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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **IN AND FOR THE COUNTY OF SAN MATEO**

12 STEFAN ZIER, an individual; and TERRIE
13 PEACOCK, an individual,

14 Plaintiffs.

15 v.

16 PETSMART, INC., a Delaware
17 Corporation; JUAN ZARATE, an
individual; and DOES 1 through 25,
18 inclusive.

19 Defendants.

CASE NO.

16 C I V 0 2 4 9 0

COMPLAINT FOR:

- 1) NEGLIGENCE;
- 2) NEGLIGENCE PER SE;
- 3) NEGLIGENT HIRING,
SUPERVISION, AND RETENTION;
- 4) TRESPASS TO CHATTELS;
- 5) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS

JURY TRIAL DEMANDED

ENDORSED FILED
SAN MATEO COUNTY

NOV 22 2016

Clerk of the Superior Court
By JORDAN MAXWELL
DEPUTY CLERK

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COMPLAINT

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1 Plaintiffs **STEFAN ZIER** (“**STEFAN**”) and **TERRIE PEACOCK** (“**TERRIE**”)
2 (hereinafter, “**PLAINTIFFS**”) bring this action, by and through their attorneys, for damages
3 against Defendants **PETSMART, INC.** (“**PETSMART**”), **JUAN ZARATE** (“**ZARATE**”), and
4 **DOES 1 through 25**, inclusive, (hereinafter, “**DEFENDANTS**”), and each of them.

5 **PLAINTIFFS** hereby complain of the **DEFENDANTS**, and each of them, as follows:

6 **I. INTRODUCTION**

7 1. This action arises out of the negligent, reckless and/or unlawful conduct of
8 **PETSMART** and the willful conduct of its employee and groomer, **ZARATE**, wherein **ZARATE**
9 intentionally and knowingly killed a beloved one year old, long-haired, pure-bred dachshund puppy
10 named Henry Peacock, who weighed only eleven and a half pounds and was entrusted to
11 **PETSMART** and **ZARATE**’s care for a nail trim that turned tragic within a matter of minutes when
12 **ZARATE** emerged from the grooming station to where he knew Henry’s owners and parents,
13 Plaintiffs **STEFAN** and **TERRIE**, were earnestly waiting for the return of their Henry, shouting and
14 holding Henry’s limp body, which was struggling for every breath and foaming blood at the mouth.
15 Thereafter, **ZARATE** took Henry to the onsite veterinary, while his parents waited in extreme agony
16 and distress after the horror they had just witnessed. Henry died moments later on May 15, 2016 at
17 or around 4:45 p.m. at the **PETSMART** store located at 3520 S. El Camino Real, San Mateo,
18 California.



28 Henry



Henry (middle) with his brother, Tony, and his sister, Bella

2. The number of incidents since 2009 where pets have sustained serious injury or death while in the care of **PETSMART** groomers is alarming. **PETSMART**'s directors, officers, and/or managing agents had knowledge that pets were sustaining serious, sometimes fatal, injuries while being groomed at **PETSMART** prior to Henry's death, but failed to take measures to eliminate and/or minimize such injury and harm to pets, including but not limited to, improving groomer training, supervision, and/or certification. This is despite being the sole trainer, supervisor, and "safety certifier" of its own groomers. In the meantime, **PETSMART** spent millions of dollars advertising itself as a company that cares deeply for pets, using the well-known slogan: "Where pets are family."

3. As a direct and foreseeable consequence of the wrongful conduct and/or omissions of **DEFENDANTS**, and each of them, **PLAINTIFFS** sustained serious emotional injuries, as well as economic losses, as set forth below.

///

1 **II. JURISDICTION AND VENUE**

2 4. This Court has jurisdiction over this matter pursuant to Code of Civil Procedure §395,
3 because, at all times relevant, **DEFENDANTS**, and each of them, resided in and/or did business in
4 the State of California and the events which combined to produce the injuries sustained by
5 **PLAINTIFFS** occurred in the County of San Mateo, State of California.

6 5. Venue is proper in the County of San Mateo because a substantial part of the events,
7 acts, omissions, and/or transactions complained of herein occurred in and/or originated from San
8 Mateo County, State of California. The amount in controversy exceeds the jurisdiction minimum of
9 this court.

10 **III. PARTIES**

11 **A. Plaintiffs**

12 6. Plaintiff **STEFAN ZIER** (“**STEFAN**”) is a natural person who is, and at all times
13 relevant to this claim was, a resident of Capitola, California. **STEFAN** was the co-owner of Henry,
14 who he acquired in California, and he also suffered the injuries and damage complained of herein in
15 California.

16 7. Plaintiff **TERRIE PEACOCK** (“**TERRIE**”) is a natural person who is, and at all
17 times relevant to this claim was, a resident of the City of San Mateo, California. **TERRIE** was the
18 co-owner of Henry, who she acquired in California, and she also suffered the injuries and damage
19 complained of herein in California.

20 **B. Defendants**

21 8. Plaintiffs are informed and believe, and thereon allege, that Defendant **PETSMART,**
22 **INC.** (“**PETSMART**”) is, and at all times relevant to this claim was, a corporation doing business
23 in the County of San Mateo, State of California, organized and existing under the laws of the State
24 of Delaware, with its principal place of business located at 19601 N. 27th Avenue, Phoenix, Arizona
25 85027. **PETSMART** dominates the retail pet industry, including grooming and boarding services
26 for pets, being recently named by Forbes as the forty-eighth largest privately-held company in the
27
28

1 United States with 53,000 employees nationwide and reporting annual revenue for 2015 of
2 approximately \$7 billion.¹

3 9. Plaintiffs are informed and believe, and thereon allege, that Defendant JUAN
4 ZARATE (“ZARATE”) is, and at all times relevant to this claim was, an individual who resided in
5 San Francisco, California. At all times relevant to this claim, ZARATE was employed by
6 PETSMART and serving as an agent, representative, employee, and/or joint venture with
7 PETSMART.

8 **C. Other Defendants**

9 10. The true names and capacities, whether individual, corporate, associate or otherwise
10 of the Defendants DOES 1 through DOES 25, inclusive, are unknown to Plaintiffs who therefore
11 sue said Defendants by such fictitious names pursuant to Code of Civil Procedure § 474; Plaintiffs
12 further allege that each of said fictitious Defendants is in some manner responsible for the acts and
13 occurrences hereinafter set forth. Plaintiffs will amend this Complaint to show their true names and
14 capacities when the same are ascertained, as well as the manner in which each fictitious Defendant
15 is responsible.

16 **D. Agency & Concert of Action**

17 11. At all times herein mentioned, Defendants, and each of them, hereinabove, were the
18 agents, servants, employees, partners, aiders and abettors, co-conspirators, and/or joint venturers of
19 each of the other Defendants named herein and were at all times operating and acting within the
20 purpose and scope of said agency, service, employment, partnership, enterprise, conspiracy, and/or
21 joint venture, and each Defendant has ratified and approved the acts of each of the remaining
22 Defendants. Each of the Defendants aided and abetted, encouraged, and rendered substantial
23 assistance to the other Defendants in breaching their obligations to Plaintiffs, as alleged herein. In
24 taking action to aid and abet and substantially assist the commission of these wrongful acts and other
25 wrongdoings complained of, as alleged herein, each of the Defendants acted with an awareness of
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28 ¹ “America’s Largest Private Companies: #48 PetSmart”, Forbes.com (2016) available at:
<http://www.forbes.com/companies/PetSmart/>.

1 his/her/its primary wrongdoing and realized that his/her/its conduct would substantially assist the
2 accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

3 **IV. FACTUAL BASIS FOR THE CLAIMS ASSERTED**

4 **A. ABOUT HENRY**

5 12. **TERRIE** and **STEFAN** owned three dachshunds prior to Henry's unfortunate
6 death—all chestnut colored, pure-bred dachshunds. Bella was the eldest at seven years of age. Tony
7 was the middle pet at six years old, and Henry was the youngest, being just one years old.

8 13. Without children together, **TERRIE** and **STEFAN** cared for and loved their three
9 dachshunds as children.

10 14. The bond between Henry and **TERRIE** was especially close because Henry suffered
11 from pneumonia as a newborn, and **TERRIE** spent countless loving hours nursing him back to
12 health.

13 **B. HENRY'S DEATH**

14 15. On Sunday, May 15, 2016, at or around 4:45 p.m., **STEFAN** entered the
15 **PETSMART** location at 1320 S. El Camino Real, San Mateo, California, with Tony and Henry on
16 leashes. **TERRIE** had run home with the couple's third dog, Bella, to quickly drop off items and
17 then meet **STEFAN** at **PETSMART**.

18 16. **STEFAN** requested a nail trim for each of the dogs. Before allowing any of the dogs
19 to be serviced by a **PETSMART** groomer, **STEFAN** inquired as to how the groomer would trim
20 the nails, showing obvious concern for the care and treatment of his pets. **ZARATE**, the assigned
21 **PETSMART** groomer, strongly recommended that the dogs' nails be filed with a dremel tool.

22 17. **ZARATE** first took Tony, the middle dachshund, for a nail trim. After five minutes,
23 **ZARATE** emerged, showing signs of agitation, and retorted, "He was a feisty one!" **ZARATE** then
24 mentioned how Tony was "all-over the place," had nipped at **ZARATE** and urinated on him, which
25 was out of character for Tony who was known to be a docile and friendly dog with no known prior
26 instances of violent or biting conduct.

1 18. Next up was Henry. At or around the same time, **TERRIE** arrived with Bella and
2 witnessed **STEFAN** and **ZARATE** exchanging dogs. **ZARATE** marched off to the groomer station
3 with Henry to trim his nails.

4 19. Approximately three minutes later, **STEFAN** and **TERRIE** heard a shout come from
5 the direction of the grooming station, and **ZARATE** emerged carrying a limp Henry resting on his
6 forearm and shouting, “Medical emergency – we have a medical emergency!”

7 20. Instead of taking Henry directly from the grooming station to Banfield Pet Hospital
8 (“Banfield”), which is located inside **PETSMART**, **ZARATE** brought Henry to **STEFAN** and
9 **TERRIE**, holding Henry in front of them. Henry’s body was limp with blood foaming out of his
10 mouth as he struggled for every breath. With each breath, more bright red foamy blood escaped from
11 the corners of his mouth, all to the fright and horror of his parents.

12 21. Without speaking any words to **STEFAN** or **TERRIE**, **ZARATE** then walked Henry
13 over to Banfield.

14 22. The receptionist at Banfield informed **STEFAN** and **TERRIE** that the veterinarian
15 was going to attempt a procedure to remove blood from Henry’s lungs, but soon thereafter, Henry
16 died.

17 23. Based on the Banfield veterinarian’s report, Henry suffered two broken ribs and a
18 punctured lung as a result of **ZARATE**’s mistreatment.

19 24. **ZARATE** was arrested that same day for felony animal abuse.

20 25. Following the incident, **STEFAN** and **TERRIE** have been at a complete loss,
21 suffering severe emotional distress as result of being present and seeing Henry’s injury—his body
22 limp, foaming blood from the mouth, and struggling to stay alive, all of which **ZARATE** forced
23 them to witness.

24 C. **PETSMART ADVERTISES SAFE, PROFESSIONAL, AND CARING TREATMENT OF**
25 **PETS**

26 26. The well-known slogan for **PETSMART** is: “**Where pets are family.**”

27 27. **PETSMART**’s website advertises: “**PETSMART** grooming salon **professional,**
28 **academy-trained** pet stylists at your service. At our Grooming Salon, **dogs and cats receive**

1 **hands-on care from academy-trained, safety-certified pet stylists** dedicated to making them look
2 good and feel great.”² Adding: **“Our groomers – qualified to pamper. Dedicated to pets. Your**
3 **pet is in great, caring hands at our salons.”** *Id.*

4 28. PETSMART’s website advertises: “Hands-On Care For Dogs & Cats. At
5 PETSMART, we provide the best in pet services. **Our trained, pet-loving associates are devoted**
6 **to the well-being of all pets.**”³

7 29. The PETSMART website homepage also has a “lives saved” count in the upper right
8 hand corner, and of course the “lives” it is referring to is the lives of pets, like Henry.

9 30. PETSMART’s mission statement reads: “Whether it’s finding the right pet, the best
10 food or the perfect toy, signing up for training and grooming sessions, checking into a PetsHotel, or
11 taking home a newly adopted dog or cat, we have the answers. We’re PETSMART.”

12 31. In 2015 alone, PETSMART spent \$112.9 million on measured media in the U.S.
13 promoting its brand and services.⁴

14 **D. PETSMART TRAINS GROOMERS AT PETSMART GROOMING ACADEMY**

15 32. According to the job description on the PETSMART website, a pet stylist is “an
16 integral part of our grooming salons, **our Pet Stylists (Groomers) work with Pet Parents to**
17 **provide expert styling services to keep pets healthy, happy, and looking great!**”⁵

18 33. Further, PETSMART trains its groomers: “Pet Stylists **undergo extensive training**
19 **in our Grooming Academy**, where they learn proper styling techniques and how to select
20 appropriate services for each pet.” (*Id.*)

21 34. The PETSMART website claims **“we ensure that each professional pet stylist is**
22 **qualified to care for your pet. Academy-trained stylists complete over 800 hours of hands-on**
23

24 ² <http://pets.PetSmart.com/services/grooming/> (accessed on 11/15/2016).

25 ³ http://pets.PetSmart.com/services/?ab=us_hp_services_0531&_ga=1.115849218.503473502.1466288601 (accessed
26 on 11/15/2016).

27 ⁴ June 9, 2016. “Animals Go Shopping in PetSmart’s ‘The Secret Life of Pets’ Campaign.” AdvertisingAge.
28 Retrieved from [http://adage.com/article/cmo-strategy/pets-shopping-PetSmart-s-secret-life-of-pets-](http://adage.com/article/cmo-strategy/pets-shopping-PetSmart-s-secret-life-of-pets-campaign/304364/#nav-mobile)
[campaign/304364/#nav-mobile](http://adage.com/article/cmo-strategy/pets-shopping-PetSmart-s-secret-life-of-pets-campaign/304364/#nav-mobile).

⁵ PetSmart job board available at:
https://wfa.kronostm.com/index.jsp?seq=allLocations&applicationName=PetSmartNonReqExt&locale=en_US&showAllLocations=true&EVENT=com.deploy.application.hourly.plugin.LocationSearch.doSearch (accessed on
11/15/2016).

1 **instruction and safety certification**, working with at least 200 dogs of all breeds and sizes. Because
2 **we pride ourselves on having the highest safety standards in the industry**, PETSMART requires
3 every salon associate to be safety certified annually.”⁶

4 35. The PETSMART career website, where a job seeker can look for a job as a pet
5 groomer a.k.a. “stylist” reads fairly similar, except the number of training hours is only half what is
6 represented to consumers on the “services” portion of the website:

7 **Our PETSMART Grooming Academy** ensures each PetStylist is qualified to care for pets.
8 When you sign up for our Grooming Academy, **you'll complete a 12-week course that**
9 **includes over 400 hours of supervised technical and safety training. Because we pride**
10 **ourselves on having the highest safety standards in the industry, PETSMART requires**
11 **every dog and cat groomer to be safety certified every year.** After completing the
12 academy, you'll emerge as a qualified groomer with knowledge in:

- 11 Canine anatomy
- 12 **Proper tool usage**
- 13 Breed profiling and breed standards
- 14 Body Contour Trims including Guard Combs
- 15 Sporting Trims
- 16 Hand-scissor Trims
- 17 **Terriers: Short/Long-legged Trims**⁷

18 36. There is no government agency or regulatory body that administers an annual safety
19 certification of pet groomers, and therefore, on information and belief, PETSMART creates,
20 administers, and/or implements the safety certification of its groomers.

21 37. PETSMART only pays its groomers a mere \$8.00 to \$15.00/hour.⁸

22 **E. PETSMART KNEW GROOMERS WERE SERIOUSLY INJURING PETS AND FAILED**
23 **TO FIX THE PROBLEM**

24 38. The infliction of serious injury or death to pets in the care of PETSMART groomers
25 has been reported through the media and consumer protection agencies for years. The incidences of
26 serious injury or death also occur within PETSMART stores and under the care of PETSMART
27 employees, indicating PETSMART’s full knowledge and awareness of the problem. Since
28 PETSMART groomers are trained and certified through PETSMART, PETSMART also has

⁶ http://www.petsmart.com/pet-services/faqs/grooming-faqs.html#page_name=grooming&link_section=faq&link_name=read&start_date=10-3-2016&end_date (accessed on 11/15/2016).

⁷ <https://careers.PetSmart.com/career-opportunities/> (accessed on 11/11/2016).

⁸ http://www.payscale.com/research/US/Employer=PetSmart_Inc./Hourly_Rate (accessed on 11/15/2016).

1 control over the means of reducing serious injury or death to pets while being groomed. Despite such
2 knowledge, awareness, and means of control, **PETSMART** failed to fix and/or address the problem.
3 Instead, **PETSMART** continued to advertise itself as a company that cared about a consumer's pet
4 like it was "family," and that all groomers were extensively and adequately trained and certified to
5 provide professional and safe care to pets.

6 39. Consumeraffairs.com has recorded numerous reports of pets being seriously injured
7 and/or killed while in the care of **PETSMART**. The reports span **PETSMART** locations around the
8 country and date back to 2010—approximately six years before Henry's death.

9 40. Consumer reports to Consumeraffairs.com regarding injury and/or death include, but
10 are not limited to, the following:

- 11 a. On April 27, 2010, a customer reported witnessing a groomer slap and yell at her
12 dog after the dog yelped from having its nails cut too short.
- 13 b. On March 16, 2011, a customer reported she had to take her dog to the emergency
14 room after her dog was cut and bruised at **PETSMART**.
- 15 c. On August 2, 2012, a customer reported her dog sustained a torn cruciate ligament
16 while being groomed at **PETSMART**.
- 17 d. On August 24, 2012, a customer reported that both of her dog's ears were badly
18 cut and dripping blood after being in the care of **PETSMART**.
- 19 e. On March 18, 2013, a customer reported witnessing a **PETSMART** groomer
20 drag her dog away and whack the dog's head on a swinging door while another
21 groomer roughly grab a dog's leg and slam it down on a table.
- 22 f. On April 1, 2014, a customer reported her dog died while getting a nail trim by a
23 groomer at **PETSMART**.
- 24 g. On April 5, 2014, a customer reported her dog was acting erratic after returning
25 from the **PETSMART** groomers. A veterinarian determined the dog had been
26 "hit in the face very hard."

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- h. On May 11, 2014, a customer reported her dog sustained an eye injury while in the care of **PETSMART**. A veterinarian determined the injury was from blunt force trauma.
- i. On June 22, 2014, a customer reported a **PETSMART** groomer shaved her dog down to his skin, causing hot spots all over his body, in addition to cutting his penis.
- j. On January 20, 2015, a customer reported her dog was nearly shaved bald, could barely walk, and sustained an injury to its knees while being groomed at **PETSMART**.
- k. On January 20, 2015, a customer reported that her dog was killed by **PETSMART** groomers when receiving a haircut by two groomers who were holding the dog in a head lock and suffocated the dog.
- l. On February 7, 2015, a customer reported witnessing her dog fall off of the **PETSMART** grooming table and hang by the loop of the harness around its neck.
- m. On March 22, 2015, a customer reported that their dog died within 45 minutes of being left with a **PETSMART** groomer, who had stated "I hope this dog doesn't give me a hard time, I've had a bad day" just prior to taking the dog.
- n. On March 24, 2015, a customer reported two of her dogs were injured while being groomed at **PETSMART**. One dog had the tip of its tongue cut off, and the other sustained a cut in the corner of its eye, narrowly missing the dog's eyeball.
- o. On March 27, 2015, a customer reported her dog received cuts to its legs while being groomed at **PETSMART**.
- p. On April 8, 2015, a customer reported abusive behavior she witnessed at **PETSMART**, including groomers swearing at dogs, yanking on them, carelessly dragging them around while knocking the dogs' heads into cabinets, and blowing high velocity dryers into crates to get the dogs to stop barking.
- q. On June 5, 2015, a customer reported her dog sustained a serious cut to its leg, requiring emergency treatment and three stitches. The customer apparently filed

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- a police report and contacted **PETSMART** corporate, but never received a response.
- r. On June 22, 2015, a customer reported his dog's toe was broken during a **PETSMART** grooming session.
 - s. On July 15, 2015, a customer reported her dog's testicles were cut in two places, in addition to a cut on the ear during a **PETSMART** grooming session, requiring nine stitches on his testicles and four stitches on his ear.
 - t. On July 25, 2015, a customer reported her dog sustained a serious cut while being groomed at **PETSMART**.
 - u. On August 7, 2015, a customer reported her dog sustained a hairline fracture of one of its toes, causing the dog to limp, while receiving a nail trim by **PETSMART** groomers.
 - v. On August 12, 2015, a customer reported her dog sustained cuts to its chest and ear while being groomed at **PETSMART**.
 - w. On August 22, 2015, a customer reported their dog sustained a strained shoulder injury in the care of a **PETSMART** groomer. The customer subsequently complained to the store manager and corporate office.
 - x. On September 9, 2015, a customer reported her dog suffered multiple cuts while being groomed at **PETSMART**.
 - y. On October 8, 2015, a customer reported she witnessed a **PETSMART** groomer berate a dog, shove it twice, and then grab the dog and pull it's hair out, making the dog yelp in pain.
 - z. On December 19, 2015, a customer reported her dog's ear was badly cut during a **PETSMART** grooming session and needed to be glued together.
 - aa. On December 30, 2015, a customer reported her dog was cut during a **PETSMART** grooming session and required stitches.
 - bb. On January 8, 2016, a customer reported his dog was being groomed at **PETSMART** when he sustained a bad cut to his paw, requiring surgery.

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- cc. On March 7, 2016, a customer reported she witnessed her dog fall off of a table and hang by a restraint around its neck, while being groomed at **PETSMART**.
- dd. On March 21, 2016, a customer reported their dog's nails were cut so short during a **PETSMART** grooming session that the dog bled all over the backseat of the customer's vehicle on the way home.
- ee. On April 7, 2016, a customer reported his cat suffered a damaged trachea during a **PETSMART** grooming session, resulting in two lost teeth.
- ff. On May 3, 2016, a customer reported her dog's tail was bent and broken while being groomed at **PETSMART**.
- gg. On May 9, 2016, a customer reported that immediately following a grooming session at **PETSMART**, his previously healthy dog was barely able to walk, had difficulty eating, and developed a fever. The dog was found dead by its owner less than two weeks later.
- hh. On May 17, 2016, a customer reported that a **PETSMART** groomer cut his dog's genitalia while the dog was being groomed.
- ii. On May 21, 2016, a customer reported a **PETSMART** groomer cut her dog's ear in half, lied about it, and kept her dog from her for hours as the **PETSMART** staff allegedly tried to cover up their mistake.
- jj. On May 26, 2016, a customer reported a **PETSMART** groomer "scalped" her dog, leaving it without any fur. According to a veterinarian, the dog was bleeding under its skin and died from its injuries.
- kk. On June 25, 2016, a customer reported their dog sustained an injury to her pancreas during a grooming session at **PETSMART**, leading to an infection which spread out of control and required the dog be put down.
- ll. On July 30, 2016, a customer reported **PETSMART** groomers cut her dog's neck. The veterinarian described the cut as "not deep enough to see [the dog's] organs, but it's close."

1 mm. On August 16, 2016, a customer reported witnessing a **PETSMART** groomer
2 roughly pulling on a dog's head, jerking it around, and yelling at the dog.

3 41. Four separate incidents of dogs being seriously injured or killed while in the care of
4 **PETSMART** groomers are also reported on the People for the Ethical Treatment of Animals
5 (PETA) website. In three of the incidents, the dog died while receiving such routine services as a
6 bath or nail trim.⁹

7 42. There have also been at least six instances reported by the press, dating back to 2009,
8 where pets were allegedly killed by **PETSMART** groomers.¹⁰

9 43. In fact, less than two months after the death of Henry, a six-year old Chihuahua
10 tragically died at the end of a 5-minute routine nail trim at a **PETSMART** in Campbell, California.¹¹

11 **V. CAUSES OF ACTION**

12 **FIRST CAUSE OF ACTION**
13 **NEGLIGENCE**
14 **(Against All Defendants)**

15 44. **PLAINTIFFS** re-allege and incorporate by reference each and every paragraph
16 above as though fully set forth herein.

17 45. Defendant **ZARATE** negligently, carelessly, recklessly, and/or unlawfully groomed,
18 styled, and/or provided nail trimming, shaving, cutting, dremeling, and/or filing services, so as to
19 cause Henry's death, resulting in the complete destruction of **PLAINTIFFS'** property.

20 ⁹ <http://www.peta.org/issues/companion-animal-issues/companion-animals-factsheets/veterinary-malpractice-grooming-accidents/> (accessed on 11/15/2016).

21 ¹⁰ [1] P, Cheryl. (March 14, 2015). "PetSmart Dog Death: Bulldog 'Bubba' Chokes to Death During Routine Nail Trim." *Inquisitr*. Retrieved from <http://www.inquisitr.com/1924027/PetSmart-dog-death-bubba-chokes-to-death-during-routine-nail-trim/>;

22 [2] Farris, J. (February 5, 2015). "Family says pug died after trip to PetSmart for grooming." *Lehigh Valley News*. Retrieved from <http://www.wfmz.com/news/news-regional-lehighvalley/family-says-pug-died-after-trip-to-PETSMART-for-grooming/31118748>;

23 [3] (June 25, 2013) "Trouble at PetSmart...Mysterious Death of Beloved Dog at Pet Store Chain." Retrieved from <http://www.care2.com/news/member/443892238/3601174>;

24 [4] Romero, D. (April 9, 2012). "Puppy Strangled at PetSmart, LA. Lawsuit Alleges: PHOTOS." *LA Weekly*. Retrieved from <http://www.laweekly.com/news/puppy-strangled-at-PetSmart-la-lawsuit-alleges-photos-2398739>;

25 [5] Larson, K. (March 2009) "Dog Dies After PetSmart Grooming." Fetch The Paper. Retrieved from http://www.krislarsonwriting.com/i/archives/Kris_Larson_PetSmart_Death.pdf;

26 [6] Morrison, S. "Dog owner sues PetSmart after grooming incident." *Roanoke Times*. Retrieved from http://www.roanoke.com/news/dog-owner-sues-PetSmart-after-grooming-incident-article_26d74475-efcb-5c6f-971d-1024ea77dbf2.html?mode=print.

27 ¹¹ See Gary, J. (June 2016) "Dog Dies After Grooming Appointment at Campbell PetSmart." *KTVU*. Retrieved from <http://www.ktvu.com/news/167535647-story>.

1 loved pet and/or be forced to perceive and/or witness the infliction of serious injury and/or death to
2 a well-loved pet. The officers, directors and/or managing agents of **PETSMART** had complete
3 control over groomer training, supervision, retention, and safety certification, including but not
4 limited to, the number of training hours required, the type of training (whether it be hands-on or
5 classroom based), the curriculum for training, who administers the training, evaluation and/or testing
6 during the training process, the rubric for determining aptitude, the process to obtain annual safety
7 certification, the requirements to be certified, evaluation of whether an employee meets those
8 requirements, and/or whether an employee is certified. Despite having this complete control, the
9 officers, directors, and/or managing agents of **PETSMART** intentionally chose to not spend
10 necessary funds for assessing, evaluating, fixing, addressing and/or improving the way grooming
11 services are provided so as to eliminate the problem, including but not limited to improving training,
12 supervision, retention, and/or safety certification of groomers. Instead, **PETSMART** chose to spend
13 funds on marketing itself as a company that exercises the utmost care and safety when servicing the
14 beloved pets of consumers. The failure not to fix the problem foreseeably and predictably led to
15 well-loved pets being severely injured and/or killed, in addition to pet owners and consumers being
16 forced to perceive and/or witness the infliction of serious injury and/or death to a pet. The wrongful
17 acts and/or omissions of **PETSMART**, as herein set forth, were made, adopted, approved,
18 authorized, endorsed and/or ratified by their officers, directors or managing agents, and were done
19 maliciously, oppressively, fraudulently and/or with a willful and knowing disregard of the probable
20 dangerous consequences for the health and safety of **PLAINTIFFS** and their community. Such
21 action was done with malice, oppression and/or fraud and was and is despicable, shocking and
22 offensive and entitles the **PLAINTIFFS** to an award of punitive damages against **PETSMART** in
23 an amount to be determined at trial.

24 **FOURTH CAUSE OF ACTION**
25 **TRESPASS TO CHATTELS**
26 **(Against All Defendants)**

27 60. **PLAINTIFFS** re-allege and incorporate by reference each and every paragraph
28 above as though fully set forth herein.

1 67. As a direct and legal result of the wrongful conduct and/or omissions of
2 **DEFENDANTS**, and each of them, **PLAINTIFFS** suffered, and continue to suffer, the injuries and
3 damages hereinabove set forth.

4 68. In doing the wrongful and intentional act as herein alleged, Defendant **ZARATE**,
5 acted with oppression, fraud, and malice and with conscious and willful disregard for the health,
6 safety and general welfare and rights of **PLAINTIFFS**. Such action was done with malice,
7 oppression and/or fraud and was and is despicable, shocking and offensive and entitles
8 **PLAINTIFFS** to an award of punitive damages against Defendant **ZARATE** in an amount to be
9 determined at trial.

10 **VI. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray that this Court enter judgment in their favor on every claim
12 for relief set forth above and award them relief including, but not limited to, the following:

- 13 1. For general damages in an amount according to proof at trial, and beyond the
14 jurisdictional minimum of this Court;
- 15 2. For economic losses, in an amount according to proof at trial;
- 16 3. For repair, depreciation, and/or replacement of damaged, destroyed, and/or lost
17 personal property;
- 18 4. For interest upon any judgment entered as provided by law;
- 19 5. For costs of suit herein included;
- 20 6. For punitive/exemplary damages; and
- 21 7. For such other and further relief as the Court may deem just and proper.

22
23
24 Dated: November 21, 2016

COTCHETT, PITRE & McCARTHY, LLP

25
26 By: 
27 ALISON E. CORDOVA
28 Attorneys for Plaintiffs


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VII. JURY DEMAND

Plaintiff demand trial by jury on all issues so triable.

Dated: November 21, 2016

COTCHETT, PITRE & McCARTHY, LLP

By: 
ALISON E. CORDOVA
Attorneys for Plaintiffs