

ORIGINAL

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ENDORSED
FILED
Superior Court of California
County of San Francisco

SEP 12 2008

GORDON FANN-LL, Clerk
BY: CAROLYN BALISTRERI
Deputy Clerk

8 Attorney for Plaintiff,
9 Deanna Wilson, the Guardian of Her
10 Beloved Avian Companions

11 SUPERIOR COURT OF CALIFORNIA, SAN FRANCISCO
12 UNLIMITED JURISDICTION

13 DEANNA WILSON, the guardian
14 of her beloved Avian companions,

15 Plaintiff,

16 vs.

17 PETCO Animal Supplies, Inc.,
18 and DOES 1-10.

19 Defendants.

CASE NO. CGC-07-462375

STIPULATION FOR SETTLEMENT AND
PLAINTIFF'S RELEASE OF ALL
CLAIMS

Date Action Filed: April 13, 2007

JURY TRIAL DEMANDED

20 STIPULATION FOR SETTLEMENT

21 On June 6, 2008, the parties PETCO represented by Leah A. Dibello of Callahan Mc Cune
22 and Willis and Ms. Deanna Wilson, the guardian of her beloved Avian companions, represented by
23 Christine Garcia of The Animal Law Office met for a settlement conference by order of the Superior
24 Court before the Bar Association of the San Francisco Early Settlement Program panelist James
25 Roethe. The parties, having conferred with the panelists, hereby stipulates that this matter is deemed
settled pursuant to the following terms and conditions:

- 26 1. The defendant Petco Animal Supplies, Inc., shall pay to the plaintiff the sum of
27 \$7,000.00 as a settlement for dismissal of this above described suit.
28 2. The plaintiff agrees to accept \$7,000.00 with the knowledge that she will be barred

STIPULATION FOR SETTLEMENT AND PLAINTIFF'S RELEASE OF ALL CLAIMS

1 from proceeding against defendant PETCO for this incident in the future regardless of
2 what might happen.

3 3. Each party will bear their own costs.

4 4. Petco reaffirms that it has discontinued selling the bird cage that is the subject of this
5 action, Avian Select Parakeet Square Top Cage, (PETCO Item # 000800520), and that
6 it will not reinstate this product in its stores with zinc levels that exceed the nationally
7 accepted standard for avian toxicology.

8 5. Plaintiff to agree to the following Release of All Claims.

9 **PLAINTIFF'S RELEASE OF ALL CLAIMS**

10 The undersigned plaintiff DEANNA WILSON hereinafter called "Claimant" has brought a
11 claim for damages arising out of an event that occurred between March 2006 and June 2006, alleging
12 various damages as set forth in the above-captioned lawsuit, the complaint of which is incorporated
13 herein by reference.

14 An agreement has been reached between the claimant and the two defendants and their
15 insurance company which has issued a policy to those defendants that might provide benefits in that
16 situation.

17 The terms of that agreement are as follows: The claimant, over the age of 18 years, has
18 agreed to, for the sole consideration of Seven Thousand Dollars (\$7000.00), and does hereby on
19 behalf of his heirs, successors and assigns, release, acquit and forever discharge PETCO Animal
20 Supplies, Inc. (hereinafter the "defendants"), their attorneys or their agents, servants, employees and
21 all other persons, firms, associations of partnerships from any and all claims, actions, causes of
22 action, demands, damages, costs, cost of service, expense and compensation whatsoever which the
23 undersigned claimant now has or which may hereinafter accrue on account of or in any way growing
24 out of any and all known and unknown, foreseen and unforeseen bodily and personal injuries and
25 property damages and the consequences thereof or to result from the accident, casualty, or event
26 described in the complaint herein. Defendants also assert that the cages in question are no longer
27 being sold by defendant and will not be sold with a zinc level in excess of the nationally accepted
28

1 standard for avian toxicology.

2 It is understood and agreed that this settlement is the compromise of a doubtful and disputed
3 claim and that the payment made is not to be construed as an admission of liability on the part of the
4 party or parties hereby released, and that said releases deny liability therefor and intend merely to
5 avoid litigation and buy their peace.

6 It is further understood that all rights under Section 1542 of the Civil Code of California and
7 any similar law of any state or territory of the United States are hereby expressly waived. Said
8 section reads as follows:

9 "1542. Certain claims not affected by general release. A general release does not extend to
10 claims which the creditor does not know or suspect to exist in his favor at the time of executing the
11 release, which if known by him must have materially affected his settlement with the debtor".

12 The undersigned hereby declare and represent that the injuries sustained are or may be
13 permanent, progressive and that recovery therefrom is uncertain and indefinite and in making this
14 Release it is understood and agreed, that the undersigned rely wholly upon the undersigned(s)'
15 judgment, belief and knowledge of the nature, extent, affect and duration of said injuries and liability
16 therefor and is made without reliance upon any statement or representation of the party or parties
17 hereby released or their representatives or by any physician or surgeon by them employed.

18 The undersigned further declare and represent that no promise, inducement or agreement not
19 herein expressed has been made to the undersigned, and that this Release contains the entire
20 agreement between the parties hereto, and that the terms of this Release are contractual and not a
21 mere recital. The undersigned and his attorney further declare and represent that all outstanding bills
22 and liens from any source including but not limited to governmental entities have or will be satisfied,
23 and both the undersigned and his attorney agree to defend and indemnify the defendants, their
24 insurance company and lawyers, in the event that any lien claims are made against any such
25 indemnitees.

26 It is intended by the parties to this agreement that the above settlement is a final disposition
27 and payment for any type of loss arising out of the aforementioned incident including, but not limited
28 to, property damage, personal injury, resulting death, mental distress, living expenses, loss of

1 consortium, loss of services, loss of earnings, medical or legal bills, or any other possible benefit
2 accrued or which might accrue stemming from the claim(s) as set forth in the Complaint on file
3 herein, or which might or might not, be payable under an insurance policy issued to these settling
4 defendants. In return for the payment specified above, the claimant agrees to this release and further
5 agrees to release and discharge the defendants, their attorneys, and their insurance company for any
6 type of loss, lien or claim whatsoever, including but not limited to any cause of action for violation
7 of any statute, or arising in tort or contract, and the claimant further agrees that the responsibility for
8 bills, liens or encumbrances of any type whatsoever arising out of any damage to the claimant or the
9 claimant's property now lies with the claimant and not with the settling defendants or their insurance
10 company.

11 For your protection, California law requires the following to appear on this form:

12 "It is unlawful to (a) present or cause to be presented any false or fraudulent claim for the
13 payment of a loss under a contract of insurance and (b) prepare, make or subscribe any writing with
14 the intent to present or use the same, and to allow it to be presented or used in support of any such
15 claim. Every person who violates any provision of this section is punishable by imprisonment in the
16 state prison not exceeding three years or by fine not exceeding \$1,000 or by both."

17 ATTENTION: READ CAREFULLY BEFORE SIGNING AND CONSULT WITH
18 COUNSEL SINCE YOUR SIGNATURE GIVES UP LEGAL RIGHTS.

19 The parties, individually and by and through their counsel, stipulate for settlement of the
20 claim as set forth above.

21
22 I have read the foregoing Release of All Claims and agree to its terms.

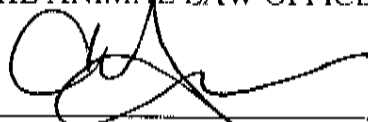
23
24 Dated this 9/12/08 day of September, 2008.

25 
26 DEANNA WILSON

1 My name is Christine L. Garcia, and I am the attorney of record for the claimant. I have read
2 the foregoing Release of All Claims. I have explained the terms of this document to my client, and
3 my client and I agree to the terms expressed therein.

4 Dated: September 12, 2008

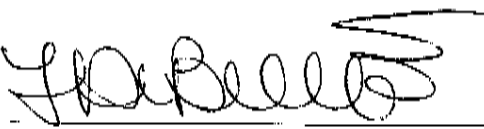
THE ANIMAL LAW OFFICE


Christine L. Garcia

8 The above terms of Settlement are agreed to by Defendants, PETCO Animal Supplies, Inc. and
9 DEANNA WILSON, the guardian of her beloved Avain companions, by the through their attorneys
10 of record.

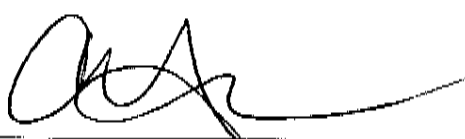
11
12 Dated: September 4, 2008

Callahan, McCune & Willis, APLC


Lcch A. DiBello
Attorney Representing Defendant,
PETCO Animal Supplies, Inc.

18 Dated: September 12, 2008

The Animal Law Office


Christine L. Garcia
Attorney Representing Plaintiff,
Deanna Wilson, the guardian of her beloved
Avain companions.

28

PROOF OF SERVICE*Wilson v. Petco, et al*CASE NO. **CGC-07-462375****Document(s) Served:**

STIPULATION FOR SETTLEMENT AND PLAINTIFF'S RELEASE OF ALL CLAIMS

REQUEST FOR *ad*
DISMISSAL OF ACTION

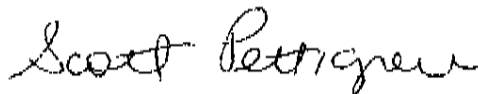
I, Scott Pettigrew, am not a party to this action. I am over the age of 18 years of age. I can be contacted through the business address at 3824 18TH Street, Suite 201, San Francisco, CA 94114.

On Friday, September 12, 2008, I served the documents listed above on the parties in this matter by placing a true and correct copy, addressed as follows:

Peter M. Callahan
Callahan McCune & Willis, APLC
500 San Some Street, Suite 410
San Francisco, CA 94111

(X) VIA FIRST CLASS MAIL. I personally mailed the above-described document to the person addressed above at the described place of business above by placing the stamped envelope in a US Postal Service box in San Francisco, CA.

I declare under penalty of perjury under the laws of the State of California that the information in this proof of service is true and correct. Executed on Friday, September 12, 2008, in the City and County of San Francisco, California.



Scott Pettigrew