

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

<p>ANIMAL OUTLOOK, 6930 Carroll Ave, Takoma Park, MD 20912,</p> <p><i>Plaintiff,</i></p> <p>v.</p> <p>ALDERFER FAMILY FARM LLC and ALDERFER POULTRY FARM, INC., 724 Harleysville Pike, Telford, PA 18969,</p> <p><i>Defendants.</i></p>	<p>2023-CAB-007338</p> <p>Case No. _____</p> <p>DEMAND FOR JURY TRIAL</p>
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Plaintiff Animal Outlook brings this action against Defendants Alderfer Family Farm LLC and Alderfer Poultry Farm, Inc. (collectively, “Alderfer,” “Defendants,” or “the Company”) and alleges the following based upon personal knowledge, information, and belief. This Complaint is on behalf of Animal Outlook, the general public of the District of Columbia, and District of Columbia consumers, and is brought under the District of Columbia Consumer Protection Procedures Act (“CPPA”).

INTRODUCTION

1. This is a consumer protection action concerning marketing representations about shell eggs produced by Defendant Alderfer (the “Products”¹). The case is brought by Animal Outlook, a nonprofit, public-interest organization. Animal Outlook does not seek monetary damages. Instead, Animal Outlook seeks an order declaring that certain of Alderfer’s

¹ The Products include, but are not limited to, all non-organic Alderfer egg products.

representations are unlawful under the CPPA, as well as an injunction that will end the deceptive advertising and marketing practices at issue.

2. Alderfer is an egg company headquartered and incorporated in Pennsylvania.

3. According to Alderfer, the Company sources its eggs from a “home farm” run by the Alderfer family and from partner farms located throughout Pennsylvania.² The partner farmers are under contract to provide eggs to Alderfer, which Alderfer then packages and sells in Alderfer-branded cartons in the District of Columbia and several states along the East Coast.³

4. The packaging on Alderfer’s eggs states that the eggs are produced from “[c]age [f]ree,” “Free Roaming” hens.

5. These statements lead D.C. consumers to believe that Alderfer’s eggs are laid by “Free Roaming” hens who have ample space to roam, which includes access to the outdoors and natural ground cover—*e.g.*, grass and dirt.

6. In fact, hens in Alderfer’s supply chain are kept in densely packed barns and do not have meaningful access to the outdoors or natural ground cover. Hence, the hens do not have the ability to roam freely as understood by a reasonable consumer.

7. Therefore, Alderfer’s marketing representations that its eggs are laid by “Free Roaming” hens are false, deceptive, and misleading in violation of the CPPA, D.C. Code Section 28-3901, *et seq.*

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to the CPPA, D.C. Code Section 28-3901 *et seq.*, and D.C. Code Section 11-921(a).

² *About Us*, Alderfer Eggs, <https://alderfereggs.com/about-us/> (last visited Nov. 20, 2023); *FAQs*, Alderfer Eggs, <https://alderfereggs.com/faqs/> (last visited Nov. 20, 2023).

³ *Our Eggs*, Alderfer Eggs, <https://alderfereggs.com/our-eggs/> (last visited Nov. 20, 2023).

9. Plaintiff Animal Outlook consents to this Court's jurisdiction over it by filing this Complaint.

10. The Court has personal jurisdiction over Alderfer pursuant to D.C. Code Section 13-423(a)(1) because the claims herein arise from Alderfer "transacting . . . business in the District of Columbia." Alderfer has purposefully directed its marketing practices to District of Columbia consumers and has availed itself of the benefits and protections of District of Columbia law, and it is therefore reasonable for Alderfer to anticipate being subject to an action in the courts of this District.

11. Venue is proper in this Court pursuant to D.C. Code Section 28-3905(k)(2) and because Alderfer directs its marketing at consumers within the District of Columbia, sells its eggs in the District, and has caused injury in the District. Animal Outlook seeks to represent consumers and the general public of the District.

PARTIES

12. Plaintiff Animal Outlook is a national nonprofit organization that works to expose cruel, unsustainable, and unhealthy practices of animal agribusinesses; to promote humane, environmentally friendly, and healthy food options; and to ensure that consumers receive accurate information about foods produced through animal agribusiness.

13. Industrial farming is one of Animal Outlook's priority issues, and Animal Outlook is engaged in campaigns to increase the transparency of the animal agriculture industry; decrease the consumption of industrially farmed animal products; and hold industrial agribusinesses accountable for their adverse impacts on animals, the environment, human health, and consumers.

14. Animal Outlook is incorporated in Delaware, has its principal office in Takoma Park, MD, and transacts business in the District of Columbia and throughout the United States.

15. Animal Outlook is a “public interest organization” within the meaning of the CPPA. D.C. Code Section 28-3901(a)(15).

16. Animal Outlook has hundreds of thousands of supporters nationwide, with hundreds living in the District of Columbia, including consumers who seek to purchase food products that are better for animals, the environment, and public health.

17. Defendants Alderfer Family Farm LLC and Alderfer Poultry Farm, Inc. are Pennsylvania corporate entities with their shared principal place of business in Telford, PA.

18. Alderfer Family Farm LLC and Alderfer Poultry Farm, Inc. are each a “person” and a “merchant” that provides “goods” within the meaning of D.C. Code Sections 28-3901(a)(1), (3), and (7).

19. Collectively, Defendants process, market, and distribute shell eggs sold to consumers in the District of Columbia and other states in the Northeast and Mid-Atlantic.

STATUTORY AND FACT BACKGROUND GIVING RISE TO PLAINTIFF’S CLAIMS FOR RELIEF

I. Statutory Background Pursuant to the CPPA Giving Rise to Plaintiff’s Claims for Relief.

20. This action is brought under the District of Columbia Consumer Protection Procedures Act (“CPPA”), D.C. Code Section 28-3901, *et seq.*

21. It is unlawful under the CPPA for “any person” to:

- “represent that goods or services have a source, . . . characteristics, . . . [or] benefits . . . that they do not have,” D.C. Code § 28-3904(a);
- “represent that goods or services are of a particular standard, quality, grade, style, or model, if in fact they are of another,” *id.* § 28-3904(d);

- “misrepresent as to a material fact which has a tendency to mislead,” *id.* § 28-3904(e);
- “fail to state a material fact if such failure tends to mislead,” *id.* § 28-3904(f);
- “use innuendo or ambiguity as to a material fact, which has a tendency to mislead,” *id.* § 28-3904(f-1);
- “advertise or offer goods or services . . . without the intent to sell them as advertised or offered,” *id.* § 28-3904(h); and
- “sell consumer goods in a condition or manner not consistent with that warranted . . . by operation or requirement of federal law,” *id.* § 28-3904(x).

22. A violation of the CPPA may occur regardless of “whether or not any consumer is in fact misled, deceived or damaged thereby.” *Id.* § 28-3904.

23. The CPPA “establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.” *Id.* § 28-3901(c). It “shall be construed and applied liberally to promote its purpose.” *Id.*

24. Under the CPPA, “a public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action” and the organization has a “sufficient nexus to the interests involved of the consumer or class to adequately represent those interests.” D.C. Code § 28-3905(k)(1)(D).

25. As set forth *supra*, paragraphs 12-16, Animal Outlook is a public-interest organization with a strong nexus to the interests of consumers in this case, *i.e.*, consumers’ interest in receiving truthful information about shell egg products. Animal Outlook has worked extensively

in the area of egg-laying hen welfare and in ensuring the truthful presentation of information about animal husbandry to consumers.

26. Animal Outlook may therefore bring this action on behalf of D.C. consumers.

27. This is not a class action or an action brought on behalf of any specific consumer. This is an action brought by Animal Outlook on behalf of itself, District of Columbia consumers, and the general public of D.C.

28. An action for injunctive and/or declaratory relief brought pursuant to Section 28-3905(k)(1)(D) on behalf of D.C. consumers does not require class certification and is not subject to the Class Action Fairness Act. *See Animal Legal Def. Fund v. Hormel Foods Corp.*, 258 A.3d 174, 190 (D.C. 2021). No class certification will be sought in this action.

29. This action does not seek damages or restitution. Instead, Animal Outlook seeks to end the unlawful conduct directed at D.C. consumers, *i.e.*, Alderfer's false and deceptive egg-product labeling and marketing.

30. Remedies available under the CPPA include "[a]n injunction against the use of the unlawful trade practice" and "[a]ny other relief which the court determines proper." *Id.* § 28-3905(k)(2)(D), (F).

II. Statutory Background Pursuant to the Federal Trade Commission Act Giving Rise to Plaintiff's Claims for Relief.

31. Section 45(a)(1) of the Federal Trade Commission Act ("FTCA") declares "[u]nfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce" to be unlawful. 15 U.S.C. § 45(a)(1).

32. Under that statute, unlawful deception includes "a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment." *Cliffdale Assocs., Inc.*, 103 F.T.C. 110, app. 176 (1984). A representation

is thus unlawfully deceptive if it is (1) material to a reasonable consumer's decision-making and (2) likely to mislead the consumer. *See id.*

FACT ALLEGATIONS

I. Alderfer Falsely Represents That Its Eggs Are Laid by “Free Roaming” Hens.

33. Every Alderfer Product carton lid contains the phrase “Free Roaming” or “Free Roaming Hens.”

34. As explained below, reasonable consumers interpret these phrases to mean that the hens who laid the eggs have a significant amount of space and outdoor access, including access to natural ground cover.

35. Many Alderfer eggs come from hens who have ***no*** access to the outdoors.

36. As seen in the photos below of Alderfer facilities at 8838 State Route 44, Williamsport, PA, 17702, obtained through drone surveillance, other Alderfer eggs come from hens who have only minimal semi-outdoor access, namely a screened-in “porch” area that is too cramped to accommodate more than a small percentage of the hens at once.



37. As seen in the above images, those Alderfer hens who have minimal access to the outdoors through access to the screened-in porch area are kept on mesh flooring and do not have any access to natural ground cover such as grass or dirt.

38. Alderfer states on its website, “‘Free-[R]oaming’ refers to the fact that [its] hens are not in cages within the chicken house. [Its] hens are free to roam around inside the chicken house and produce what is called a ‘[c]age [f]ree’ egg.”⁴

39. This information is intentionally omitted from Alderfer egg cartons in order to leave consumers who view only an Alderfer egg carton in the store, and not the website, unaware that the supposedly “Free Roaming” hens are actually kept inside.

40. Alderfer hens, far from having room to roam, even when confined indoors, are densely packed into large barns.

41. Inside these barns, the purportedly “Free Roaming” hens are allotted only 1.2-to-1.6 square feet of space per bird, according to Alderfer’s website; this information is intentionally undisclosed on the cartons that consumers see in the store.⁵

42. Alderfer’s partner farmer Nevin Ehst reported to the Pennsylvania State Conservation Commission that he has two 24,472 square foot barns, each of which holds 20,000 hens at a time, which equates to only 1.22 square feet of space per bird.

43. Alderfer’s partner farmer Jeff Rohrer reported to the Pennsylvania State Conservation Commission that he has a 53,865 square foot barn for 40,000 laying hens, equating to only 1.35 square feet of space per bird.

44. As can be seen in the photo below from Alderfer facilities, the hens are clustered tightly together and not free to “roam.”

⁴ *Why Cage Free?*, Alderfer Eggs, <https://alderfereggs.com/our-eggs/why-cage-free/> (last visited Nov. 20, 2023).

⁵ *FAQs*, Alderfer Eggs, <https://alderfereggs.com/faqs/> (last visited Nov. 20, 2023).



45. Some Alderfer egg cartons also contain the word “natural,” despite the fact that the hens who laid Alderfer eggs were raised in crowded barns with little to no outdoor access instead of in natural conditions, which would include foraging outside in the grass and dirt.

46. All or most Alderfer egg cartons also contain language indicating that the hens who laid Alderfer eggs were fed a “vegetarian diet.”

47. Hens who have access to dirt or grass outdoors naturally forage for small animals like insects and worms to eat.

48. Most consumers lack sufficient knowledge about chicken behavior to know that hens who have access to dirt or grass outdoors naturally forage for small animals to eat.

49. If Alderfer hens have the opportunity to forage outside as consumers would expect from “natural,” “Free Roaming” chickens, then they cannot have truly vegetarian diets.

II. Alderfer’s Representations Are Misleading to Consumers.

50. Contrary to Alderfer’s representations on the labels of its eggs, the hens who lay Alderfer eggs are not “Free Roaming” as that term is understood by reasonable consumers.

⁶ *Alderfer Eggs*, Facebook (Apr. 5, 2016), <https://www.facebook.com/photo/?fbid=211196482580795&set=pcb.211197832580660>.

51. According to a 2023 Dynata survey, commissioned by Animal Outlook surveying East Coast and D.C. consumers of shell eggs, reasonable consumers believe that the use of the term “Free Roaming” on the label of eggs means that the hens who laid the eggs have continual access to the outdoors and natural ground cover, such as grass, hay, or dirt.

52. According to that same survey, 66% of consumers believe that eggs labeled “Free Roaming” are laid by hens who have continual access to the outdoors, and an additional 27% believe that eggs labeled “Free Roaming” are laid by hens who have access to the outdoors at least once a day.

53. The 2023 Dynata survey also found that 70% of consumers believe that eggs labeled “Free Roaming” are laid by hens who have continual access to natural ground cover, such as grass or dirt, and an additional 24% of consumers believe that eggs labeled “Free Roaming” are laid by hens who have access to natural ground cover at least once a day.

54. In the 2023 Dynata survey, when consumers were shown an image of the Alderfer egg carton with the “Free Roaming” claim in context and asked what “Free Roaming Hens” means, answers included, but were not limited to:

- “HENS CAN WALK AROUND OUTSIDE”;
- “[T]he eggs were harvested from hens that are allowed to roam the farm”;
- “[T]he hens are not boxed together in a [*sic*] overcrowded situation”;
- “[The hens] are able to roam a large area and feed on natural habitat”;
- “[The hens] are able to be outside and roam”;
- “[The hens] are living and feeding in nature”;
- “[The hens] can move about freely both indoors and outdoors”;

- “[H]ens that are allowed to roam freely, having an expansive space to walk, roam freely on their own without restrictions”;
- “[The hens] have access to fresh air and can roam anywhere they feel”;
- “[The hens] are able to move about in an outdoor area for foraging purposes”;
- “[The hens have] the ability to freely graze and roam in a wide open, natural area”;
- “[T]he chickens can roam around outside and are not kept cooped up”;
- “[H]ens are able to go freely wherever they want. They are able to graze out in a field of open space and [sic] not contained to just a hen house or small enclosure”;
- “[C]hickens are outdoors and can be in a large unenclosed area. They are able to go and peck wherever they please outside”;
- “[The hens have] access to a large farmland with feed and natural light, and not caged with artificial feeding methods and artificial light systems”; and
- “[The hens] are able to be out doors [sic] on the farm or homestead and gets [sic] lots of freedom and run around outside on the property.”

55. As described *supra*, paragraphs 36-37, some Alderfer hens have only minimal “outdoor access” via a screened-in porch.

56. The 2023 Dynata survey found that, when shown the same images of Alderfer porches depicted *supra*, paragraphs 36-37, and asked “if egg-laying chickens had access to the structure shown, without any additional outdoor access, would you consider them to be ‘Free

Roaming’ . . . why or why not?:” 82.3% of consumers did not consider chickens who have access to the porches to be “Free Roaming.”⁷

57. Alderfer intentionally sows confusion among consumers by using a ‘Free Roaming’ label, which reasonable consumers are likely to construe as equivalent to ‘free-range,’ a known standard. Alderfer knows and intends that consumers will confuse its “Free Roaming” claim with a “free-range” claim.

58. The United States Department of Agriculture states that “Free Roaming” is synonymous with terms like “free-range,” “pasture raised,” and “meadow raised,” and requires that the birds had continual outdoor access throughout their growing cycle in order for poultry products (*i.e.*, poultry meat products) to bear those labels.⁸

59. As described above, many hens who lay eggs for Alderfer are packed by the thousands into barns with only 1.2-to-1.6 square feet of space per bird.

60. The 2023 Dynata survey found that, when shown the same image of Alderfer chickens included *supra*, paragraph 44, and asked “would you consider these chickens to be ‘Free Roaming’ . . . why or why not?:” 83.9% of consumers stated that they did not consider those chickens to be “Free Roaming.”⁹

⁷ *Online Survey of East Coast and D.C. Consumer Purchasers of Shell Egg Products* (on file with Counsel) (consumers noting on this open-ended question: “no, I think the farmer/factory farm is lying and using the term in bad faith[,] truth in advertising should mean exactly what it implies, this looks more like the [] factory farms we have”; “No. They are confined and on top of each other. They can’t get to natural ground or have room to behave naturally”; “No. Not what I would call free roaming [sic]. [A]ny grower using Free Roaming to described [sic] an operation like the one pictured above is dishonest and clearly intends to mislead customers”; “No. That would be false advertisement. Free roaming means they have access to outdoors”; “The chickens here can see the outdoors but can’t get outside to use it. They seem to have a very narrow run that is covered, not open. It seems to be metal and not allow the chickens access to grass and dirt.”).

⁸ *Labeling Guideline on Documentation Needed to Substantiate Animal Raising Claims for Label Submissions*, U.S. Dep’t of Agric. Food Safety & Inspection Serv., 4, 10-11 (2019), https://www.fsis.usda.gov/sites/default/files/media_file/2021-02/RaisingClaims.pdf.

⁹ *Online Survey of East Coast and D.C. Consumer Purchasers of Shell Egg Products*, *supra* note 7 (consumers noting on this open-ended question: “as you can see they are all crowded together and there are too many chickens;” “I thought they would be outside;” “No. They are confined and barely have room to move;” “No this is not free roaming this is a bunch of chickens in horrible conditions stuffed into a small shack;” “NO. They are obviously all

61. The 2023 Dynata survey also found that, for eggs labeled “Free Roaming,” (1) 69% of consumers believe that the chickens who laid the eggs have enough space to move freely; (2) 57% of consumers believe that the chickens who laid the eggs are allocated more space than the size of a sheet of standard printer paper; (3) 70% believe the chickens who laid the eggs are not confined to an indoor barn for their entire lives; (4) 67% believe that the chickens who laid the eggs have enough space to express natural behaviors such as dust bathing, foraging, play, etc.; (5) 55% believe that all the chickens who laid the eggs can see and easily use a door to access the outdoors; and (6) 68% believe that the chickens who laid the eggs are treated more humanely than non-“Free Roaming” chickens.

62. The use of the term “natural” on some Alderfer egg cartons reinforces the idea that the hens who laid the Alderfer eggs had meaningful outdoor access.

63. In the related context of chickens raised for meat, a 2015 national Consumer Reports survey found that 50% of United States consumers believe that poultry products labeled “natural” means that “the animals went outdoors.”¹⁰

64. The practices on Alderfer farms described *supra*, paragraphs 35–49, including allowing hens only minimal or no outdoor access and confining them densely indoors, do not meet a reasonable consumer’s understanding of the term “Free Roaming,” especially when combined with phrases like “cage free” or “natural.”

cramped together inside of a facility;” “No. They seem confined with extremely limited space. Moving 4 inches doesn’t fit my definition of roaming;” and “These are definitely not free roaming chickens. They are overpopulated in an enclosed building and can barely move. This is not the humane way of treating chickens and should not be allowed.”).

¹⁰ *Natural Food Labels Survey: 2015 Nationally Representative Phone Survey*, Consumer Reports National Research Center, 4 (2015), <https://www.foodpolitics.com/wp-content/uploads/Consumer-Reports-Natural-Food-Labels-Survey-Report.pdf>.

III. Alderfer's Misrepresentations Are Material to Consumers.

65. Alderfer's use of the term "Free Roaming" on its egg labels is misleading because Alderfer's actual practices do not match consumers' expectations of what this term means—*i.e.*, that the hens have space to roam unhindered and meaningful access to the outdoors and natural ground cover.

66. Alderfer's use of the term "Free Roaming" on the labels of its eggs is material to D.C. consumers, who care about supporting humane animal farming practices and/or believe that eggs from hens with space to roam and outdoor access are of better quality.

67. These consumers are willing to, and do, pay more for eggs that come from hens whose care and treatment meet their understanding of "Free Roaming."

68. The 2023 Dynata survey of East Coast and D.C. consumers found that when purchasing eggs, approximately 58% of consumers consider whether the chickens who laid the eggs are "cage free," 41% of consumers consider whether the chickens who laid the eggs have access to the outdoors, and 30% of consumers consider whether the chickens who laid the eggs have ample space to express natural behaviors.

69. The 2015 national survey published by Consumer Reports found that 84% of consumers say "providing better living conditions for animals" is a key objective when shopping for food.¹¹

70. Additionally, a 2022 national survey of grocery shoppers found that 68% of shoppers who had purchased eggs labeled "free-range," a term easily equated with "Free Roaming," did so because they thought it indicated improved animal welfare.¹² Further, 57% of

¹¹ *Id.* at 3.

¹² Melissa Thibault et al., *Why Are They Buying It?: United States Consumers' Intentions When Purchasing Meat, Eggs, and Dairy with Welfare-Related Labels*, 7 Food Ethics 1, 14 (2022) <https://link.springer.com/article/10.1007/s41055-022-00105-3>.

purchasers reported that they paid more for eggs labeled “free-range” “because they believed [the] label indicated higher-welfare production practices.”¹³

71. The same survey found that 70% of shoppers who purchased eggs labeled “natural” did so “because they believed [the] label indicated higher-welfare production practices,” and that 65% of consumers paid more for eggs so labeled “because they believed [the] label indicated higher-welfare production practices.”¹⁴

72. The lack of outdoor access can lead to increased stress and reduced activity in hens.¹⁵ In contrast, hens who do enjoy outdoor access suffer less feather damage and footpad dermatitis, and have a better digestive and gut function than that of hens kept indoors. Hens who spend more than five hours per day outdoors have better plumage, fewer comb wounds, shorter nail length, and higher spleen and gizzard weight—all positive indicators for animal welfare.¹⁶

73. A recent survey by the Organic Trade Association found that the presence of “free-range,” an analogous animal-raising claim, on a label makes 55% of consumers more likely to purchase the product, while an “all natural” label influences 60% of consumers.¹⁷

74. Another study found that a majority of consumers surveyed were willing to pay an average of \$0.16-\$0.25 more per dozen eggs if the hens who laid them had outdoor access.¹⁸

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Rubi Sanchez-Casanova et al., *Effects of Outdoor Access and Indoor Stocking Density on Behaviour and Stress in Broilers in the Subhumid Tropics*, 9 *Animals* 1016, 1016 (2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6940855/pdf/animals-09-01016.pdf>; see H. Blokhuis et al., *Farm Animal Welfare Research in Interaction with Society*, 22 *Veterinary Q.* 217, 217, 219-21 (2000), <https://pubmed.ncbi.nlm.nih.gov/11087134/>.

¹⁶ Md Saiful Bari et al., *Effects of Outdoor Ranging on External and Internal Health Parameters for Hens from Different Rearing Enrichments*, 8 *PeerJ e8720* 1, 2-3, 10-11, (2020), <https://peerj.com/articles/8720/>.

¹⁷ See Kathryn Poppiti, *Organic Trade Association Share Summary of Survey Results*, *Organic Matters* 6, 23 (Summer 2022), https://paorganic.org/wp-content/uploads/2022/08/OM_summer_22_WEB_2MB_v2.pdf.

¹⁸ See Yan Heng et al., *Consumer Attitudes Toward Farm-Animal Welfare: The Case of Laying Hens*, 38 *J. of Agric. & Res. Econ.* 418, 429 (2013).

75. Consumers are willing to pay more for free-range eggs because they believe producing eggs this way confers benefits to themselves, as well as to the hens who laid the eggs.

76. Because Alderfer's "Free Roaming" claims, which Alderfer knows consumers will confuse with analogous "free-range" claims, influence reasonable consumers to buy Alderfer eggs or spend more on them despite the fact that its actual hen-raising practices do not meet a reasonable consumer's perceptions of what "Free Roaming" means, Alderfer's representations are material and misleading.

PLAINTIFF'S CLAIM FOR RELIEF

Violations of the District of Columbia Consumer Protection Procedures Act

77. Animal Outlook incorporates by reference and realleges all of the preceding allegations of this Complaint.

78. Alderfer advertises and markets its eggs with a label stating that the hens who laid the eggs are "Free Roaming," which misleads reasonable consumers into believing that all Alderfer hens have meaningful outdoor access and significant space to move about unhindered. In reality, many hens used by Alderfer and its partner farms do not have continual access to the outdoors, or any access to natural ground cover, and are densely packed inside barns where their movement is hindered by thousands of other birds.

79. Alderfer's marketing practices therefore violate the CPPA by "represent[ing] that goods . . . have a source . . . [or] characteristics . . . that they do not have," "represent[ing] that goods . . . are of a particular standard, quality, grade, style, or model, [when] in fact they are of another," "misrepresent[ing] as to a material fact which has a tendency to mislead," "us[ing] innuendo or ambiguity as to a material fact, which has a tendency to mislead," and "advertis[ing]

. . . goods . . . without the intent to sell them as advertised[.]” D.C. Code §§ 28-3904(a), (d), (e), (f-1), (h).

80. By falsely labeling all of its eggs as coming from “Free Roaming” hens without including information on the label to indicate that many of its hens are kept inside a barn where they have just 1.2-to-1.6 square feet of space per hen, Alderfer is also failing to state a material fact, which tends to mislead consumers in violation of the CPPA. *Id.* § 28-3904(f).

81. Alderfer’s deceptive advertising is also unlawful under the Federal Trade Commission Act, 15 U.S.C. §§ 41-58, and therefore constitutes a further unlawful trade practice under the CPPA. *See id.* § 45(a)(l); D.C. Code § 28-3904(x).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Animal Outlook respectfully prays for judgment against Alderfer and requests that the Court:

(a) Declare that Alderfer’s marketing of its eggs violates the CPPA;

(b) Order Alderfer to cease its misleading and deceptive marketing practices unless and until it changes its animal husbandry practices to conform to the consumer expectations it has created, *i.e.*, to allow all of its hens free access to the outdoors and natural ground cover, and enough space to “roam” as understood by consumers;

(c) Award Plaintiff its costs and disbursements, including reasonable attorneys’ fees and expert fees, and prejudgment interest at the maximum rate allowable by law; and

(d) Award Plaintiff such other and further relief as the Court may deem just and proper.

Dated: December 1, 2023

Respectfully submitted,

/s/ Kim E. Richman

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Case Number: 2023-CAB-007338

Case Caption: ANIMAL OUTLOOK v. ALDERFER FAMILY FARM LLC et al.

INITIAL ORDER

Initial Hearing Date: Friday, 03/01/2024	Initial Hearing Time: 9:30 AM	Courtroom Location: Remote Courtroom 212
Please see attached instructions for remote participation.		
Your case is assigned to Associate Judge Yvonne Williams.		

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure ("Super. Ct. Civ. R.") 40-I, it is hereby ORDERED as follows:

- 1) This case is assigned to the judge and calendar designated above. All future filings in this case shall bear the calendar number and judge's name along with the case number in the caption.
- 2) Within 60 days of the filing of the complaint, plaintiff must file proof of service on each defendant of copies of the summons, the complaint, and this Initial Order. The court will dismiss the claims against any defendant for whom such proof of service has not been filed by this deadline, unless the court extended the time for service under Rule 4.
- 3) Within 21 days of service (unless otherwise provided in Rule 12), each defendant must respond to the complaint by filing an answer or other responsive pleading. The court may enter a default and a default judgment against any defendant who does not meet this deadline, unless the court extended the deadline under Rule 55(a).
- 4) At the time stated below, all counsel and unrepresented parties shall participate in a hearing to establish a schedule and discuss the possibilities of settlement. Counsel shall discuss with their clients before the hearing whether the clients are agreeable to binding or non-binding arbitration. This order is the only notice that parties and counsel will receive concerning this hearing.
- 5) If the date or time is inconvenient for any party or counsel, the Civil Actions Branch may continue the Conference once, with the consent of all parties, to either of the two succeeding days when the calendar is called. To reschedule the hearing, a party or lawyer may call the Branch at (202) 879-1133. Any such request must be made at least seven business days before the scheduled date. No other continuance will be granted except upon motion for good cause shown.
- 6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each judge's Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court's website <http://www.dccourts.gov/>.

Chief Judge Anita M. Josey-Herring

To Join by Computer, Tablet, or Smartphone:

- 1) Copy and Paste or Type the link into a web browser and enter the Webex Meeting ID listed below.

Link: dcccourts.webex.com/meet/ctb212

Meeting ID: 129 440 9070

- 2) When you are ready, click "Join Meeting".
- 3) You will be placed in the lobby until the courtroom clerk gives you access to the hearing.

Or to Join by Phone:

- 1) Call 202-860-2110 (local) or 844-992-4726 (toll-free)
- 2) Enter the Webex Meeting ID listed above followed by "##"

Resources and Contact Information:

- 1) For best practices on how to participate in Webex Meetings, click here <https://www.webex.com/learn/best-practices.html>.
- 2) For technical issues or questions, call the Information Technology Division at 202-879-1928 and select option 2.
- 3) For case questions, call the Civil Actions Branch Clerk's Office at (202) 879-1133.

ACCESSIBILITY AND LANGUAGE ACCESS

Persons with Disabilities:

If you have a disability as defined by the American Disabilities Act (ADA) and you require an accommodation, please call 202-879-1700 or email ADACoordinator@dcsc.gov. The D.C. Courts does not provide transportation service.

Interpreting and Translation Services:

The D.C. Courts offers free language access services to people having business with the court who are deaf or who are non-English speakers. Parties to a case may request free translations of court orders and other court documents. To ask for an interpreter or translation, please contact the Clerk's Office listed for your case. For more information, visit <https://www.dccourts.gov/language-access>.

Servicios de interpretación y traducción:

Los Tribunales del Distrito de Columbia ofrecen servicios gratuitos de acceso al idioma a las personas sordas o que no hablan inglés que tienen asuntos que atender en el tribunal. Las partes de un caso pueden solicitar traducciones gratuitas de las órdenes judiciales y otros documentos del tribunal. Para solicitar un intérprete o una traducción, póngase en contacto con la Secretaría de su caso.

Para más información, visite <https://www.dccourts.gov/language-access>.

El acceso al idioma es importante para los Tribunales del Distrito de Columbia. Puede dar su opinión sobre los servicios de idiomas visitando <https://www.dccourts.gov/services/information-and-resources/interpreting-services#language-access>.

የቃልና የጽሑፍ ትርጓሜ አገልግሎቶች:

የዲ.ሲ. ፍርድ ቤቶች መስማት ለተሳናቸውና የእንግሊዝኛ ቋንቋ ተናጋሪ ላልሆኑ በፍርድ ቤቱ ጉዳይ ላላቸው ሰዎች ነጻ የቋንቋ ተደራሽነት አገልግሎቶች ያቀርባል። ተከራካሪ ወገኖች የፍርድ ቤት ትእዛዞችና ሌሎች የፍርድ ቤት ሰነዶች በነጻ እንዲተረጎሙላቸው መጠየቅ ይችላሉ። የቃል ወይም የጽሑፍ ትርጓሜ ለመጠየቅ እባክዎን በመዝገብዎ የተዘረዘረውን የጸሀፊ ቢሮ (ክለርክ'ስ ኦፊስ) ያናግሩ። ለተጨማሪ መረጃ <https://www.dccourts.gov/language-access> ይጎብኙ።

የቋንቋ ተደራሽነት ለዲ.ሲ. ፍርድ ቤቶች አስፈላጊ ነው። የቋንቋ አገልግሎቶች በተመለከተ አስተያየትዎን <https://www.dccourts.gov/services/information-and-resources/interpreting-services#language-access> በመጎብኘት መስጠት ይችላሉ።

Tips for Attending Remote Hearings - Civil Division

Your court hearing may be held remotely. This means that you will participate by phone or by video conference instead of coming to the courthouse. Here are some tips on how to prepare.

How do I know if I have a remote hearing?


The Court will contact you to tell you that your hearing is remote. They may contact you by sending you an email, letter in the mail, or by calling you.



How do I take part in a remote hearing?

The Court will give you step-by-step instructions on how to take part in the remote hearing.

If you lose your written notice, call the Civil Actions Clerk's Office for instructions at:

 202-879-1133

Is there anything that I should do before the day of the hearing?

- Let the court know immediately if you cannot join a hearing because you do not have a phone or computer.



Civil Actions Clerk's Office: 202-879-1133

- You may want to contact an attorney for legal help.
- You can also find the list of legal services providers at dccourts.gov/coronavirus by clicking on the link that says, "List of Legal Service Providers for Those Without an Attorney."
- Evidence: if you want the judge to review photos or documents, ask the judge how to submit your evidence.
- Witnesses: tell the judge if you want a witness to testify at your hearing.
- Accommodations & Language Access: let the court know if you need an interpreter or other accommodation for your hearing.

Tips for the Hearing



- Join the hearing a few minutes early!
- Charge your computer or phone and make sure you have enough minutes to join the call. Find a private and quiet space. If possible, be alone in a room during the hearing. Try to limit distractions as much as possible. If others are in the room with you, ask if they can be quiet during the hearing.
- Mute your microphone when you are not talking. Mute all sounds on your phone or computer.
- Say your name before you speak so the record is clear. Be prepared to identify your role in the hearing (e.g., observer, plaintiff, defendant, witness, etc.).
- Speak slowly and clearly so everyone hears what you are saying.
- Pause before speaking in case there is a lag. Use a headset or headphones if you can. This will free up your hands and sound better.
- Try not to talk over anyone else. Only one person can speak at a time. If you talk while someone else is talking, the judge will not be able to hear you.
- Have all your documents for the hearing in front of you. Have a pen and paper to take notes.
- If you are not ready for your hearing or want to speak with an attorney, you can ask the judge to postpone your hearing for another date.
- If your sound or video freezes during the hearing, use the chat feature or call the Clerk's Office to let them know that you are having technical issues.



Special Tips for Video Hearings

[\(Click here for more information\)](#)



- Download the court's hearing software, WebEx, in advance and do a test run! The Court will provide you with a WebEx link in advance of the hearing.
- Set up the camera at eye level. If you are using your phone, prop it up so you can look at it without holding it.
- Look at the camera when you speak and avoid moving around on the video.
- Wear what you would normally wear to court.
- Sit in a well-lit room with no bright lights behind you.
- If possible, find a blank wall to sit in front of. Remember the judge will be able to see everything on your screen, so pick a location that is not distracting.



District of Columbia Courts

Tips for Using DC Courts Remote



The DC Courts have **remote hearing sites** available in various locations in the community to help persons who may not have computer devices or internet service at home to participate in scheduled remote hearings. The Courts are committed to enhancing access to justice for all.

There are six remote access sites throughout the community which will operate: **Monday – Friday, 8:30 am – 4:00 pm.**

The remote site locations are:

Remote Site - 1

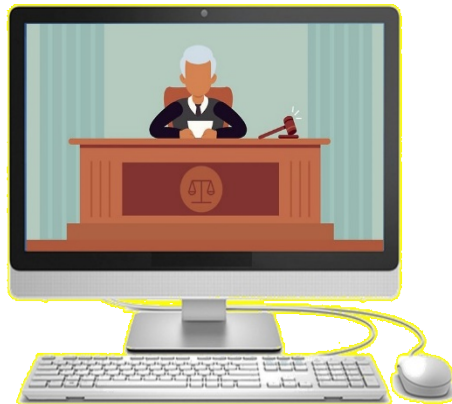
Balance and Restorative Justice Center
1215 South Capitol Street, SW
Washington, DC 20003

Remote Site - 2

Balance and Restorative Justice Center
1110 V Street, SE
Washington, DC 20020

Remote Site - 3

Balance and Restorative Justice Center
118 Q Street, NE
Washington, DC 20002



Remote Site - 4

Balance and Restorative Justice Center
920 Rhode Island Avenue, NE
Washington, DC 20018

Remote Site - 5

Reeves Center
2000 14th Street, NW, 2nd Floor
Community Room
Washington, DC 20009

Remote Site - 6

Reeves Center
2000 14th Street, NW, Suite 300N
Office of the Tenant Advocate
Washington, DC 20009
**** No walk-ins at this location ****

If you want to use a remote site location for your hearing, call **202-879-1900** or email DCCourtsRemoteSites@dcsc.gov **at least 24 hours before your hearing to reserve a remote access computer station.** If you require special accommodations such as an interpreter for your hearing, please call **202-879-1900 at least 24 hours in advance of your hearing so the Courts can make arrangements.**

You should bring the following items when you come to your scheduled site location

1. Your **case number** and any **hyperlinks** provided by the Courts for your scheduled hearing.
2. Any documents you need for the hearing (evidence), including exhibits, receipts, photos, contracts, etc.
3. Materials for notetaking, including pen and paper.

***Safety and security measures are in place at the remote sites.**

Contact information to schedule your remote access computer station:

Call: **202-879-1900**

Email: DCCourtsRemoteSites@dcsc.gov



Tribunales del Distrito de Columbia

Consejos para usar los sitios de audiencia remota de los Tribunales de DC



Los Tribunales de DC disponen de **sitios de audiencia remota** en distintos centros de la comunidad para ayudar a que las personas que no tienen dispositivos informáticos o servicio de Internet en su casa puedan participar en audiencias remotas programadas. Los Tribunales honran el compromiso de mejorar el acceso de toda la población a la justicia.

En toda la comunidad hay seis sitios de acceso remoto que funcionarán de **lunes a viernes, de 8:30 am a 4:00 pm**.

Los centros de acceso remoto son:

Sitio Remoto - 1

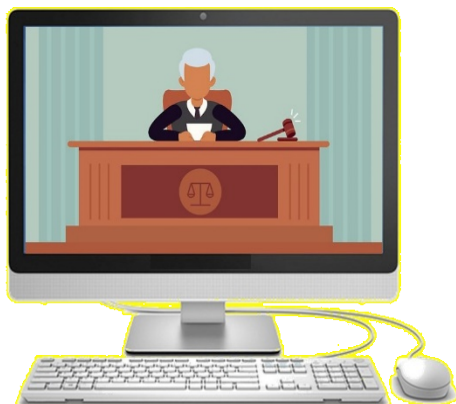
Balance and Restorative Justice Center
1215 South Capitol Street, SW
Washington, DC 20003

Sitio Remoto - 2

Balance and Restorative Justice Center
1110 V Street, SE
Washington, DC 20020

Sitio Remoto - 3

Balance and Restorative Justice Center
118 Q Street, NE
Washington, DC 20002



Sitio Remoto - 4

Balance and Restorative Justice Center
920 Rhode Island Avenue, NE
Washington, DC 20018

Sitio Remoto - 5

Reeves Center
2000 14th Street, NW, 2nd Floor
Community Room
Washington, DC 20009

Sitio Remoto - 6

Reeves Center
2000 14th Street, NW, Suite 300N
Office of the Tenant Advocate
Washington, DC 20009
No se puede entrar sin cita previa

Si desea usar un sitio remoto para su audiencia, llame al **202-879-1900** o envíe un mensaje de correo electrónico a DCCourtsRemoteSites@dcsc.gov **al menos 24 horas antes de la audiencia, para reservar una estación de computadora de acceso remoto**. Si necesita adaptaciones especiales, como un intérprete para la audiencia, llame al **202-879-1900 al menos 24 horas antes de la audiencia para que los Tribunales puedan hacer los arreglos necesarios**.

Cuando concurra al sitio programado debe llevar los siguientes artículos

1. Su **número de caso** y todos los **hipervínculos** que le hayan proporcionado los Tribunales para la audiencia programada.
2. Cualquier documento que necesite para la audiencia (prueba), incluidos documentos probatorios, recibos, fotos, contratos, etc.
3. Materiales para tomar nota, como papel y lápiz.

***Los sitios de acceso remoto cuentan con medidas de seguridad y protección.**

Información de contacto para programar su estación de computadora de acceso remoto:

Teléfono: **202-879-1900**

Correo electrónico: DCCourtsRemoteSites@dcsc.gov