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Attorneys for Defendant Hillary Goldberg

NJ PUPPY STORE t/a WAYNE PUPPIES,
Plaintiff,

v.

TOWNSHIP OF TEANECK; CURTIS
CAVINESS, Chief Registered Environmental
Health Specialist and Health Department
Township Manager, and HILLARY
GOLDBERG

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

Docket No.: BER-L-001240-23

Civil Action

**NOTICE OF MOTION TO DISMISS
PURSUANT TO RULE 4:6-2(e)**

TO: **THE MILUN LAW FIRM, LLC**

Ryan Milun, Esq.

20 Commerce Drive, Suite 135

Cranford, New Jersey 07016

Attorneys for Plaintiff

PLEASE TAKE NOTICE that, May 26, 2023 at 9:00 in the forenoon, or as soon thereafter as counsel may be heard, the undersigned, counsel for defendant Hillary Goldberg (“Defendant”), will move before the Honorable Robert M. Vinci, J.S.C., Superior Court of New Jersey, Law Division – Bergen County Courthouse, 10 Main Street Hackensack, New Jersey 07601, for an Order dismissing the pleadings of the plaintiff NJ Puppy Store t/a Wayne Puppies *with prejudice* for failure to state a claim upon which relief can be granted pursuant to N.J. Court Rule 4:6-2(e).

PLEASE TAKE FURTHER NOTICE that, in support of the motion, Plaintiff shall rely on the Certification of Hillary Goldberg, submitted herewith.

PLEASE TAKE FURTHER NOTICE that submits this Motion pursuant to *Rule 1:6* and that a proposed form of Order is annexed hereto.

PLEASE TAKE FURTHER NOTICE that the undersigned requests oral argument in the event opposition is filed.

PLEASE TAKE FURTHER NOTICE that the discovery deadline for this matter is June 12, 450 days from the date of the first Answer submitted on behalf of defendants Township of Teaneck and Curtis Caviness.

COYLE & MORRIS LLP

Attorneys for Defendant Hillary Goldberg

By: *s/ John D. Coyle*

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Dated: April 25, 2023

CERTIFICATION OF SERVICE

I hereby certify that, on the below date, I caused to be served a copy of the within Notice of Motion and all supporting documents, via eCourts and electronic mail, upon counsel of record for the defendants, as follows:

THE MILUN LAW FIRM, LLC

Ryan Milun, Esq.

20 Commerce Drive, Suite 135

Cranford, New Jersey 07016

Attorneys for Plaintiff

By: s/ John D. Coyle

John D. Coyle

Dated: April 25, 2023

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Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

Docket No.: BER-L-001240-23

Civil Action

**ORDER DISMISSING COMPLAINT
AGAINST DEFENDANT HILLARY
GOLDBERG PURSUANT TO RULE
4:6-2(e)**

THIS MATTER having been opened to the Court on the motion of defendant Hillary Goldberg (“Defendant”), by and through her attorney, John D. Coyle, Esq., for an Order pursuant to *Rule* 4:6-2(e) dismissing the Complaint of plaintiff NJ Puppy Store t/a Wayne Puppies (“Plaintiff”), by and through its attorney Ryan Milun, Esq., having opposed the motion; and the Court having considered the papers in support of and in opposition to the motion, and having considered the arguments of counsel, if any; and good cause having been shown;

IT IS on this ____ day of _____, 2023, **ORDERED** that:

1. The motion to dismiss Complaint of Defendant Hillary Goldberg is hereby
GRANTED;
2. Plaintiff’s Complaint against Defendant Hillary Goldberg is hereby
DISMISSED;
3. The filing of the within Order on the eCourts platform shall constitute service
of same upon the parties.

Hon. Robert M. Vinci J.S.C.

_____ OPPOSED

_____ UNOPPOSED

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Attorneys for Defendant

NJ PUPPY STORE t/a WAYNE PUPPIES

Plaintiff,

v.

TOWNSHIP OF TEANECK, CURTIS
CAVINESS, CHIEF REGISTERED and
HEALTH DEPARTMENT TOWNSHIP
MANAGER, and HILLARY GOLDBERG

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

DOCKET NO.: BER-L-001240-23

DEFENDANT HILLARY GOLDBERG'S MOTION TO DISMISS

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On the Brief:

John D. Coyle

Lili J. Caparosa

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PRELIMINARY STATEMENT

Defendant Hillary Goldberg hereby submits this brief in support of her motion to dismiss the Complaint of plaintiff NJ Puppies t/a Wayne Puppies (“Plaintiff” or “Wayne Puppies”). Wayne Puppies filed a Complaint against Hillary Goldberg alleging: 1) defamation; 2) tortious interference with contractual relations; and 3) tortious interference with a prospective economic advantage. Even drawing all reasonable inferences in the Complaint in favor of Wayne Puppies, the allegations fail to state valid claims against Hillary Goldberg and this Complaint must be dismissed as to the claims asserted against her.

This Complaint is a baseless attempt to hold Ms. Goldberg liable because Wayne Puppies was ultimately unable to persuade the relevant municipal authorities from the Township of Teaneck to allow Wayne Puppies to circumvent the clear regulatory prohibition on the sales of animals in the Township. Ms. Goldberg, a concerned resident of Teaneck exercised her First Amendment Right to political speech and asked fellow concerned residents to let their elected officials know about their opinions.

Wayne Puppies’ entire premise here is a pretense. It admits that it cannot sell animals in Teaneck, but does so in Wayne. The rejected sham “showroom” in Teaneck would direct customers to Wayne to legally buy animals. Much like someone who tries to get around prohibition on illegal sales by “selling” someone an empty bag that just happens to be gratuitously filled at checkout, Teaneck officials rejected Wayne Puppies’ shell game here. Importantly for the purposes of this motion, Ms. Goldberg did not reject Wayne Puppies’ application. If this was an improper exercise of their regulatory authority, which we dispute, Wayne Puppies could have filed an action *in lieu* of prerogative writs. But it did not do so for the obvious reason that nothing Teaneck did was improper. And thus, nothing that Wayne Puppies claims Ms. Goldberg did

caused any of the harm that Plaintiff alleges.

While this is a motion to dismiss, Plaintiff's complaint makes various references to, and purportedly quotes from, the change.org petition ("Petition") that Ms. Goldberg created, and thus, the actual text of the Petition is properly reviewable by this Court here. An examination of the actual text of the Petition reveals that while the Complaint uses "quotation marks" to falsely claim that Ms. Goldberg made the statements alleged in the Complaint about Wayne Puppies. In reality Ms. Goldberg's Petition does nothing more than explain what a puppy mill is and then inform Teaneck residents of Wayne Puppies' attempt to finesse their way around the ordinance prohibiting the sale of dogs and cats. The Petition encourages Teaneck residents to adopt dogs and puppies rather than purchase them from a pet store. Not only does Ms. Goldberg have a First Amendment right to petition the government and encourage fellow Teaneck residents to petition against the town's attempt to bypass its own ordinance. Ms. Goldberg also has the First Amendment right to share her opinion that people should adopt dogs rather than shop for dogs.

Further, Plaintiff's Complaint sets forth claims of tortious interference with contractual relations and tortious interference with a prospective economic advantage. Again, these claims are meritless and must be dismissed. Plaintiff's claim of tortious interference with contractual relations assumes that at some point a customer might see a dog at the Teaneck location and then drive over to the Wayne location to actually purchase the puppy. As described below, in order to tortiously interfere with a contract there needs to be an actual contract that exists. The Complaint contains no factual support that there were any prospective customers that were going to engage in a contractual relationship with Plaintiff to purchase a puppy.

Plaintiff's claim for tortious interference with a prospective economic advantage relies on the same baseless facts used to allege defamation. Ms. Goldberg's Petition discusses only the sale

of dogs and does not encourage potential customers not to purchase puppy supplies or receive grooming services from Plaintiff which are the supposed goals of the Teaneck location. Ms. Goldberg acted within the “rules of the game” and did not interfere with the Teaneck location’s prospective economic advantage.

Plaintiff was required to state a claim upon which relief can be granted. The allegations of 1) defamation; 2) tortious interference with contractual relations; and 3) tortious interference with a prospective economic advantage are not supported by any glimmer of facts in the Complaint. For this reason and the reasons set forth below, the Plaintiff’s claims against Ms. Goldberg must be dismissed.

STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY

Plaintiff is a company located in Wayne, New Jersey that sells puppies and puppy supplies. Compl. ¶12. In addition to selling puppy supplies and offering grooming services, Plaintiff wanted to house live animals in Teaneck so that prospective customers could then go to the Wayne location and purchase the animal. *Id.* at 14. Plaintiff could not sell the animals housed in the Teaneck location in Teaneck due to an ordinance prohibiting the sale of dogs and cats. *Id.* at 21.

On or about July 1, 2022 Ms. Goldberg started a Petition on Change.org with the purpose of informing Teaneck Residents of the Plaintiff’s intention to operate its business in a way that would conveniently evade the town ordinance prohibiting the sale of dogs and cats. *Id.* at 45. In the Petition posted by Ms. Goldberg she expressed her opinion as to why people should adopt dogs rather than purchase them from a pet store and asked people to petition their government for redress:

Have you ever wondered where that cute dog in the pet store window came from? That tiny adorable puppy has had a rough life behind it. That poor dog came from a puppy mill.

Puppy mills are the industry that is essentially a puppy factory who sells their dogs in bulk to pet stores. These are also a significant number of breeders. Puppy mills jobs are to produce the cute, popular, "pure" bred dogs. Their main focus is their profit, not the dogs. They want to maximize profit and minimize spending.

In order to do this, the dogs are kept in small cages, poor nutrition, poor vetting. The mothers are bred until they no longer can, and are then either killed or if a rescue manager saves them, they will go to a rescue. The cages they are in are rarely cleaned, and leads to disease, sickness, growths on their body. When they are cleaned, the workers simply use a powerful hose to spray the cages clean, with the dogs inside the cage. Dogs have lost eyes due to the powerful water.

Dogs are emaciated, because their very little food portion is contaminated, and their water bowls are filled with algae. So these dogs are practically skin and bones, so how would they be in the shape to breed? Confusingly, puppy mills still pull off breeding millions of dogs at these fast rates. A female dog is used to breed until she can't anymore. Then instead of having that poor dog have a happy ever after, the puppy mills shoot those dogs because they aren't able to breed, because otherwise they will be taking up space in their puppy mills.

The best way to stop this is to stop buying dogs from pet stores and online. There are millions of dogs available for adoption, of every breed and every age. The process is harder to adopt because rescues go through a vigorous vetting process to ensure that the adopting family is the best fit for the dogs, and the dog is the best fit for the adopting family.

In Teaneck, we have an ordinance that does not allow the sale of dogs or cats. However, as with any other unethical, immoral, or illegal practice, there are loopholes to be

found. Currently, Wayne's puppies is set to open on Cedar Lane in Teaneck, NJ. The premise of this not for sale puppy store, is that it is essentially a showroom for dogs, and then you are sent to their Wayne store to purchase the dogs, where it is legal to do so. This unethical behavior must be stopped and Wayne's puppies is not welcome in Teaneck. Teaneck is not a place dogs are for sale.

We petition the Teaneck Township Council, the Health Department, the Zoning Board of Adjustment, the Zoning Sub-Committee to pass an ordinance that will not allow dogs to be sold in our stores, or used as a showroom for neighboring towns that do allow this inhumane practice. Do NOT let Wayne's Puppies to open in Teaneck!

Certification of Hillary Goldberg, dated April 23, 2023 ("Goldberg Cert."), Ex. A.

ARGUMENT

I. Standard For a Motion to Dismiss

The test for determining the adequacy of a pleading is whether a cause of action is "suggested" by the facts. *Velantzas v. Colgate-Palmolive Co.*, 109 N.J. 189, 192 (1988). When reviewing a motion to dismiss pursuant to N.J. Court R. 4:6-2(e) the court's inquiry is limited to the legal sufficiency of the facts alleged on the face of the complaint. *Printing Mart v. Sharp Electronics*, 116 N.J. 739, 746 (1989), *Rider v. State Dept. of Transportation*, 221 N.J. Super. 547 (App. Div. 1987). When reviewing a motion brought pursuant to R. 4:6-2(e) the complaint must be searched in depth and with liberality to determine if a cause of action can be gleaned even from an obscure statement, particularly if further discovery is taken. *Printing Mart*, 116 N.J. at 746. However, it is not enough to assert that any essential facts that the court may find lacking can be dredged up in discovery. *Printing Mart*, 116 N.J. at 768. Furthermore, if the complaint states no basis for relief and discovery would not provide one, dismissal of the complaint is appropriate. *Energy Rec. v. Dept. of Env. Prot.*, 320 N.J. Super. 59, 64 (App. Div. 1999), *aff'd o.b.* 170 N.J.

246 (2001).

In evaluating motions to dismiss, courts consider "allegations in the complaint, exhibits attached to the complaint, matters of public record, and documents that form the basis of a claim." *Banco Popular N. Am. v. Gandi*, 184 N.J. 161, 183 (2005) (quoting *Lum v. Bank of Am.*, 361 F.3d 217, 222 n.3 (3d Cir.), *cert. denied.*, 543 U.S. 918 (2004)). It is the existence of the fundament of a cause of action in those documents that is pivotal; the ability of the plaintiff to prove its allegations is not at issue. *Id.*

Plaintiff has failed to set forth any legally sufficient claims against Ms. Goldberg in its Complaint. For the reasons set forth below, the Court should dismiss all counts from plaintiff's Complaint against Ms. Goldberg.

II. THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

a. First Amendment Right to Petition the Government

The Court must dismiss Plaintiff's claim for defamation against Ms. Goldberg for failure to state a claim upon which relief can be granted. In their Complaint, Wayne Puppies alleges that Ms. Goldberg made "knowingly false and misleading statements about Wayne Puppies and the business conducted by Wayne Puppies." Compl. ¶47. According to Plaintiff, the Petition published by Ms. Goldberg caused Wayne Puppies to "suffer tremendously and they will sustain and continue to sustain losses." *Id.* at ¶79. Despite this accusation there is no indication anywhere in the Complaint to suggest that Ms. Goldberg did anything other than assert her First Amendment right to petition the government and encourage Teaneck residents to petition the Township of Teaneck to stand firm on the ordinance that prohibits the sale of dogs or cats in Teaneck stores. Ex. A.

The Noerr-Pennington doctrine recognizes the First Amendment right of citizens to petition

their government and generally immunizes petitioning activities from civil liability. *Oasis Therapeutic Life Ctrs., Inc. v. Wade*, 457 N.J. Super 218, 232 (App. Div. 2018). While initially the Noerr Pennington doctrine was applicable only to anti-trust litigation, it has been expanded to include protection against other types of tort claims such as malicious prosecution, and abuse of process. *Main St. at Woolich, LLC v. Ammons Supermarket, Inc.*, 451 N.J. Super. 135, 144 (App. Div. 2017). New Jersey Court's have further recognized the doctrine and applied it to afford immunity to those who petition the government for redress. *Id.* Ms. Goldberg petitioned the government for redress through her Petition thus exercised one of her most fundamental rights.

In *Structure Bldg. Corp v. Abella*, the appellate court reiterated the oral opinion of the trial court judge "we don't want to chill resident's rights to object, and they have a right to object, and when they come out and exercise that right the last thing they want to happen to them was to be hit with a lawsuit." 377 N.J. Super 467, 472 (App. Div. 2005). Ms. Goldberg exercised her right to petition the actions of the Teaneck Zoning board and the Zoning Sub-Committee to uphold the ordinance prohibiting the sale of dogs and cats by not allowing Wayne Puppies to circumvent that regulation by using a Teaneck sham 'showroom' to sell dogs.

b. Defamation

When there are allegations of defamation, limited to the fact of publication and a conclusory assertion that the defendant knew or should have known that the statement was false, the court may not simply take the facial assertion as given. *Darakjian v. Hanna*, 366 N.J. Super 238, 248 (App. Div. 2004). Instead the court must evaluate the circumstances as best it can to determine whether there is any reasonable basis upon which the defamation claim can be seen as viable. *Id.* Plaintiff's defamation allegation is limited to the fact that Ms. Goldberg published the Petition, and that Plaintiff believes she knew or should have known that Wayne Puppies is not a

puppy mill. Plaintiff asserts that just because Ms. Goldberg has full access to public records she knew or should have known that Wayne Puppies is neither a puppy mill nor works with puppy mills. Compl. ¶49.

Even if Ms. Goldberg referred to Wayne Puppies as a puppy mill in the Petition (which she did not), the actual fact is that there is ample evidence to eviscerate Wayne Puppies' claims of pure innocence here:

- Wayne Pet Store Facing \$13, 500 Fine From the State
 - Wayne's Puppies was hit with 27 violations from the state Division of Consumer Affairs for improperly selling dogs.
- Breaking news: HSUS investigation connects New Jersey pet stores to notorious Midwest puppy mills.
- Almost Half of New Jersey Pet Stores Buying Pups from Most Notorious Puppy Mills in U.S., Investigation Reveals

Goldberg Cert., Ex. B.

In order to establish a prima facie case of defamation a plaintiff must show that Ms. Goldberg communicated to a third person a false statement about plaintiff that tended to harm plaintiff's reputation in the eyes of the community or cause others to avoid plaintiff. *McLaughlin v. Rosanio, Bailets & Talamo*, 331 N.J. Super. 303, 312 (App. Div. 2000). Plaintiff's Complaint intentionally falsely quotes the language and purpose of the Petition. At no point in the Petition does Ms. Goldberg refer to Wayne Puppies as a puppy mill. Goldberg Cert., Ex. A.

Plaintiff alleges that Ms. Goldberg misrepresented that the breeders who sell puppies to Wayne Puppies keep the puppies in small cages that are rarely cleaned which leads to disease, sickness, and growths on their bodies. Compl. ¶50. Plaintiff further misrepresents to the court that Ms. Goldberg "claimed that Wayne puppies receive 'poor nutrition' and that 'dogs have lost eyes due to powerful water' and that after the mother can no longer breed, they are 'killed...or...got to

a rescue’ and that breeders ‘shoot those dogs.’” *Id.* at ¶51. Despite these quotes from the Petition, Ms. Goldberg did not direct those sentiments towards the conduct of Wayne Puppies. Rather she explained the common practices of puppy mills and encouraged residents to adopt dogs rather than purchase them from breeders. The mischaracterization of the Petition is in bad faith and further proves that Plaintiff’s defamation claim is meritless.

Plaintiff’s complaint also fails to state a claim upon which relief can be granted with respect to the defamation claim because a plaintiff must have been harmed by the alleged defamation, and there is no indication that Wayne Puppies suffered any actual harm as a result of the Petition. *McLaughlin*, 331 N.J. Super. at 313. Plaintiff’s intention was to sell puppy supplies and offer grooming services at their Teaneck location. Compl. ¶12. The only thing that Teaneck is not allowing Plaintiff to do with respect to the business is utilize the Teaneck location as a showroom for dogs that would have to be purchased at an entirely different location. *Id.* at 21. Plaintiff can still operate its business as a puppy supply store and offer grooming services, but chose not to do so because that was simply a pretense. Their core business was to do an end-run around the prohibition on selling dogs in Teaneck. Teaneck rejected Plaintiff’s application, not Ms. Goldberg. As such, as a matter of law, Ms. Goldberg did not cause any harm alleged by Wayne Puppies.

c. Tortious Interference with Contractual Relations

The fifth count of the Complaint purports that Ms. Goldberg tortiously interfered with the contractual relations of Wayne Puppies and prospective clients. Plaintiff claims that Ms. Goldberg interfered with the contractual relations of Wayne Puppies by inducing prospective clients not to engage or purchase puppies from Wayne Puppies. Compl. ¶81. The language of the Petition makes it clear that Ms. Goldberg does not support the sale of puppies in Teaneck. Not once throughout the Petition does she tell residents not to purchase a puppy from Wayne Puppies in Wayne—the

only location where it is legally permitted to do so.

To establish a claim for tortious interference with contractual relations, a plaintiff must prove: (1) actual interference with a contract; (2) that the interference was inflicted intentionally by a defendant who is not a party to the contract; (3) that the interference was without justification; and (4) that the interference caused damage. *Russo v. Nagel*, 358 N.J. Super. 254, 268 (App. Div. 2003). Plaintiff fails to establish the necessary requirements to establish a claim of tortious interference with contractual relations because there was no simply no contract for Ms. Goldberg to interfere with. Plaintiff's claim alleged that Ms. Goldberg interfered with the contractual relations of Wayne puppies by inducing *prospective* clients not to engage or purchase puppies from Wayne puppies. The fact that Plaintiff specifies that the only alleged interference was with prospective clients demonstrates that no actual contracts existed for Ms. Goldberg to interfere with and this claim must be dismissed as a matter of law.

d. Tortious Interference with Prospective Economic Advantage

The sixth count of Plaintiff's Complaint is for tortious interference with a prospective economic advantage, and again must be dismissed because it fails to set forth any facts to support the claim. Plaintiff relies on the same mischaracterization of the Petition as above to set forth this allegation. Additionally, Plaintiff has no basis to allege that Teaneck's determination to revoke any prior agreements to allow them to utilize the Teaneck location as a showroom was related to Ms. Goldberg's Petition.

To satisfy a claim for tortious interference with a prospective economic advantage a plaintiff must demonstrate: (1) that he or she had a "reasonable expectation of economic advantage"; (2) that the defendant intentionally and maliciously interfered with plaintiff's receiving the expected economic advantage; (3) that the defendant's interference caused the

plaintiff to lose his or her prospective gain; and (4) that the loss of the prospective gain caused the plaintiff to sustain damages. *Printing Mart*, 116 N.J. at 751-752. The Complaint fails to meet the first element for a claim of tortious interference with a prospective economic advantage. The only reasonable expectation Wayne Puppies had with regard to their Teaneck location was to sell puppy supplies and offer grooming services. There is no fact alleged in the Complaint to suggest that Ms. Goldberg interfered with Plaintiff's expectation to do such. The Complaint does not reference any comments made by Ms. Goldberg referencing Plaintiff's puppy supplies or the quality of their grooming services that would be offered to Teaneck residents.

Furthermore, there are no facts in the Complaint to support Plaintiff's claim that Plaintiff had any reasonable expectation of economic advantage through the sale of dogs at their Teaneck location. Plaintiff is aware that they would not be able to conduct the sale of dogs in Teaneck, "Wayne puppies would be permitted to house live animals at the Teaneck location in open view to the public, so long as prospective customers were put on notice that *the sale of the puppies could not occur at the Teaneck location* and instead has to be made through the Wayne, NJ location." Compl. ¶14 (emphasis added).

Plaintiff's knowledge that they could not conduct the sale of dogs in Teaneck confirms the fact that they had no reasonable expectation of economic advantage with respect to the sale of dogs in Teaneck, NJ. It is evident that Plaintiff is attempting to blame Ms. Goldberg for the Township of Teaneck's decision to stand by the ordinance prohibiting the sale of dogs or cats in the Township of Teaneck. As set forth in the Complaint, "Wayne Puppies was looking to open a Teaneck location to sell puppy supplies and grooming services." Compl. ¶12. There is nothing in the Complaint to suggest that Plaintiff is no longer allowed to conduct business as a puppy supply store or offer grooming services.

Even if the court was able to glean any indication that Plaintiff had a reasonable expectation of economic advantage in order to succeed on the claim the plaintiff must show that the economic advantage was a direct result of the defendant's malicious interference. *Printing Mart*, 116 N.J. at 751-752. For purposes of tortious interference, malicious does not mean ill will, "rather it means that the harm was inflicted intentionally and without justification or excuse. *Lamorte Burns & Co. v. Walters*, 167 N.J. 285, 306 (2001). The determination of malice is made on an individualized basis and based on a flexible standard, "the relevant inquiry is whether the conduct was sanctioned by the 'rule of the game' for where a plaintiff's loss of business is merely the incident of healthy competition, there is no compensable tort injury." *Id.* It is obvious that a pet store is in direct competition with animal rescues and shelters. Thus encouraging people to rescue dogs from shelters rather than purchase them from stores is squarely within the rules of the game. Therefore, Ms. Goldberg's actions are not malicious and do not meet the necessary requirements to be deemed tortious interference with a prospective economic advantage.

CONCLUSION

For the reasons set forth above, Defendant Hillary Goldberg respectfully requests that Plaintiff's Complaint be dismissed as to all claims asserted against her.

COYLE & MORRIS LLP.
Attorneys for Defendant
Hillary Goldberg

By: s/ John D. Coyle
 John D. Coyle

Dated: April 25, 2023

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Attorneys for Defendant

NJ PUPPY STORE t/a WAYNE PUPPIES

Plaintiff,

v.

TOWNSHIP OF TEANECK, CURTIS
CAVINESS, CHIEF REGISTERED and
HEALTH DEPARTMENT TOWNSHIP
MANAGER, and HILLARY GOLDBERG

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
Docket No.: BER-L-001240-23

Civil Action

**CERTIFICATION OF HILLARY
GOLDBERG IN SUPPORT OF
MOTION TO DISMISS PURSUANT
TO R. 4:6-2(E)**

The following certification is made in support of defendant Hillary Goldberg's ("Defendant") motion to dismiss for plaintiff NJ Puppies t/a Wayne Puppies ("Plaintiff" or "Wayne Puppies") failure to state a claim upon which relief can be granted pursuant to N.J. Court Rule 4:6-2(e)

1. I am one of the named defendants in the above captioned matter. As such I am familiar with the matters and the facts alleged in the Complaint as they relate to the claims made against me.

2. I make this Certification, based on my personal knowledge in support of my Motion to Dismiss Plaintiff's Complaint.

3. I love dogs and encourage people to adopt their dogs rather than purchase them from breeders because there are so many dogs that need loving homes.

4. On or around July 1, 2022 I published a petition on change.org explaining why people should adopt dogs rather than purchase them. Attached hereto as Exhibit A is a true and correct copy of the petition.

5. Attached hereto as Exhibit B are a true and correct copy of research articles I found supporting my opinions expressed in the petition.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: April 24, 2023

By: 
Hillary Goldberg (Apr 25, 2023 16:03 EDT)
Hillary Goldberg

EXHIBIT A

Keep Wayne's Puppies out of Teaneck!

[Hillary Goldberg](#) started this petition

Have you ever wondered where that cute dog in the pet store window came from? That tiny adorable puppy has had a rough life behind it. That poor dog came from a puppy mill.

Puppy mills are the industry that is essentially a puppy factory who sells their dogs in bulk to pet stores. These are also a significant number of breeders. Puppy mills jobs are to produce the cute, popular, "pure" bred dogs. Their main focus is their profit, not the dogs. They want to maximize profit and minimize spending.

In order to do this, the dogs are kept in small cages, poor nutrition, poor vetting. The mothers are bred until they no longer can, and are then either killed or if a rescue manager saves them, they will go to a rescue. The cages they are in are rarely cleaned, and leads to disease, sickness, growths on their body. When they are cleaned, the workers simply use a powerful hose to spray the cages clean, with the dogs inside the cage. Dogs have lost eyes due to the powerful water.

Dogs are emaciated, because their very little food portion is contaminated, and their water bowls are filled with algae. So these dogs are practically skin and bones, so how would they be in the shape to breed? Confusingly, puppy mills still pull off breeding millions of dogs at these fast rates. A female dog is used to breed until she can't anymore. Then instead of having that poor dog have a happy ever after, the puppy mills shoot those dogs because they aren't able to breed, because otherwise they will be taking up space in their puppy mills.

The best way to stop this is to stop buying dogs from pet stores and online. There are millions of dogs available for adoption, of every breed and every age. The process is harder to adopt because rescues go through a vigorous vetting process to ensure that the adopting family is the best fit for the dogs, and the dog is the best fit for the adopting family.

In Teaneck, we have an ordinance that does not allow the sale of dogs or cats. However, as with any other unethical, immoral, or illegal practice, there are loopholes to be found. Currently, Wayne's puppies is set to open on Cedar Lane in Teaneck, NJ. The premise of this not-for-sale puppy store, is that it is essentially a showroom for dogs, and then you are sent to their Wayne store to purchase the dogs, where it is legal to do so. This unethical behavior must be stopped and Wayne's puppies is not welcome in Teaneck. Teaneck is not a place dogs are for sale.

We petition the Teaneck Township Council, the Health Department, the Zoning Board of Adjustment, the Zoning Sub-Committee to pass an ordinance that will not allow dogs to be sold in our stores, or used as a showroom for neighboring towns that do allow this inhumane practice. Do NOT let Wayne's Puppies to open in Teaneck!

EXHIBIT B

A Humane World

Kitty Block's Blog



Breaking news: HSUS investigation connects New Jersey pet stores to notorious Midwest puppy mills

August 29, 2016 [27 Comments](#) By Wayne Pacelle



A puppy in a small, rusty cage at D & G's Petite Pups in Paterson, New Jersey, looked disheveled and depressed. Photo by The HSUS

An [HSUS undercover investigation covering every known pet store in New Jersey](#) that sells puppies has revealed that many of these businesses sourced animals from puppy mills with Animal Welfare Act violations. Federal inspectors, in some cases, found bleeding or injured dogs and even dead puppies at the worst of the breeders.

At some of the New Jersey pet stores, investigators found puppies living in dismal, crowded conditions. Other stores failed to disclose any breeder information to potential buyers, in apparent violation of [state law](#).

Altogether, HSUS investigators visited all 29 pet stores that we could find in New Jersey that sell puppies. Our research staff reviewed documentation concerning the origins of more than 1,400 puppies shipped to the stores from out-of-state breeding operations. What we found was consistent with a string of past investigations that expose the pet store-puppy mill connection:

- Fifty-three puppy mills that have appeared in one or more of The HSUS's [Horrible Hundred](#) reports have sold animals to New Jersey pet stores within the past 20 months. The USDA warned one notorious Iowa breeder that shooting dogs in the head is an unacceptable form of euthanasia (Judy Maassen/ J Maassen Inc.). The agency found seven dead puppies scattered on one Ohio breeder's property (Andy Yoder/ Yoder Backroad Kennel), while an Iowa kennel had more than 20 dogs in need of veterinary care (Steve Kruse/ Stonehenge Kennel).

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- We found conditions at some of the New Jersey stores to be demonstrably inhumane, with puppies confined to small, rusted cages, and starved for human attention. Some of the puppies at NY Puppy Club in Edgewater were in cages so small that they could do little more than turn around. Puppies at a number of stores pawed at their cages, as if desperate to get out. Conditions at Carmona Pet Shop in Union City, Passaic Pets in Passaic, and D & G's Petite Pups in Paterson were so troubling that our staff reported them to local law enforcement agencies for review.
- Of the 29 stores visited by our investigators, six failed to disclose any breeder information to the potential buyer, in apparent violation of state law. These stores included Carmona Pet Shop in Union City, Oh My Dog in Kearny, Fashionable Pets in Paramus, Passaic Pets in Passaic, and Absolute Fishland and Pets R Us, both in Newark.
- Many pet stores provided incomplete or misleading information to consumers. For example, a salesperson at Wayne Puppies in Wayne told an undercover investigator that all of the puppies in the store were from local breeders, but information posted near the cages clearly showed that some of the puppies had come from a large-scale dog broker in Iowa.

MEDIA DOWNLOADS

We've always warned pet buyers not to shop at pet stores that sell puppies, and this investigation proves once again that there are valid reasons for that counsel. Pet stores tell buyers that all their dogs are "from USDA licensed breeders" or are "AKC registered" as if these declarations are stamps of quality, but our investigations of licensed [puppy mills](#) and [the AKC](#) have proven in the past that their assurances are hollow and provide no guarantees of humane treatment.



A puppy at NY Puppy Club in Edgewater, NJ had very little room to move and seemed desperate for attention. Photo by The HSUS

Our investigation is part of a multi-channel push to warn the public away from likely puppy mill outlets such as the Internet, pet stores, and flea markets. Our actions range from support for local ordinances to restrict sales of puppy mill dogs to a variety of state laws to undercover investigations to raids of particularly nasty mills. Last week, on National Dog Day, we launched a [new online campaign](#) with the help of [Maddie's Fund](#) and the Rokkan company in New York. Our new videos and website warn the public, in an eye-catching and accessible way, not to buy puppies from websites or pet stores because they are common outlets for puppy mills. We are intercepting consumers searching to buy puppies online, and driving them to shelters, rescue groups, and responsible breeders.

In addition to the New Jersey pet stores investigation and our new public education campaign, we are also supporting a proposed measure, S.63, that would prevent pet shops that repeatedly violate New Jersey's humane sourcing laws from selling puppies within the state. S.63 overwhelmingly passed the state senate in June with a bipartisan vote of 27-8.

New Jersey residents can help take action by contacting their assembly members and asking them to support S.63. Dog lovers in all other parts of the country can help us spread the word by [signing the pledge](#) not to support puppy mill outlets.

Wayne, NJ

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Wayne Pet Store Facing \$13,500 Fine From the State

Wayne's Puppies was hit with 27 violations from the state Division of Consumer Affairs for improperly selling dogs.

Daniel Hubbard, Patch Staff 

Posted Mon, Jan 4, 2016 at 12:09 pm ETUpdated Mon, Aug 29, 2016 at 2:55 pm ET

 Reply

A Wayne pet store is one of several in New Jersey to be fined for failing to adhere to laws designed to protect consumers from purchasing unhealthy pets, authorities said Monday.

Wayne's Puppies faces a minimum penalty of \$3,375 for 27 violations of the Pet Purchase Protection Act, state Acting Attorney General John J. Hoffman said. The act was amended earlier this year.

If the shop complies with the act and addresses the violations, a reduced penalty may be imposed. Shops that fail to address the violations face higher

civil penalties, Hoffman said. The maximum the store may be fined in \$13,500. The state Division of Consumer Affairs issued violations to 17 stores, including 90 to one in Paterson and four in Bergen County.

All of the pet shops failed to include all or some of each animal's breeding history, including when and where it was bred, medical background, the date and name of the veterinarian who performed the animal's initial examination, and other information on a label attached to each animal's cage, Hoffman said.

Several pet shops were also cited for failing to properly display reports of any federal inspections conducted on breeders and brokers in the past two years. Others did not display federal inspection reports and did not display the required signs informing customers of their rights when purchasing an animal from a pet shop.

“Providing consumers with information about the breeder and the animal’s veterinary history allows consumers to make educated choices in purchasing a pet for their family,” said Acting Attorney General John J. Hoffman. “Pet shops that don’t provide this vital information are breaking the law and denying consumers the ability to fully research this important decision.”

(Photo via Wikimedia Commons)

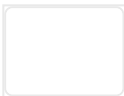
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Almost Half of New Jersey Pet Stores Buying Pups from Most Notorious Puppy Mills in U.S., Investigation Reveals

A new measure passed by the New Jersey senate is working to stop puppy mill sales in the state

By **Diane Herbst** | Published on September 6, 2016 11:28 AM

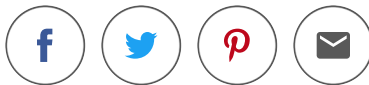


PHOTO: HUMANE SOCIETY OF THE UNITED STATES

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killed dogs by cheating them in the head, another who kept small dogs outside in sub-freezing temperatures, [an undercover investigation](#) by the [Humane Society of the United States](#) has revealed.

And those cute puppies you see in window?

Once the pups arrive in New Jersey, some of the pet stores are keeping the little animals in “demonstrably inhumane conditions, with puppies confined to small, rusted cages and starved for human attention,” according to the report.

Conditions at three pet stores were so troubling that the HSUS reported them to local authorities, according to the report.

John Goodwin, senior director of the HSUS’s campaign to stop puppy mills, tells PEOPLE: “We were a little surprised at how awful these places were.”

“[There is a lot of scrutiny on pet stores in New Jersey](#) now and yet we found pet stores that were filthy, kept the dogs in tiny cages and sourcing dogs from awful puppy mills,” Goodwin says. “If they can’t do better than this when the bright spotlight is on them, I shudder to think what they would do when no one is paying attention.”

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PHOTO: HUMANE SOCIETY OF THE UNITED STATES

About a half dozen of the stores also failed to disclose information on every cage stating where the pups came from, which is in violation of New Jersey law, Goodwin says.

Puppy mills work to breed and sell as many puppies as possible, meaning that many dogs are typically confined in wire-floored cages so small they can't stand up. Due to lax laws, this kind of treatment is allowed, as well as endlessly breeding the same dogs, says Goodwin, noting that puppy mills nationwide supply about 99 percent of the dogs sold in pet stores.

The only way to stop this is to stop buying from pet stores, says Goodwin. "I encourage people to get their next 4-legged member of the family from a shelter or rescue or to seek out a responsible breeder, someone who lets you see how the mother dog lives," he says.

Fifty-three puppy mills that have been noted by the HSUS as the 100 worst puppy mills in the United states have supplied puppies to New Jersey pet stores within the past 20 months, investigators discovered.

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using "gunshot in brain at close range" as a routine method of euthanasia on the facility's official program of veterinary care, the HSUS investigation reveals and which PEOPLE confirmed by looking at the [report online](#).

However, a representative for Maassen, Mindy Patterson of The Calvary Group, tells PEOPLE the statement in the USDA inspection report is "completely false."

The USDA also found seven dead puppies scattered on the property of Ohio breeder, Yoder Backroad Kennel, which has been supplying N.J. pups, according to the report. Yoder has cancelled his USDA license, according to documents PEOPLE found on the agency's website. Yoder could not be reached for comment.



HSUS shuts down Puppy Mill

PHOTO: HUMANE SOCIETY OF THE UNITED STATES

Wayne Puppies in Wayne, N.J. has been selling puppies from Maassen as well as Madison Kennels in Pierce City, Missouri, the investigation reveals. In December, 2015, the USDA cited the kennel for keeping small dogs

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her business and herself were disconnected.

The pet store has also sold puppies from an Oklahoma breeder cited by the USDA for numerous violations of the Animal Welfare Act, including having a shu tzu with "red, blood-like liquid" covering the dog's left eye, the HSUS report reveals.

Alexandra Hoffman, the owner of Wayne Puppies, says that she only uses breeders who pass their USDA inspection. She shared USDA inspection reports with PEOPLE showing all three passed multiple inspections. Mackey did not respond to PEOPLE's request for comment.

Alexandra Hoffman, the owner of Wayne Puppies, says that she only uses breeders who pass their USDA inspection and was "shocked" when told she got puppies from breeders cited for violating the Animal Welfare Act.

"If the USDA inspector finds they don't treat them right they should close kennel down," Hoffman says.

New Jersey pet stores were in the national news earlier this year when [police rescued 67 puppies](#) left overnight in a van behind the Paramus pet store Just Pups.

Authorities [charged the store's owner](#), Vincent LoSacco and his brother, Leonard, with 134 counts each of animal cruelty, according to reports. They have plead not guilty. Three of his four stores have been closed down, according to the HSUS report.

At three other pet stores — D&G's Petite Pups, Carmona Pet Shop and Passaic Pets — an HSUS investigator was so concerned about conditions that were "crowded and dirty, with rusted cages and conditions that appeared inhumane," that a Humane Society staffer reported the stores to local authorities.

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At D&G's Petite Pups in Paterson, investigators found a "[puppy in a small, rusty cage](#)" that "looked disheveled and depressed."

A man who answered the phone at D&G's who didn't wish to give his name said he didn't think there was anything to be concerned about.

At Carmona Pet Shop in Union City, a man who answered the phone said in English he only spoke Spanish and didn't understand a request for comment.

At Passaic Pets in Passaic, owner Freddy Frind denied that there was anything wrong with the conditions in his store, and that he's passed all the required inspections. "These are just people talking, activists and stuff like that, it's nonsense," he says.

At Passaic Pets in Passaic, owner Freddy Frind denied that there was anything wrong with the conditions in his store, and that he's passed all the required inspections. "These are just people talking, activists and stuff like that, it's nonsense," he says.

NY Puppy Club owner Daeman Yoon, who read the HSUS report, tells PEOPLE the cages in which he keeps his pups are roomy and always kept clean. "It's fine," says Yoon.

The New Jersey State Senate overwhelmingly passed measure S. 63 that would prevent pet shops that repeatedly violate the state's humane sourcing laws from selling puppies within the state. The HSUS says New Jersey residents concerned about puppy mills and pet stores can help take action by contacting their assembly members and asking them to support S. 63.

To see the full HSUS report [click here](#).







2023.04.24 Goldberg Cert for Motion to dismiss

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