/about/>, *last visited* November 3, 2011.

e. Defendants represent that they require breeders to maintain a “strict code of ethics,” which includes, *inter alia*, promises to:

- maintain a safe, clean, and sanitary facility for all pets;
- comply with all federal, state or provincial, and local government laws and regulations concerning the keeping of dogs that I breed;
- breed only for the purpose of improving the quality of the breed;

- follow all AAHA standards and protocols for properly vaccinating and deworming all litters;
- properly socialize puppies on a daily basis with family and other pets; and
- provide all new dog owners with appropriate health certificates and vaccination records within 24 hours of puppy delivery and all registration paperwork within 60 days.

f. Defendants further represent: “Our breeders properly vaccinate and deworm each puppy following AAHA guidelines; this nationwide organization has developed a standard of care recognized by all veterinarians. Every puppy is examined by a licensed veterinarian approximately 48 hours before their departure. The exam includes a thorough check of the entire puppy including eyes, ears, respiratory and circulatory system, orthopedic exam and an intestinal parasite screen.” <http://purebreedbreeders.com/about/health-check/>, *last visited* November 3, 2011. They claim to “provide all our breeders with a comprehensive health evaluation report that has been carefully created by our In-house veterinarian. Our breeders are required to take this report to their vet for completion as part of the comprehensive health check required before the puppy's departure.” <http://purebreedbreeders.com/guarantee/>, *last visited* November 3, 2011.

20. These representations grossly misstate the facts.

a. In reality, Defendants do not offer “only the best purebred puppies for sale,” nor do they have an “intense screening process” for breeders, or do “everything possible to ensure that [they] only represent professional and responsible breeders.” On the contrary, far from having a “Zero Tolerance Policy” for

irresponsible breeders, Defendants regularly sell dogs from breeders who are known to have a history of violating federal and state animal welfare laws, and, on information and belief, continue to do business with breeders who have sold numerous sick puppies to PBB customers. Defendants broker puppies from whatever breeders they can find, without proper screening and without ensuring the puppies are healthy or responsibly bred and raised. In short, despite their assurances to the contrary, Defendants do indeed sell puppies from puppy mills across the country, and cannot ensure that a customer's puppy will arrive "happy and healthy."

- b. A puppy mill has been defined as: "a dog breeding operation in which the health of the dogs is disregarded in order to maintain a low overhead and maximize profits." *Avenson v. Zegart*, 577 F. Supp. 958, 960 (D. Minn. 1984). Puppy mills are large-scale dog breeding operations tantamount to an assembly line manufacturing process in which female dogs are bred at every opportunity without sufficient recovery time between litters.
- c. In a puppy mill, breeding females and their puppies are often confined to small wire cages, sometimes exposed to the elements, twenty-four hours a day, seven days a week, all year-round. The cages are frequently stacked upon one another in columns to conserve space and allow easy access to the dogs, and so the puppy mill can maximize its number of breeding females, and therefore, its production of puppies. The cages are frequently floored with wire mesh to facilitate waste removal and cleanup without regard for the health and well-being of either the

puppies or their mother, whose feet often fall through the space between the wires, leading to a slew of joint and foot problems.

- d. The conditions at these breeding facilities are often unsanitary and overcrowded, and the dogs are frequently not provided with adequate veterinary care, food, water, exercise or mental stimulation and socialization, as these all involve money and staff time. As a result of these conditions and a disregard for proper canine husbandry practices, puppies whelped at these sub-standard facilities are highly prone to debilitating and life threatening conditions, such as parvovirus, distemper, congenital and hereditary conditions, giardia, kennel cough, pneumonia, heart disease, and intestinal parasites – many of the conditions suffered by the dogs purchased by the plaintiffs.
- e. Proper husbandry practices would significantly reduce the congenital and/or hereditary conditions since discontinuing the breeding of a sire and/or dam will prevent the passing of the condition exhibited by those dogs to the puppy. Similarly, the unsanitary conditions of a puppy mill in which the puppies are bred and live the first approximately eight weeks of life result in pervasive illness and disease, which can be remedied by breeding puppies in a humane, sanitary environment. These conditions are the byproducts of breeding at puppy mills.
- f. On information and belief, Defendants regularly do business with numerous breeders who exhibit all of the hallmarks of puppy mills.
- g. For example, on information and belief, Defendants have sold over sixty dogs from a breeder in Arkansas named Edna Hanegan. Ms. Hanegan's breeding facility had over 90 adult breeding dogs as of the last inspection conducted by the

