

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Bird v. PetMed Express, Inc.

No. 6:25-CV-0214 (GTS/MJK) (N.D.N.Y. Jan. 29, 2026) · No. 6:25-CV-0214 (GTS/MJK) · Decided January 29, 2026

SUMMARY

The United States District Court for the Northern District of New York considered PetMed Express, Inc.'s motion to dismiss an amended putative class action alleging deceptive reference prices and false discounts for pet medications. The court held that Plaintiff Ashley Bird adequately pleaded Article III standing, but Plaintiffs Tyler Dvorski and Tiffany Hughes did not, because the allegations did not plausibly show that the specific products they purchased were subject to the alleged pricing scheme. The motion was granted in part and denied in part, with the claims of Dvorski and Hughes dismissed without prejudice; the plaintiffs also conceded dismissal of their claims for injunctive relief.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Glenn T. Suddaby
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	January 29, 2026
DOCKET	6:25-CV-0214 (GTS/MJK)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved to dismiss the Amended Complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(1) motion challenging the complaint's legal sufficiency, the court accepts factual allegations as true and draws reasonable inferences for the plaintiff; when the jurisdictional challenge is factual, the plaintiff bears the burden of establishing jurisdiction by a preponderance of the evidence and the court may consider evidence outside the pleadings. On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true but disregards legal conclusions and determines whether the complaint states a facially plausible claim. California fraud-based claims were subject to Rule 9(b)'s heightened pleading standard.

PRECEDENTIAL VALUE	unpublished
PARTIES	Ashley Bird, Tyler Dvornski, Tiffany Hughes v. PetMed Express, Inc.

TOPICS

deceptive trade practices consumer protection motions to dismiss subject matter jurisdiction class actions

PRACTICE AREAS

consumer protection false advertising civil procedure class actions federal jurisdiction

QUESTIONS PRESENTED

1. Whether the named plaintiffs adequately established Article III standing for their claims.
2. Whether Bird's New York Consumer Protection from Deceptive Acts and Practices Act and False Advertising Law claims alleged a cognizable injury sufficient for statutory standing.
3. Whether the plaintiffs' claims for injunctive relief could proceed in light of their failure to allege a likelihood of future harm.
4. Whether the Amended Complaint should be dismissed under Rules 12(b)(1) and 12(b)(6).

HOLDINGS

1. Bird adequately alleged Article III standing because the complaint plausibly suggested that the specific product she purchased was advertised using a false reference price and that she would not have purchased it or paid the same amount absent the alleged deception. Dvornski and Hughes lacked Article III standing because the complaint did not plausibly connect the false-price evidence to the specific products they purchased.
2. Bird failed to allege a cognizable injury under New York General Business Law §§ 349 and 350 because she did not plausibly allege that she paid an objectively inflated price or received a product of inferior quality. Deception, disappointment at not receiving an expected bargain, and subjective overpayment were insufficient.
3. Dvornski's and Hughes's claims, including Hughes's California statutory claims, were dismissed without prejudice for lack of subject-matter jurisdiction because those plaintiffs failed to establish Article III standing.
4. Bird's New York statutory claims were dismissed with prejudice under Rule 12(b)(6) because the Amended Complaint failed to state a claim upon which relief could be granted.

KEY QUOTATIONS

“an allegation that a plaintiff would not have purchased a product or would not have paid the same amount [in the absence of the defendant’s allegedly unlawful actions] comfortably satisfies the injury-in-fact prong of Article III standing.” (at 12)

“To plead actual injury under either statute, ‘a plaintiff must allege that, on account of a materially misleading practice, she purchased a product and did not receive the full value of her purchase.’” (at 16)

“Plaintiff’s Amended Complaint (Dkt. No. 16) is DISMISSED without prejudice for a lack of subject-matter jurisdiction as to the claims asserted by Plaintiff Dvornski and Plaintiff Hughes, and DISMISSED with prejudice as to the claims asserted by Plaintiff Bird.” (at 22)

FACTUAL BACKGROUND

Plaintiffs alleged that PetMed sold pet medications through its website using artificially inflated regular or reference prices and purported sale prices, creating the impression of discounts that did not actually exist. Bird purchased Revolution Plus 11-22, Dvornski purchased Bravecto 44-88, and Hughes purchased Novox 75mg. The complaint supplied historical pricing evidence for other formulations or products, but the court found that only Bird's allegations plausibly connected a false reference-price scheme to the specific product she purchased; none of the plaintiffs adequately alleged an objective baseline value or market price establishing that Bird overpaid.

PROCEDURAL HISTORY

Plaintiffs filed the original Complaint on February 14, 2025. After Defendant moved to dismiss, Plaintiffs filed an Amended Complaint on May 9, 2025; Defendant withdrew its initial motion, obtained leave to renew, and filed the renewed motion to dismiss on May 30, 2025. The court granted the motion as to Dvornski and Hughes for lack of subject-matter jurisdiction and as to Bird for failure to state a claim, dismissing the Amended Complaint without prejudice as to Dvornski and Hughes and with prejudice as to Bird.

DISPOSITION

dismissed

CASES CITED

- Owen Equipment & Erection Co. v. Kroger, 437 U.S. 365, 374 (1978)
- Makarova v. U.S., 201 F.3d 110, 113 (2d Cir. 2000)
- Kamen v. Am. Tel. & Tel. Co., 791 F.2d 1006, 1011 (2d Cir. 1986)
- Lunney v. U.S., 319 F.3d 550, 554 (2d Cir. 2003)
- Spokeo, Inc. v. Robins, 578 U.S. 330, 338 (2016)
- Carney v. Adams, 592 U.S. 53, 58 (2020)
- Kell v. Lily’s Sweets, LLC, 23-CV-0147, 2024 WL 1116651, at *3 (S.D.N.Y. Mar. 13, 2024)
- Rappaport v. Under Armour, Inc., 24-CV-7558, 2025 WL 2624977, at *3 (E.D.N.Y. Sept. 11, 2025)
- Colpitts v. Blue Diamond Growers, 527 F. Supp. 3d 562, 575-77 (S.D.N.Y. 2021)
- Duran v. Henkel of Am., Inc., 450 F. Supp. 3d 337, 346 (S.D.N.Y. 2020)
- Binder v. Premium Brands Opco LLC, 23-CV-3939, 2024 WL 2978506, at *6-*7 (S.D.N.Y. June 11, 2024)
- Belcastro v. Burberry Ltd., 16-CV-1090, 2017 WL 744596, at *3 (S.D.N.Y. Feb. 13, 2017)

- *Orlander v. Staples, Inc.*, 802 F.3d 289, 302 (2d Cir. 2015)
- *Ham v. Lenovo (United States) Inc.*, 664 F. Supp. 3d 562, 577, 581-82 (S.D.N.Y. 2023)
- *Axon v. Florida's Natural Growers, Inc.*, 813 F. App'x 701, 704 (2d Cir. 2020)
- *Rodriguez v. Hanesbrands Inc.*, 17-CV-1612, 2018 WL 2078116, at *5 (E.D.N.Y. Feb. 20, 2018)
- *DeCorta v. AM Retail Grp.*, 16-CV-1748, 2018 WL 557909, at *8 (S.D.N.Y. Jan. 23, 2018)
- *Twombly*, 550 U.S. 544 (2007)
- *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949-50 (2009)

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