

Do You Buy Pet Food From Any of These 6 Con Artists?

They're now embroiled in a class action lawsuit alleging that the companies are engaged in a con game, with your money and pets at risk. And that needing a prescription for what amounts to junk food is insane. If your vet disagrees, it's time to find a new one.

Analysis by [Dr. Karen Shaw Becker](#)

STORY AT-A-GLANCE

- A class action lawsuit has been filed in California against several pet industry companies alleging they engaged in price fixing of "prescription" dog and cat food
- The named defendants in the lawsuit are Mars Petcare, Nestlé Purina, Hill's Pet Nutrition, PetSmart and Banfield and Blue Pearl pet hospitals
- The suit alleges the pet diets in question contain no drugs or other substances that can't be found in conventional pet diets, and therefore should not require a prescription from a veterinarian
- The lawsuit further alleges that the defendants are colluding to market and selling pet food as prescription pet food to consumers at above-market prices
- In other pet food legal news, a judge has dismissed a class action lawsuit against Purina's Beneful dry dog food

Editor's Note: This article is a reprint. It was originally published January 09, 2017.

I frequently discuss "prescription" pet diets here at Mercola Healthy Pets in terms of the cheap, biologically inappropriate ingredients they contain, much like most other processed pet foods on the market.

I typically don't talk as much about the high cost of these diets or the fact that there's nothing in the majority of them that requires a prescription, because my focus is usually on the low-quality ingredients instead.

But if you've ever purchased one of these "special" dry or canned diets for a pet, you know how expensive they are, and you might be interested to learn that a group of pet parents recently filed a class action lawsuit against several pet industry companies, alleging they engaged in price fixing of prescription dog and cat food in the U.S. in violation of anti-trust and consumer protection laws.

Defendants Include 6 of the Biggest Pet Industry Players

The lawsuit was filed in the U.S. District Court of Northern California and lists the defendants as Mars Petcare, Hill's Pet Nutrition, Nestlé Purina Petcare, Banfield Pet Hospital, Blue Pearl Pet Hospital and PetSmart. [Read the full complaint.](#)

The plaintiffs, pet owners who purchased prescription diets from one or more of the companies, assert they conspired with each other to falsely promote "prescription" pet food. The specific pet diets mentioned in the complaint include:

- Hill's Prescription Diet
- Purina Pro Plan Veterinary Diets
- Royal Canin Veterinary Diet
- Iams Veterinary Formula

The complaint points out there's no reason for the foods to require a prescription, since they contain no drug or other ingredient not commonly found in non-prescription pet diets. The lawsuit further alleges:

"Retail consumers, including Plaintiffs, have overpaid and made purchases they otherwise would not have made on account of Defendants' abuse and manipulation of the 'prescription' requirement."

Lawsuit Accuses Big Pet Food of Abusing Their Position

Mars PetCare is the largest supplier of pet food in the world. Nestlé Purina Petcare is in second place, and Hill's Pet Nutrition is No. 4.

PetSmart is the largest pet supply chain in the U.S., Banfield is the largest veterinary clinic chain and Blue Pearl is the largest veterinary specialty and emergency care chain.

The lawsuit argues that these companies abuse their position as the biggest players in the industry to promote "prescription" diets for dogs and cats.

Veterinarians actually hand pet owners written prescriptions for a certain kind of pet food, and the pet owners go to PetSmart or another location to purchase the prescribed food. These pet guardians, according to the complaint, are typical of people who consistently follow the advice and direction of medical professionals.

Why Are These Pet Products Being Sold by Prescription Only?

However, the "prescription" dog and cat diets manufactured by Mars, Purina and Hill's are not evaluated by the Food and Drug Administration (FDA) because they don't contain drugs or other controlled substances. According to Tim Wall, writing for PetfoodIndustry.com:

"The case document states that the American public reasonably expects a prescription requirement implies that a substance is medically necessary, contains a drug, medicine or controlled ingredient, has been FDA evaluated and legally requires a prescription. The plaintiffs allege that the prescription pet foods do not meet these criteria."¹

The lawsuit asserts that the prescription requirement allows the defendants to "... market and sell Prescription Pet Food at well-above market prices that would not otherwise prevail in the absence of the Prescription Authorization."

There are legitimate reasons why "prescription" diets for specific medical conditions should not be fed to healthy animals.

For instance, feeding a diet intentionally lower in protein and phosphorus may be warranted for end-stage kidney disease patients, but it would be a poor choice for healthy or growing animals.

The deception about “prescription” ingredients in the foods, for the most part, is legitimate. There is one exception. One human-grade, fresh pet food company producing medical diets that actually do contain therapeutic ingredients, such as Chitosan to bind phosphorus in their kidney formula.

‘Defendants Are Engaged in an Anticompetitive Conspiracy’

The complaint further asserts that the positioning of the pet food as “prescription” is effective in part because all the defendants work together to promote it. The veterinary clinic defendants write the “prescriptions” for the food, which is made by the pet food company defendants, and sold by defendant PetSmart.

Many people are unaware that Mars owns 79% of Banfield. Guess who owns the remaining 21%? PetSmart (which is why many Banfield clinics are located inside PetSmart stores). Mars also owns 100% of Blue Pearl. According to the complaint:

“Defendants are engaged in an anticompetitive conspiracy to market and sell pet food as prescription pet food to consumers at above-market prices that would not otherwise prevail in the absence of their collusive prescription-authorization requirement.”

The lawsuit alleges that selling the pet food as “prescription” is unfair and deceptive under California consumer protection laws. I’ll definitely keep an eye out for activity on this class action lawsuit and update you when there’s progress.

Meanwhile, if your own veterinarian is in the habit of recommending “prescription” pet food for your dog or cat, I encourage you to ask for balanced, homemade recipes instead. Otherwise, you’ll be spending a lot of money for poor-quality pet food that will not improve your furry family member’s health in the long run.

Holistic and integrative vets are typically much more knowledgeable about the role nutrition plays in an animal’s healing response than conventional practitioners who haven’t studied the subject beyond what they learned in vet school (which was minimal).

A holistic or integrative veterinarian can work with you to customize a balanced, species-appropriate diet to address the specific health needs of your pet, or you can purchase Darwin’s Intelligent Design™ Veterinary Formulas that actually do contain beneficial nutraceuticals for specific medical conditions.

Judge Sides With Purina in Beneful Class Action Lawsuit

In other pet food legal news, last year I wrote about another class action lawsuit brought against Nestlé Purina PetCare’s Beneful brand dry dog food. The plaintiff in that case alleged that Beneful sickened two of his dogs and caused the death of a third.

Sadly, despite literally thousands of online consumer complaints and two prior lawsuits filed against this particular brand of dog food, a California federal judge recently ruled that the proposed lawsuit failed to prove the product was unsafe. **[Read the summary judgment here.](#)** According to Law360:

“Nestlé Purina PetCare Co. escaped litigation contending that its Beneful dry food killed dogs or made them seriously ill after a California federal judge held Thursday that a proposed class of pet owners didn’t prove that the product was unsafe, explaining that their allegations heavily relied on a veterinarian’s inadmissible opinions.”²

The following statement from Courthouse News Service is a good summary of what the plaintiff’s expert found in his analysis of Beneful samples:

“An analysis of 28 samples [from bags of Beneful suspected of causing illness in several dogs] revealed three types of toxins: propylene glycol; mycotoxins, a fungal mold on grain; and the heavy metals arsenic and lead.

But the level of toxins found in the dog chow did not exceed limits permitted by the U.S. Food and Drug Administration [FDA]. Plaintiffs’ expert analyzed 28 of 1,400 dog food samples from incidents of dogs that got ill after eating Beneful. The sampling was limited because not all dog owners had kept the chow.

The expert, animal toxicologist Dr. John Tegzes, claimed the FDA based its dog chow toxin limits only on short-term exposure and did not consider the effects of long-term exposure.

He said studies used to establish FDA tolerance limits were ‘poorly designed’ and tended to look only at the effects on dogs over weeks, rather than years. While Tegzes could not say definitively that the toxins caused the dogs to get sick, he concluded that chronic exposure to mycotoxins, heavy metals and glycols posed a ‘significant health risk’ to dogs and could adversely affect their health.”³

This is a very legitimate argument that many of us who are passionate about pet nutrition have been making for years. It is absolutely true that pet food feeding trials (considered the “gold standard” in the industry) are of very short duration. If a new formula doesn’t immediately kill the dogs or cats in the feeding trial, it goes to market.

No one, least of all pet food manufacturers, is interested in funding studies to evaluate the long-term health effects of a food typically eaten twice a day, every day, often for a lifetime.

Purina ‘Revamps’ Beneful Formula

In a statement so very typical of what we’ve come to expect from the processed pet food industry, Nestlé Purina spokeswoman Wendy Vlieks said of the summary judgment:

“Today’s ruling confirms what millions of pet owners already know — that Beneful is a safe, healthy and nutritious dog food that millions of dogs enjoy every day.”⁴

Interestingly, the company recently “revamped” their Beneful formulas. Per PetfoodIndustry.com:

“Meat now is the first ingredient in chicken and beef varieties. Added sugar has been removed from all recipes. According to the company, the Beneful’s recipes now include 22 grams or more of protein per cup. The dog food also includes vegetables and fruits, like spinach, peas, carrots and apples.”⁵

Since there's no mention of the toxins found by Dr. Tegyes, it's reasonable to assume Purina didn't address the issue in their "revamped" formula. So if you happen to feed this stuff to your dog, keep in mind you're very likely also feeding him small amounts of propylene glycol, mycotoxins, arsenic and lead on a daily basis.

In addition, looking at the "Beneful Dry Dog Food Originals with real beef" formula as an example, seven of the top 10 ingredients are grains.⁶ This a grain-based food, not a meat-based, species-appropriate diet for dogs, despite the "with real beef" marketing claim.

And those "22 grams or more of protein per cup" are primarily plant-based proteins, not species-appropriate meat-based proteins. This is junk food for dogs, and based on all the consumer complaints about Beneful and the toxins found by the California plaintiff's expert, it could be potentially much worse than just junk.

Sources and References

[PetfoodIndustry.com, December 16, 2016](#)

[Top Class Actions, December 12, 2016](#)

[PetfoodIndustry.com November 18, 2016](#)

¹ [PetfoodIndustry.com, December 16, 2016](#)

² [Law360, November 17, 2016](#)

^{3, 4} [Courthouse News Service, November 18, 2016](#)

⁵ [PetfoodIndustry.com, November 18, 2016](#)

⁶ [Beneful Dry Dog Food Originals with real beef](#)
