

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>HOLLY BLAINE VANZANT, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
v.	)	<b>No. 17 C 2535</b>
	)	
<b>HILL'S PET NUTRITION INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM OPINION**

SAMUEL DER-YEGHIAYAN, District Judge

This matter is before the court on Defendants' motion to dismiss. For the reasons stated below, the motion to dismiss is granted.

**BACKGROUND**

Plaintiff Holly Blaine Vanzant (Vanzant) and Plaintiff Dana Land (Land) allegedly owned cats that had serious health problems. After appointments with veterinarians, the veterinarians allegedly prescribed prescription cat food (Prescription Cat Food) to treat the health problems of Plaintiffs' cats. The Prescription Cat Food is allegedly made by Defendant Hill's Pet Nutrition, Inc. (HPN). Plaintiffs allegedly used the prescriptions from the veterinarians to purchase the Prescription Cat Food from Defendant Petsmart, Inc. (Petsmart). Plaintiffs

allegedly continued to purchase the Prescription Cat Food for years. Plaintiffs contend that the prescriptions are not required by law and that the prescription requirement is deceptive and allows HPN and Petsmart to profit by selling the Prescription Cat Food at above-market prices. Plaintiffs contend that the Prescription Cat Food does not contain any ingredient that cannot be found in other non-prescription pet food. Plaintiffs also contend that the use of the word “prescription” and similar wording deceives consumers into believing that the product has been evaluated by the U.S. Food and Drug Administration (FDA). Plaintiffs include in the amended complaint claims brought against HPN alleging a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act (ICFA), 815 ILCS 505/1 *et seq.* (Count I), ICFA claims brought against Petsmart (Count II), unjust enrichment claims brought against HPN (Count III), and unjust enrichment claims brought against Petsmart (Count IV). Defendants move to dismiss all claims.

### **LEGAL STANDARD**

In ruling on a motion to dismiss brought pursuant to Federal Rule of Civil Procedure 12(b)(6) (Rule 12(b)(6)), the court must draw all reasonable inferences that favor the plaintiff, construe the allegations of the complaint in the light most favorable to the plaintiff, and accept as true all well-pleaded facts and allegations in the complaint. *Appert v. Morgan Stanley Dean Witter, Inc.*, 673 F.3d 609, 622 (7th