

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

IDEXX LABORATORIES, INC.)
)
and)
)
IDEXX DISTRIBUTION, INC.,)
)
Plaintiffs,)
v.)
)
DONKATE ENTERPRISES, INC.)
d/b/a VETERINARY CENTER AT)
FISHHAWK,)
)
Defendant.)

COMPLAINT

NOW COME Plaintiffs IDEXX Laboratories, Inc. (“IDEXX Laboratories”) and IDEXX Distribution, Inc. (“IDEXX Distribution”) (collectively “IDEXX”) for their complaint against Defendant Donkate Enterprises, Inc. d/b/a Veterinary Center at Fishhawk and state as follows:

PARTIES

1. Plaintiff IDEXX Laboratories, Inc. is a Delaware corporation registered to do business in the State of Maine with a principal place of business at One IDEXX Dr., Westbrook, Maine 04092. IDEXX Laboratories is a leader in diagnostics and information technology solutions for animal health and water and milk quality.

2. Plaintiff IDEXX Distribution, Inc. is a Massachusetts corporation registered to do business in the State of Maine with a principal place of business at One IDEXX Dr., Westbrook, Maine 04092. IDEXX Distribution is an affiliate of IDEXX Laboratories that operates some of its laboratory business.

3. Defendant Donkate Enterprises, Inc. d/b/a Veterinary Center at Fishhawk (“VCF”) is a Florida corporation with a principal place of business at 5484 Lithia Pinecrest Road, Lithia, Florida 33547.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) based on diversity of citizenship between Plaintiffs and Defendant. The amount in controversy, exclusive of interest and costs, exceeds \$75,000, as specified by 28 U.S.C. § 1332(a).

5. The Court has personal jurisdiction over Defendant and venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Plaintiffs have a principal place of business in this District and a substantial part of the events giving rise to the claims set forth occurred within this District.

FACTUAL BACKGROUND

6. On or about July 1, 2015, IDEXX Distribution and VCF entered into the “IDEXX Laboratory Diagnostic Agreement” (the “Agreement”), an agreement for reference laboratory services and in-house diagnostic products.

7. Reference laboratory services are those in which a specimen is sent, or “referred,” to an outside laboratory for analysis. In-house diagnostic products include products like rapid response urine and blood tests which are used “in-house” by veterinary practices.

8. The Agreement provides that from July 1, 2015, through the Agreement’s end date of June 30, 2021, in exchange for an award of 75,000 IDEXX points and a substantial discount off of list price, VCF will use IDEXX for at least 90% of its annual reference laboratory services and will purchase at least \$57,000 annually, \$4,750 monthly, (the “Annual Minimum

Purchase Amount”) of Qualifying Diagnostic Products consisting of both reference laboratory services and certain in-house diagnostic products.

9. The Agreement provides that the Annual Minimum Purchase Amount “is calculated net of taxes, shipping, allowances, credits and discounts.”

10. Subject to terms and conditions, IDEXX points have a value equivalent of one IDEXX point to \$1.00 and can be used toward qualifying IDEXX products and services.

11. As of in or around March 2016, contrary to the Agreement, VCF has substantially stopped using IDEXX’s reference laboratory services, has stopped purchasing in-house consumable products, and has failed to meet the purchase levels for Qualifying Diagnostic Products.

12. IDEXX’ estimates its lost profits as a result of VCF’s breach are at least \$247,000 based on the Annual Minimum Purchase Amount over the remaining term of the Agreement.

13. VCF additionally currently owes IDEXX more than \$31,000 for lab products and services already provided to VCF for which VCF has failed to pay.

COUNT I – BREACH OF CONTRACT
LABORATORY DIAGNOSTIC AGREEMENT

14. Plaintiffs repeat and restate the allegations contained in paragraphs 1 through 13 of this Complaint as if set forth in full.

15. IDEXX and VCF entered into a binding, enforceable Laboratory Diagnostic Agreement by which IDEXX agreed to provide VCF with upfront points and substantial discounts in exchange for VCF’s agreement to exclusively use IDEXX laboratories (at a level of 90%) for its reference laboratory services and to purchase reference laboratory services and in-house consumables at agreed-to levels for a period of six years.

16. VCF breached the Agreement by transferring its reference laboratory and in-house diagnostic business from IDEXX, thereby failing to exclusively use IDEXX reference laboratory services and failing to meet its minimum purchasing requirements.

17. VCF further breached the Agreement by failing to remit payment to IDEXX for reference laboratory services and in-house consumable products already provided.

18. As a result of VCF's breach, IDEXX has suffered and continues to suffer substantial harm.

19. All conditions precedent to the maintenance of this action have been met.

**COUNT II – BREACH OF CONTRACT
ADDITIONAL PRODUCTS AND SERVICES**

20. Plaintiffs repeat and restate the allegations contained in paragraphs 1 through 19 of this Complaint as if set forth in full.

21. During 2015 and 2016, IDEXX and VCF entered into binding and enforceable agreements when VCF requested and IDEXX provided VCF with certain additional products and services, including telemedicine services, and VCF agreed to pay IDEXX for those products and services.

22. VCF breached its agreements for these additional products and services by failing to pay IDEXX in full.

23. As a result of VCF's breach, IDEXX has suffered and continues to suffer substantial harm.

24. All conditions precedent to the maintenance of this action have been met.

COUNT III – PAYMENT ON ACCOUNT ANNEXED (16 M.R.S.A. § 355)

25. Plaintiffs repeat and restate the allegations contained in paragraphs 1 through 24 of this Complaint as if set forth in full.

26. Plaintiffs have provided products and services to VCF for which VCF has failed to pay.

27. As set forth in the attached declaration of Nathan Crooker, the current outstanding invoices total \$31,399.98.

28. As further set forth in the Crooker declaration, this is a true statement of the indebtedness existing between IDEXX and VCF for products and services provided to VCF to date with all proper credits given. The prices charged therein are just and reasonable and were agreed to by the parties.

COUNT IV – UNJUST ENRICHMENT

29. Plaintiffs repeat and restate the allegations contained in paragraphs 1 through 28 of this Complaint as if set forth in full.

30. Plaintiffs conferred a valuable benefit on VCF by providing laboratory products and services to VCF and by providing additional products and services, including telemedicine services to VCF.

31. VCF realized the benefit of these laboratory products and services as well as the value and benefit of the additional products and services provided by IDEXX.

32. VCF has been unjustly enriched to the detriment of IDEXX because it has realized the benefit of the laboratory and additional products and services without providing payment for their value to IDEXX.

33. VCF's acceptance and retention of the value of these products and services without payment of their value to IDEXX is unjust and inequitable.

COUNT V – QUANTUM MERUIT

34. Plaintiffs repeat and restate the allegations contained in paragraphs 1 through 33 of this Complaint as if set forth in full.

35. IDEXX provided benefits to VCF with VCF's knowledge and consent when it provided VCF with laboratory products and services and the additional products and services, including telemedicine services to VCF.

36. IDEXX reasonably expected to receive payment for these benefits.

37. VCF has failed and refused to render full payment for the benefits provided to it by IDEXX.

38. IDEXX has been damaged and continues to be damaged as a result of VCF's failure to render full payment for the benefits provided by IDEXX.

WHEREFORE, Plaintiffs IDEXX Laboratories, Inc. and IDEXX Distribution, Inc. request entry of judgment against Defendant Donkate Enterprises, Inc. d/b/a Veterinary Center at Fishhawk for all damages, costs, and attorneys fees, and such other and further relief this Court deems just and reasonable.

Dated: March 23, 2017

/s/ James T. Kilbreth
James T. Kilbreth

/s/ Adrienne E. Fouts
Adrienne E. Fouts

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