

EXHIBIT B

IN THE CIRCUIT COURT, SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.:
DIVISION:

ROBYNE NEWELL,

Plaintiff,

CLASS REPRESENTATION

vs.

PETSMART, INC., a Foreign
For-Profit Corporation

Defendant.

CLASS ACTION COMPLAINT

Plaintiff, ROBYNE NEWELL similarly situated in Florida, by and through her undersigned counsel, hereby files this Class Action Complaint, against Defendant, PETSMART, INC. (hereinafter referred to as "PetSMART" or "Defendant"), and in support thereof alleges as follows:

I. PARTIES, JURISDICTION AND VENUE

1. This is a class action for damages pursuant to Florida Rule of Civil Procedure 1.220(b) in excess of Thirty Thousand Dollars (\$30,000.00) exclusive of interest, costs and attorney's fees.

2. Plaintiff is an individual consumer over the age of eighteen, who resides in Broward County Florida. Plaintiff seeks injunctive relief and damages on behalf of Plaintiff and the Class, and respectfully requests a jury trial on damage claims.

3. Defendant is a foreign for-profit corporation, doing business in Broward County, Florida.

4. Venue for this action properly lies in Broward County, Florida, pursuant to the provisions of Section 47.051, Fla. Stat. and Chapter 501.207 et seq. Fla. Stat. because Defendant transacts business in Broward County, Florida and the transactions out of which this action arose occurred in Broward County, Florida.

5. There is not federal jurisdiction of this Action under the Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119 Stat. 4 (2005), which explicitly provides for the original jurisdiction of the Federal Courts of any class action in which any member of the plaintiff class is a citizen of a state different from any Defendant, and in which the matter in controversy exceeds in the aggregate the sum of \$5,000,000.00, exclusive of interest and costs. The issue at hand does not exceed this requisite amount.

IV. FACTUAL ALLEGATIONS

6. On or about April 23, 2020, Plaintiff purchased Only Natural Pet Hemp Calming Support, listed as containing 60 Hemp Soft Chews (hereinafter also referred to as “Product”), from PETSMAART located at 1700 N. Federal Highway, Fort Lauderdale, Florida. A copy of the receipt is attached hereto as **Exhibit “A.”**

7. The Product had not been altered between manufacture and point of sale. A photograph of the Product’s packaging is attached hereto as composite **Exhibit “B.”**

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8. The front of the Product's packaging states: "Powerful blend of hemp seed, chamomile & magnesium" and that it contains "Soft Chews for Dogs." See Exhibit "B."

9. The back of the Product's packaging states:

- "Hemp Seed Oil Balanced source of Omega 3 & 6 supports healthy brain function."
- "Chamomile & Lemon Balm Natural herbs effectively help to relieve stress and anxiety."
- "Theanine Promotes relaxation and balanced behavior without drowsiness."
- "Magnesium Supports the nervous system and promotes a healthy response to stress. See Exhibit "B."

10. The back of the packaging, provides dosage instructions based on the weight of the dog and also states: "Use to manage stressful situations like vet or groomer visits, road trips, thunderstorms and separation anxiety." See Exhibit "B."

11. The product is also advertised on Defendant's website at: <https://www.petsmart.com/dog/dental-care-and-wellness/treatments/only-natural-pet-hemp-calming-support-soft-dog-chews-5296089.html>.

12. Screenshots of Defendant's website advertising and marketing the Product to consumers is attached hereto as composite **Exhibit "C."**

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13. Defendant's website also advertises and represents that the Product contains chews that "are used to manage stressful situations like vet or groomer visits, road trips, thunderstorms and separation anxiety." See Ex. "C."

14. Defendant's website also advertises and represents that the "**Health Consideration**" for which the Product is designed and intended for are "Calming, Stress & Anxiety Relief." See Ex. "C."

15. The Product's packaging, as well as Defendant's advertising and marketing of the Product, makes clear that the Product's contents are intended to treat, mitigate, or prevent disease and/or are intended to affect the structure or any function of the body; specifically, to provide calming, stress and anxiety relief to dogs.

16. At all material times, Defendant, Petsmart, was a retailer selling, marketing, and distributing the Product.

17. The Product, according to its explicit advertising, marketing, labeling and packaging, is clearly intended mitigate, treat, or prevent disease in animals, and therefore are drugs within the meaning of section 201(g)(1)(B) of the FD&C Act, 21 U.S.C. 321(g)(1)(B).

18. Additionally, the Product, according to its explicit advertising, marketing, labeling and packaging, is a "new animal drugs" under section 201(v) of the FD&C Act, 21 U.S.C. 321(v), because it is not the subject of a final FDA regulation published through notice and comment rulemaking finding that the drug has been generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of animal drugs, as safe

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