

***UNITED STATES DISTRICT  
EASTERN DISTRICT OF NEW YORK***

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**BARBARA MELI,**  
**individually & for all those similarly situated,**

**Civil Case No.:** 19-3807

**Plaintiffs,**

**-against-**

**WAG LABS, INC.,**

**CLASS ACTION**  
**COMPLAINT**

**Defendants.**

**Jury Trial Demanded**

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Plaintiff Barbara Meli, individually and on behalf of a proposed Class (the “Class” or “Plaintiff”), by and through her undersigned counsel, as and for her Complaint against Defendant Wag Labs, Inc. (“Wag”), hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is a case of greed and profit trumping animal welfare as dogs nationwide, and in New York State, are being lost, stolen abused and killed while in the custody of Wag’s dog walkers. All of that while Wag has generated over \$360 Million Dollars in venture capital<sup>1</sup> to take advantage of a multi-Billion Dollar dog walking industry<sup>2</sup>. In short, Wag reaps huge profits in this new age of a mostly unregulated gig economy where lives are for profit, at a cost of silent deaths of the dogs who are meaningless in this technological business model.
2. Since 2015, Wag operates an on-demand dog walking mobile app and website that consumers use to pay for a dog walker dispatched by Wag to their homes. They enter via a key or a door code on a lock provided by Wag, as most times the home is vacant where the dog awaits the unknown walker. Consumers do this because they rely on Wag’s app and web advertisements claiming their dog walkers are “Trusted dog walkers” qualified to care for the safety of their pets, and licensed and bonded and vetted by Wag’s “thorough background checks ” (**Exhibit A**).

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<sup>1</sup> <https://www.vox.com/2018/1/30/16948506/wag-softbank-joshua-viner-ceo-hilary-schneider>

<sup>2</sup> <http://www.ibisworld.com/industry/dog-walking-services.html>

3. Those statements are deceptive, misleading, and incredible when Wag's business model relies on volume to make profits. Wag operates in 43 states and more than 100 cities nationwide<sup>3</sup>, using thousands of dog walkers they never personally met or interviewed.
4. Further deceptive claims by Wag include their taking over a "10 trillion steps":<sup>4</sup>



That calculates out to Wag's annual gross revenues since 2015 exceeding \$7 Billion Dollars:

10 trillion steps is equal to 10,000 billion steps, and every 10,000 steps is 5 miles, (<http://www.thewalkingsite.com/10000steps.html> ), and that equals 5-billion miles. A 30-minute dog walk is normally about 1 mile (<https://www.rover.com/community/question/15366/approximately-how-far-is-the-average-distance-for-a-30-min-walk/> ). That is about 5-billion walks since 2015 when Wag started. These figures increase each year by assuming from 2015 to 2019 as 0.25 + 0.50 + 1 + 1.5 + 1.75 billion for a typical VC-funded growth path. That results in 1.75 Billion walks at \$20 per walk, and that equals gross receipts of \$35B up to this year. Divide that by the past 5 years Wag has been operating and that is a \$7 Billion Dollar annual income.

5. If true, then **\$7 Billion Dollars** is ample money to personally interview, actually train their dog walkers , and fund competent background checks, which are evidently not in place by virtue of the demonstrated criminal conduct of their walkers dispatched to consumer homes. Indeed, Wag dog walkers regularly prove the training is inadequate, and that trust is not a

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<sup>3</sup> <https://www.linkedin.com/company/wag-labs-inc->

<sup>4</sup> <https://www.facebook.com/WagWalking/photos/a.1482861178654340/2173605422913242/?type=3&theater>

priority as they have stolen, lost, beaten and killed pets, then Wag offers pay-offs to silence the owners or they send actress Olivia Munn to meet and greet the distraught pet owners (<https://pagesix.com/2019/06/14/olivia-munn-dispatched-by-dog-walking-app-wag-after-alleged-dognapping/> ).

6. This case seeks to change the way Wag does business by adding appropriate safety standards for the pets and changing the company's (a) Processes of recruitment, training, certification, application functionality, and pet tracking, (b) Management by replacing Wag's "Trust & Safety" program with the guidance of an external auditor and establish ISO 9001/ Six-Sigma standards, (c) Oversight by removing a current board member and replacing with a nationally recognized expert on animal welfare and safety, and (c) Regulation by using only licensed and bonded dog walkers who pass a rigorous safety and background check and an Independent Audit. Injunctive relief is requested pending the above changes.
7. A transformed Wag will be a model for similar apps and regulation at the city, state and federal levels.

#### **JURISDICTION AND VENUE**

8. The jurisdiction of this action arises under diversity of citizenship, which is codified pursuant to 28 U.S.C. §1332, given that Plaintiff is a citizen and resident of New York in Nassau County and Defendant is incorporated in Delaware with its principal office in California, and this action involves an amount in controversy in excess of \$75,000, exclusive of interest and costs.
9. Subject matter jurisdiction over this action is established pursuant to the Class Action Fairness Act, 28 U.S.C. §1332(d). The aggregated claims of the individual class members exceed the sum or value of \$5,000,000, exclusive of interests and costs. Finally, 28 U.S.C. §§1332 and 1367 permits the supplemental state claims alleged herein.
10. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §1391 and 18 U.S.C. §1965(a) because Defendant systematically conducts and transacts substantial business in this district on a regular and daily basis and the causes of action occurred here.

#### **PARTIES**

11. At all times material herein, Plaintiff Barbara Meli is and was a resident and citizen of the State of New York in Nassau County.
12. At all times alleged herein, Defendant Wag was and is a Delaware corporation, incorporated as a foreign business corporation in New York State, with a principal office at

8560 West Sunset Blvd., 100, West Hollywood, California 90069. Defendant operates nationwide under the name “Wag” and conducts substantial business in this District, where New York consumers use the Wag dog-walking app at fees averaging \$20-40.00 an hour paid through the app to Wag. Also, Defendant Wag pays taxes to the City of New York.

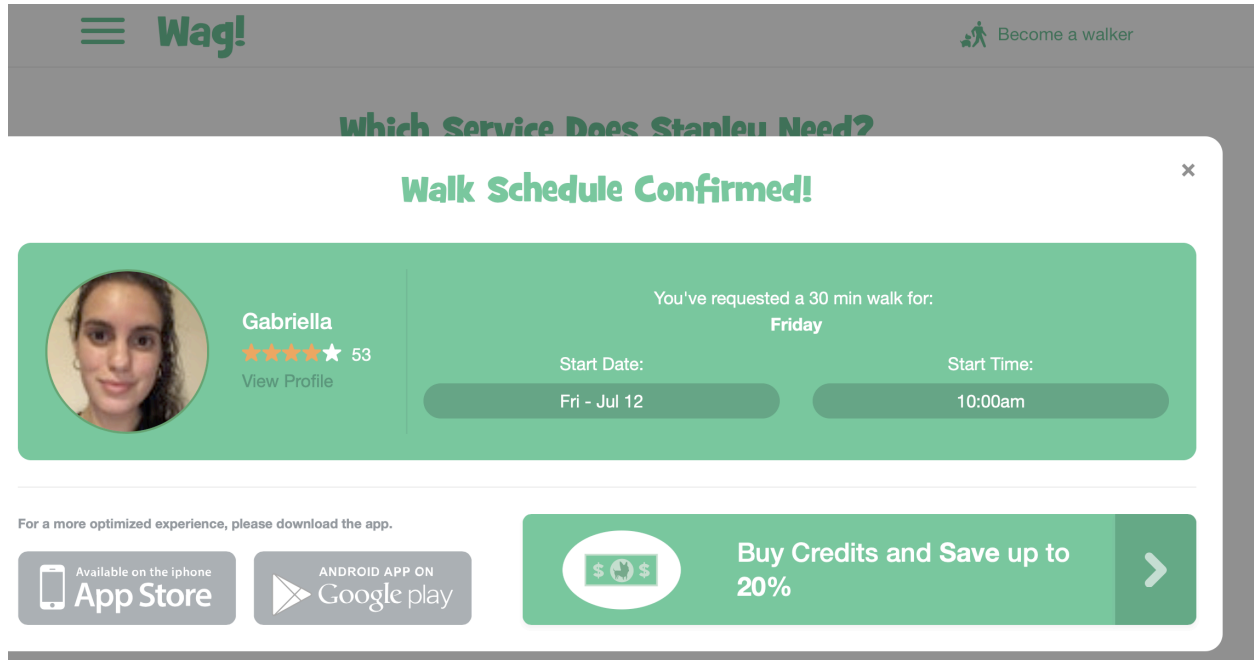
### FACTS

13. Plaintiff Barbara Meli has three dogs and was interested in dog walking services for July, 2019. On June 29, 2019, she used the Wag dog walking app that advertised dog walkers in Nassau County, where she lived, as “trusted dog walkers”, “thoroughly investigated”, “insured and bonded” and “Wag Guaranteed”, as shown below:

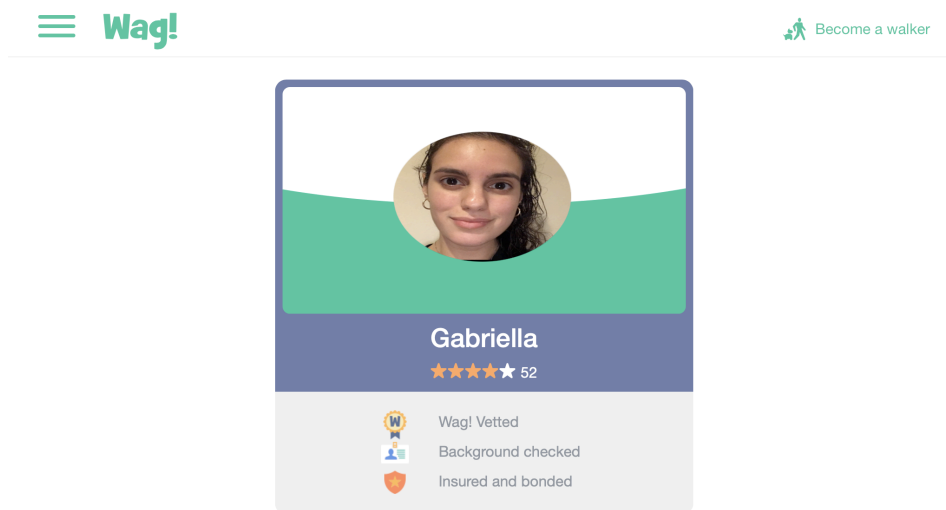
The screenshot displays the Wag! website interface. At the top, the Wag! logo is on the left, and navigation links for 'Become A Walker', 'Services', 'Help Center', 'Blog', and 'Login' are on the right. The main banner features a large image of a woman and a dog, with the text 'Dog Walkers in Nassau' and a 'Claim Free Dog Walk!' button. Below the banner, the 'How Wag! Works' section is divided into three columns: 'Book a Dog Walk with One of our Trusted Wag! Walkers', 'Track your Dog's Walk with our Live GPS Tracker', and 'Receive Custom Reports Detailing your Dog's Activity'. The bottom section, 'Vetted Walker Trust & Safety', includes three icons representing 'Thoroughly Vetted', 'Insured & Bonded', and 'Wag! Guaranteed'.



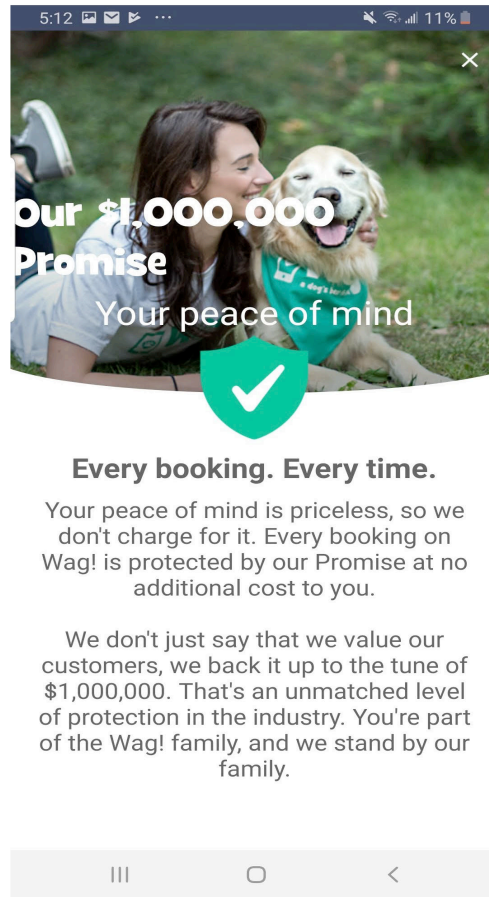
14. Plaintiff provided her email address and a password to open an account for Wag's dog walking services. Next, the app offered her a free dog walk that she scheduled for July 12, and the app responded by assigning a dog walker named "Gabriella" with a four star rating:



15. There was no other information for Gabriella other than a "View Profile" link. Upon reviewing the "View Profile" link, there is still no information about this person's last name, who she is or where she is from other than their bald statements that she is "Wag! Vetted", "Background Checked" and "Insured and bonded":



16. Wag's app even offers a "priceless" One Million Dollar promise to back-up their claims:



17. However, that too is deceptive and misleading as Wag makes it appear that they are so trustworthy that they promise a million dollars of theirs is on the line if anything happens.
18. Plaintiff Barbara Meli did some research on the web and discovered the beginning of a horrendous history of Wag dog killings, thefts and beatings and Wag dog walkers committing other crimes in consumer homes. None of those stories are published on Wag's app or website.
19. To protect her interests and her dogs, Plaintiff Meli retained legal counsel at a cost of \$750.00 to review Wag's website claims and terms to inform her of her rights. To her surprise, her counsel explained that Wag's Terms of Service contradicts everything they advertise by, among other things, expressly excluding liability by Wag, disclaims any relationship with its walkers advertised as "trusted" and insured, among its other claims stated herein, and once a consumer uses Wag's services the consumer actually loses all intellectual property rights to any pictures their walkers take of their dogs (**Exhibit B**).
20. In other words, those intellectual property rights unwittingly waived means a pet owner's cute little dog's picture taken by Wag's walker is now owned by Wag and can be sold by

them--- ending up on a can of dog food that makes Wag and everyone else millions of dollars except the pet owner.

21. Plaintiff Meli decided to pursue this action to protect her interests as a New York State consumer, and those of the consuming public, from the false and misleading claims advertised by Wag. To do so, she paid an additional filing fee of \$400 and legal fees.

#### **WAG'S BACKGROUND**

22. In 2015, Wag commenced operating an on-demand dog walking mobile app and website that consumers use to pay for a dog walker that Wag dispatches to their vacant homes. They enter via a key or a door code.
23. Wag's advertisements at [www.wagwalking.com](http://www.wagwalking.com) are deceptive and misleading by claiming their dog walkers are "Trusted dog walkers" qualified to care for the safety of their pets and who are licensed and bonded and vetted by Wag's "thorough background checks".
24. Those statements are incredible and unverifiable considering the enormity of their operation, volume of consumers and dog walkers they handle nationwide, and the serious problems of deaths and thefts of the pets while under Wag's care that Wag many times pays-off consumers for their silence.
25. Regarding their claim of licensed and bonded dog-walkers and sitters alone, Wag's profiles of its dog-walkers and sitters nowhere display a license number or bond information for them. In fact, licensing and bonding is patently false because in New York City there is no law requiring a license or bond for dog walkers, so that cannot be true for New York City dog walkers are licensed and bonded. Yet, New York City consumers are misled to believe, and can reasonably believe, that is what they are paying for.
26. Wag operates in 43 states and more than 100 cities nationwide, making enormous profits from advertising nationwide but failing to apply those profits to the most important part of their business-the safety of the pets by personally interviewing their walkers and sitters, properly training them and using thorough background checks.
27. According to Wag's claims of taking over a "10 trillion steps", their gross revenues since 2015 have exceeded \$7 Billion Dollars -calculated as follows:

10 trillion steps is equal to 10,000 billion steps, and every 10,000 steps is 5 miles, (<http://www.thewalkingsite.com/10000steps.html> ), and that equals 5-billion miles. A 30-minute dog walk is normally about 1 mile (<https://www.rover.com/community/question/15366/approximately-how-far-is-the-average-distance-for-a-30-min-walk/> ). That is about 5-billion walks since 2015 when Wag started. These figures increase each year by assuming from 2015 to 2019 as 0.25 + 0.50 + 1 + 1.5 + 1.75 billion for a typical

VC-funded growth path. That results in 1.75 Billion walks at \$20 per walk, and that equals gross receipts of \$35B up to this year. Divide that by the past 5 years Wag has been operating and that is a \$7 Billion Dollar annual income.

### **DOGS KILLED, STOLEN AND LOST ON WAG'S WATCH**

28. From what we know from the New York Post and other publications, Wag lost eleven dogs from 2015 up to March, 2018 that we know of, and several more as of June, 2019 (<https://nypost.com/2018/05/14/embattled-dog-walking-app-loses-yet-another-dog/>; <https://nypost.com/2018/03/16/lawmakers-look-to-muzzle-embattled-dog-walking-app/>) . The actual total surely exceeds the number stated above due to the suppressive effect of Wag's standard operating procedure of pressing distraught pet owners to accept minor settlements in return for aggressive confidentiality agreements.
29. On June 18, 2019, Rey the dog was found killed after being struck by a train when a Wag walker lost him during a walk. The grief stricken family shared their horror story:<sup>6</sup>



Maribeth Cole

June 16 at 6:16 PM · 🌐

!!! 🚨 !!! UPDATE 6/18: Rey was found this morning, deceased. She was struck by a train. Please continue to share to help us spread awareness of the dangers of Wag!

Thank you to everyone who helped search for her. It means everything ❤️❤️

My brother hired Wag to walk his dog this weekend for the first time, while he was out of town. The first walk took place at 8:00 am on 6/15, he signed up for a second walk at 4:00 pm the same day. The walker showed up, and marked the walk as complete but then notified John he didn't walk her cause he couldn't find the leash. Therefore, my brother scheduled another walk for 10:00 pm, of 6/15. The walker showed up at 10:00 pm, left the door open, and Rey ran away. Another walker showed up for the scheduled walk at 8:00 am, 6/16, and called/texted my brother and explained that Rey wasn't in the apartment. My brother then checked his email and saw messages from Wag time stamped at 1:30 am and 3:15 am. Why was the next walker not even informed that she got out? My brother didn't have any missed calls from the night of 6/15.

New information has come to be, that not only did Wag not seem to be of much to help, or share at all, (considering this happened in their own backyard... their HQ is in LA). But their dog walker showed up to my brothers house, with his girlfriend. (This is a major no, as far as their rules go). The walker had 1 Star, (it seems that wag assigns random walkers to each walk). Upon arrival, they left the door open, and opened her crate. They clearly didn't know how to handle a nervous dog. Rey got scared, growled and barked, and ran out the door. The Wag walker dove at her, got ahold of her collar, and scared her even more. She was able to get away, and dash off. When my brother got home, he found pee along the staircase of his apartment, showing that she peed out of fear. From what we know, Wag sent out mass messages for people to look for her. We know now, from experts, that doing this will only put her into fight or flight mode, pushing her further away from her home. They also put up flyers, and put their own phone number on it instead of my brothers so that they would have to be the middle man. This allowed for John to receive delayed tips of sightings.

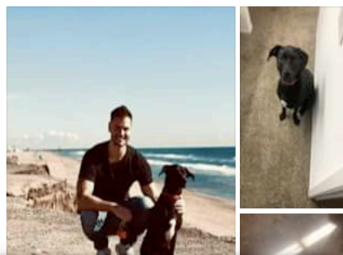
So I beg you this question, a company like Wag, should probably do a better job of training the "trustworthy" people they hire to know how to properly handle these situations. The dog walker diving at her from the get go was the wrong approach. Not to mention the absolute negligence involved in the events leading up to it. If the walker who lost Rey already had an only one star review, why did Wag fail to look into the reasoning, and fire him? There seems to be miscommunication between walkers the company and their customers. Wag does nothing to share stories about dogs lost in their care on social media, which evidently happens pretty regularly. A quick google search will show you that.

That being said, please be careful with who you choose to not only let into your home, but into your pets lives. Please work with us to push efforts away from gaining business as they are a large cooperation that focuses on making money, and not the care of people's beloved animals. Let's do this in memory of Rey, to ensure that this doesn't happen to anyone else.

Her name was Rey, she was a lab mix, and 2 years old. My brother moved across country last year from Wisconsin to California with nothing but this dog, she meant a lot to him.

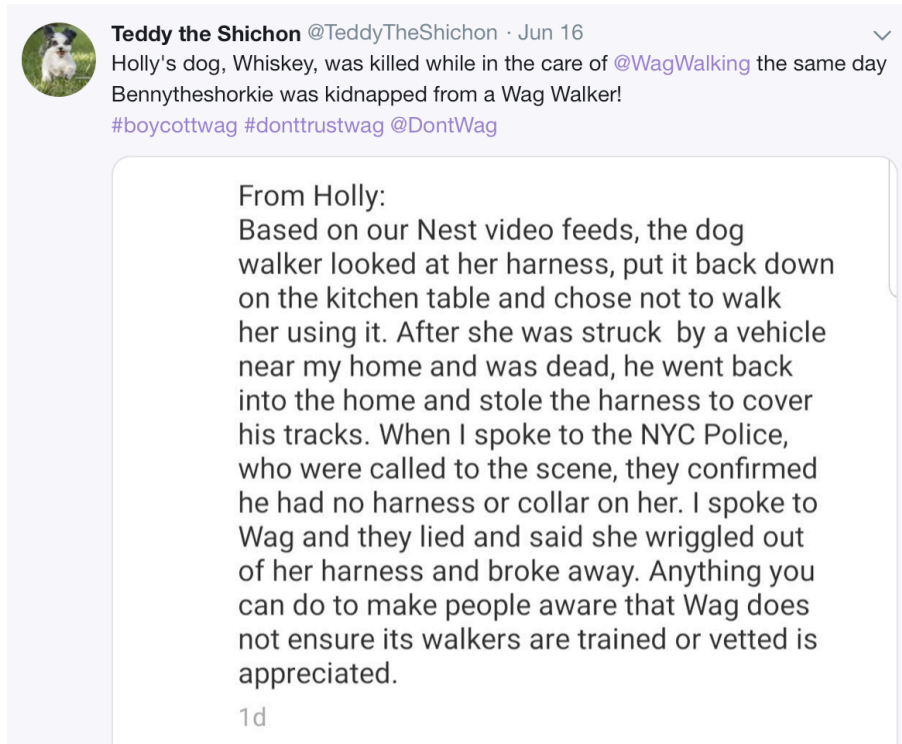
My brother lives across the country, I live in Wisconsin, so this is really the only form of help I can provide to him. Please help us get [#JusticeforRey](#)

[DontTrustWag.com](#)



<sup>6</sup> [https://m.facebook.com/story.php?story\\_fbid=1157874567754510&id=100005959330590](https://m.facebook.com/story.php?story_fbid=1157874567754510&id=100005959330590)

30. Temporal to Rey's incident, on June 13, 2019, a little Yorkshire terrier named Whiskey was killed and her crystal necklace and other property stolen while in the custody of Wag's dog walker in New York City. Whiskey's distraught parents published their story on social media:



31. That same week, a Wag dog walker stole Benny the dog in New York City (<https://newyork.cbslocal.com/2019/06/14/nyc-dog-found-stolen-wag-app/>). Wag sent actress Olivia Munn to quiet the bad press by meeting Benny's parents (<https://pagesix.com/2019/06/15/olivia-munn-thanks-nypd-for-tracking-down-dog-allegedly-stolen-by-wag-walker/>). Later that week, the NYPD found Benny at the Wag dog walker's home.
32. Further examples of Wag's ineptitude are legion. Duckie the dog, from Brooklyn, was walked by a Wag dog walker who failed to leash the dog, ending in Duckie being struck and killed by a car (<https://abc7ny.com/pets/brooklyn-women-blame-wag-app-for-the-death-of-their-dog-duckie/1106715/>). Buddy the dog from Long Island disappeared after a Wag dog walker took Buddy, at which point Wag tried to buy the owner's silence to



avoid unfavorable media coverage (<https://www.bloomberg.com/news/articles/2017-10-16/wag-the-uber-for-dog-walking-is-drawing-uber-like-scrutiny>). In Houston, Winnie the dog was killed by a car while with a Wag dog walker who later tried to conceal her death; and Wag offered to pay for Winnie's cremation and send her dead paw print if the owner signed a confidentiality agreement (<https://www.cbsnews.com/news/houston-texas-nick-sara-moore-winnie-dog-died-dog-walker-wag-app/>). Temporal to Winnie's death, a Wag dog walker beat Ollie the dog in Danville California. Id.

33. The above are some of the deaths and thefts we know about; however, because Wag buys the silence of consumers with money and confidentiality agreements then there could be 100 or a thousand more of these deaths and thefts that discovery in this action should reveal.

#### **WAG'S FALSE CLAIMS & ADVERTISEMENTS OF SAFETY & INSURANCE**

34. Wag publicly claims they "use a robust vetting process that includes an application and verification process, a third-party background check, and online tests covering dog safety and handling knowledge that each applicant must pass to be approved to work on our platform." Wag claims publicly that they use an "extensive third-party background screening, two online tests for dog safety and care and that many of their employees were "dog walkers, vet techs, shelter volunteers, and animal-welfare advocates".
35. They claim only about 10% of the applicants pass their test, and that a "safety team" investigates and resolves issues (<https://www.outsideonline.com/2345986/cautionary-tale-about-dog-walking-apps>).
36. Wag's website reiterates and advertises those claims of safety and insurance as having "trusted dog walkers", "Vetted dog walkers", "pre-screened and insured" dog walkers who are "background checked and insured" and they use a "thorough vetting process-which includes dog handling, safety tests, phone screening, and background checks - many of our walkers have worked as veterinary technicians, shelter volunteers..."(**Exhibit A**-incorporated here as if fully set forth).
37. Wag convinces the public that its methods are reliable and safe by affirming on its website in an unconditional promise that "Our \$1,000,000 Promise, Your peace of mind" and continues to baldly and deceptively promise that every booking is protected at no additional cost "to the tune of \$1,000,000" (see above). The net effect is that consumers

believe Wag is so trustworthy and reliable that they are willing to pay \$1,000,000 if something goes wrong.

38. To Wag's discredit, their website and app does not list any license or bond number on the profiles of their dog walkers and pet sitters. Also, their "priceless" \$1 Million Dollars for peace of mind is wholly contradicted by their Terms of Service that Wag is not responsible for anything, that use of Wag means consumers waive any claims against Wag, they limit any claim to \$500.00 (<https://wagwalking.com/terms> , Exh. B ).
39. Furthermore, even in cases of the death of the dogs in their charge, the evidence of Wag's repeated pattern of behavior is that they engage in cover-up internally and attempt to gag consumers from sharing the true course of events to media or other consumers. **That behavior denies the consuming public informed consent before they pay for and use Wag's services.**

#### **Wag's Hidden Terms of Service Has Consumers Waive All of Their Rights**

40. Wag's thirteen page Terms of Service ("TOS") agreement is not easily accessible nor prominent, but hidden away at the very bottom of the page as one of many links. It is deliberately hidden because it is not meant to be read as it contradicts everything that Wag advertises by a number of improper waivers and false representations (Exhibit B and see <https://wagwalking.com/terms>).
41. At page 1, the TOS says WAG has "no control" over the conduct of its dog walkers and at page 8, under the "Limitation of Liability", Wag disclaims all liability for anything that occurs by the "Pet Care Provider" even if Wag had notice before the damages occurred and limits its liability to \$500. However, those terms contradict their web advertising and affirming in numerous articles, as above stated, that they train their dog walkers, insure they are licensed and bonded and conduct extensive background searches on them.
42. The TOS, at page 3, confirms that Wag takes an unidentified fee for itself from the payments consumers make through its app, and then Wag pays the dog walkers. Conspicuously absent is exactly what fees Wag takes from the on-line payments consumers make to Wag through its app and, again, why Wag takes money then pays their dog walkers but disclaims any relationship with them or liability because of them.
43. The TOS page 4 waives the consumer's privacy rights as Wag dog walkers can take pictures, videos and other recordings of the consumer's dog that Wag can use in its "promotional and marketing activities". Hence, making more money off of the consumer,

unbeknownst to the consumer that their paying Wag for a service while Wag profits from the consumer every which way it can once it gets into the consumer's home.

44. At page 6, the TOS confirms that "You agree that the licenses you grant are royalty-free, perpetual, sublicenseable, irrevocable, and worldwide." Otherwise meaning that Wag can further profit from pictures and recordings of consumers' dogs without paying any compensation to the consumer for what is actually the consumer's property. It is inconceivable that anyone would just give up their rights to any profit made from their dog- but the hidden TOS terms do just that, unbeknownst to the consumer.
45. The TOS at page 7, under the heading "Third Party Interactions", explains that Wag relies on third party advertising to subsidize its services and that consumers who do not agree to receive such advertising will be charged a higher fee for services. It also states that consumer profiles of how they use the services will be compiled and released anonymously, but does not inform where they are being released and whether it is for a fee. Thus, Wag can penalize consumers by charging a higher fee without the consumer knowing that and they also take that same penalized consumer's private information and likely profits from that too.
46. Overall, the consumer thinks they are getting a deal for a half hour walk at a mere \$20 when in fact their dog's picture becomes the property of Wag that can be sold to profits that the consumer waives its property rights to per the TOS, and gives up so many other rights that Wag knows no consumer is reading their 13 page TOS, nor would they completely understand its legal jargon and consequences.

#### **CLASS ACTION ALLEGATIONS**

47. Plaintiff seeks redress in her individual capacity and on behalf of a Class consisting of similarly situated consumers. Pursuant to Fed. R. Civ. P. 23(a) and (b)(2) or (b)(3), Plaintiffs seek Class certification of a Class defined as follows:

"From June 18, 2016 to date, all persons nationwide, including New York State, who paid money for dog walking or pet sitting services through Wag's mobile app and/or website and had a dog walker or pet sitter come to their home and walk their dog or sit for the pet owners."

48. Plaintiffs reserve the right to amend or modify the Class definition with greater specificity or subclass divisions after discovery.
49. Excluded from the Class are: (i) any judge presiding over this action and their family members; (ii) Wag, its subsidiaries, successors, or any entity in which Wag or its parent companies may have a controlling interest, Wag's current or former employees, officers, or directors; (iii) persons that properly exclude themselves from the Class; and (iv) the legal representatives, successors, or assignees of any properly excluded persons.

### **NUMEROSITY**

50. The potential Class members as defined are so numerous and diversely located throughout the U.S. that joinder of all Class members is impracticable. While the exact number of Class members is unknown because such information is in the exclusive control of Wag, upon information and belief, the Class is greater than 100 individuals.

### **COMMON QUESTIONS OF LAW AND FACT**

51. There are questions of law and fact common to Plaintiff and the Class that predominate over any questions affecting only individual Class members. These common questions of law and fact include, inter alia, whether:
  - a) Wag violated New York's General Business Law §349;
  - b) Wag violated New York's General Business Law §350;
  - c) Wag engaged in, and continues to engage in, unlawful, fraudulent, and unfair practices that are substantially likely to mislead the public, and therefore members of the Class;
  - d) Wag has engaged in and continues to engage in unlawful, fraudulent, and unfair practices, including by representing to the public, and Class members, that it provides trustworthy, licensed and bonded, insured and background checked dog walkers;
  - e) Wag fraudulently and unfairly misrepresents to Class members that it had the ability to and would in fact ensure that its dog walkers were safe and properly trained to handle consumers' dogs;
  - f) Wag adequately trains, supervises, and properly background checks each and every one of its dog walkers;

- g) Wag's false and misleading statements concerning its services were likely to deceive the reasonable consumer;
- h) Wag's TOS was hidden and/or not prominently displayed so consumers would be locked into terms they never read nor would agree to but for the TOS being hidden;
- i) Class members are entitled to actual and/or statutory damages and, if so, the appropriate amount of damages due the class; and
- j) Declaratory and injunctive relief is available in this action.

#### **TYPICALITY**

52. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and Class members were exposed and subjected to Wag's uniform practices and policies surrounding its representations to the public that it has safety requirements in place, including trained, licensed and bonded dog walkers to protect their pets that has resulted in, and will continue to cause, irreparable harm but for immediate action by the Court.

#### **ADEQUACY OF REPRESENTATION**

53. Plaintiff will fairly and adequately assert and protect the interests of the class and have retained competent and experienced counsel in both federal and state class action litigation, who has been appointed class counsel before, including having experience applicable to this consumer fraud case.

#### **PREDOMINANCE**

54. With respect to the Class, questions common to the class predominate over those that only affect individual owners. This case involves Defendant's deceptive practice in advertising its services to the consuming public to get them to pay for what was not true, and will primarily be predicated upon the jury's evaluation of Defendant's sales, advertising, practices and conduct in regards to its services provided.

#### **SUPERIORITY**

55. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all of the Class members is impracticable. Furthermore, the adjudication of this controversy through a class action will avoid the possibility of inconsistent and potentially conflicting adjudication of the asserted claims. There will be no difficulty in the management of this action as a class action.



**INJUNCTIVE AND DECLARATORY RELIEF.**

56. Wag's practices are uniform as to all Class members. Wag has acted or refused to act on grounds that apply generally to the Class, so that final injunctive or declaratory relief is appropriate with respect to the Class as a whole.

**COUNT ONE (NY General Business Law §349)**

57. The averments of each paragraph above are restated here as if fully set forth herein.
58. New York's General Business Law §349 prohibits "[d]eceptive acts or practices in the conduct of any business."
59. Defendant's acts and practices are not unique to the parties and have a broader impact on the public.
60. Defendant Wag's conduct, acts and practices in its business were and are materially misleading and deceptive because its claims are untrue that all of its dog walkers and pet sitters are "trusted dog walkers", "Vetted dog walkers", "pre-screened and insured" dog walkers who are "background checked and insured" and they use a "thorough vetting process-which includes dog handling, safety tests, phone screening, and background checks - many of our walkers have worked as veterinary technicians, shelter volunteers..."
61. Moreover, Wag's Million Dollar guarantee is deliberately deceptive by giving consumers a false sense of trust by believing that if Wag is willing to put up a Million Dollars for the safety of the owners and their pets then their claims, at issue here, must be true.
62. At all times during which Defendants made the above-referenced representations to Plaintiffs, and to the public, Defendants knew, or were willful in not knowing, that they were false and misleading in the manner referenced above.
63. Plaintiffs and the class reasonably relied upon and were deceived by Wag's false and misleading advertising and they all paid money relying on obtaining a properly vetted, experienced, trained and bonded and insured dog walker when in fact they paid for someone whom Wag never personally met, interviewed or trained, and of whom they did not conduct a thorough or proper background check, nor who was bonded or insured.
64. Wag's false claims and Million Dollar guarantee caused consumers to pay for services that are not as advertised.
65. The above-referenced representations were material facts that Plaintiff and the proposed Class relied on, paying prices for dog walking that Defendants would not have been able to

charge absent the above-referenced representations, and having to pay legal fees to understand their rights and the deceptive advertising by Wag.

66. As a result, Plaintiff and the proposed Class have suffered damages in an amount to be determined at trial.
67. Plaintiff further seeks to enjoin such unlawful deceptive acts and practices described above. Unless the unlawful actions of Defendant are enjoined, Defendant will continue to deceptively advertise its services that it actually disclaims all liability for.
68. Each demands compensatory damages in the form of the greater of their actual damages or statutory damages of \$50 per violation. In addition, pursuant to G.B.L. §349, Plaintiff and the putative class seek injunctive and declaratory relief declaring the advertisements deceptive and prohibited by the statute, and to enjoin use of the deceptive advertising and conduct.

**COUNT TWO (NY General Business Law §350)**

69. The averments of each paragraph above are restated here as if fully set forth herein.
70. New York's General Business Law § 350 provides, "[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful."
71. With regard to New York consumers, Defendant's advertisements were false and misleading in a material respect and were directed at and misleading to reasonable consumers.
72. With regard to New York consumers, Plaintiff and the putative class have been aggrieved by Defendants' false advertising, and demand compensatory damages in the form of the greater of actual damages and/or statutory damages of \$500 per violation. In addition, pursuant to G.B.L. §350, Plaintiff and the putative class seek injunctive and declaratory relief declaring the advertising deceptive and prohibited by the statute and to enjoin further deceptive advertising.

**COUNT THREE (Negligent Misrepresentation)**

73. The averments of each paragraph above are restated here as if fully set forth herein.
74. Defendant was in a special relationship with the Plaintiff and the proposed Class of dog owners as Wag advertised and provided, and still does, the care of their beloved pets. Notably, advertising that their dog walkers were former vet technicians with the experience to care for dogs and all had a special expertise in caring for dogs by virtue of alleged

training they received from Wag. Therefore, imposing a special relationship of trust and confidence between the pet owners and the Wag dog walker.

- 75. Defendant Wag made false representations that it should have known were incorrect.
- 76. The information supplied in the representation was known by Defendant to be desired by the Plaintiff and the class for a serious purpose to care for their dogs.
- 77. Plaintiff and the class intended to rely and act upon it and they reasonably relied on it to their detriment as they all paid money based on false representations and Plaintiff paid for legal retention to protect her rights as Wag's website and app claims were vague and confusing.

**COUNT FOUR (Unjust Enrichment)**

- 78. The averments of each paragraph above are restated here as if fully set forth herein.
- 79. Defendant was enriched and benefited from the increased sales of its services and the use of its app as a result of Plaintiff and putative class members having been deceived by the advertisements and were thereby caused to use the app and purchase the services.
- 80. The enrichment and benefit to Defendant came at the expense of Plaintiff and putative class members who purchased services from Defendant because of its deceptive and misleading advertising and had to retain legal counsel to protect themselves.
- 81. The circumstances are such that equity and good conscience require Defendant to make restitution to Plaintiffs and putative class members for its enrichment , which came as a result of the deceptive and misleading advertising, and not be permitted to retain the revenues accrued from those sales to Plaintiff and putative class members.
- 82. Defendant has failed to make restitution.
- 83. As a result, Plaintiff and the putative class have been damaged.

**DEMAND FOR JURY TRIAL**

- 84. Plaintiff, individually and on behalf of the putative class, hereby demands a Jury trial on all issues and claims regarding this Complaint.

**PRAYER FOR RELIEF**

*WHEREFORE*, Plaintiff prays for relief as follows:

- a. That the Court determine that this action may be maintained as a class action pursuant to Fed. R. Civ. P. 23, and designate Plaintiff as representative of the Class, and her counsel of record as Class counsel.

- b. An award of damages, including statutory damages where applicable, to Plaintiff and the Class in an amount of no less than Five Million Dollars to be paid by Defendant;
- c. Disgorgement or restitution by Defendant Wag of all revenue earned from its fraudulent and unlawful advertising practices described herein during the class period;
- d. That the aforesaid conduct of Defendants be adjudged and declared to have been in violation of GBL 349 and 350 and that judgment be entered for Plaintiffs and the members of the class and against Defendants for threefold the amount of damages sustained by Plaintiff and the class, together with the costs of this action, including reasonable attorneys' fees;
- e. That the aforesaid conduct of Defendants be adjudged and declared to have been in violation of the common law and statutes of New York, and that judgment be entered for Plaintiffs and the members of the class and against Defendants for the amount of damages determined to have been sustained by them or otherwise allowed by law;
- f. That Defendants, their subsidiaries, successors, transferees, assignees and their respective officers, directors, partners, agents, and employees, and all other persons acting or claiming to act on their behalf or in concert with them, be permanently enjoined and restrained from in any manner continuing, maintaining, or reviving the unlawful conduct alleged herein with respect to their services;
- g. That reasonable attorney fees and costs of the suit be granted to Plaintiff and the Class;
- h. That Punitive damages be granted to Plaintiff and the Class;
- i. That compensatory damages, restitution and all allowable damages be granted to Plaintiff and the Class for all violations alleged herein above; and
- j. That Plaintiff and members of the class have such other, further and different relief as the Court may deem just and proper.

Dated: July 1, 2019  
New York, NY

**LAW OFFICES OF SUSAN CHANA LASK**

/s Susan Chana Lask

---

By: Susan Chana Lask, Esq. (SCL-1744)  
Attorney for Plaintiffs & the Putative Class  
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New York, NY 10001  
(917) 300-1958  
scl@appellate-brief.com

## EXHIBIT A



Become a Walker

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Help Center

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## Trusted dog walkers

Starting as low as \$20 per walk

**1st Walk FREE\***

\*First time customers only.  
Promotional value up to \$20.



## How a Wag! Walk works





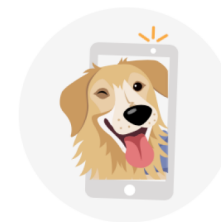
## How a Wag! Walk works



Select the date and time that best suit your needs and we'll take your pup for a stroll



Choose between a short, 30-minute walk, or a longer, 1-hour stroll for your dog



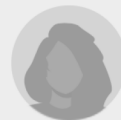
Receive pics and vids of your pup enjoying a leisurely stroll outside with their walker

BOOK NOW

# Vetted dog walkers

Book with a highly-rated dog walker who will take your dog out for exercise and a potty break when you're at work or busy during the day. Whether it's one time or repeated, walks with Wag! are a great way to care for your dog.

BOOK WALK



Wag! is very helpful when it's too complicated to find a pet hotel for your animal, or if you need to board them at the last minute. And I can request a walk literally an hour before I need it, which makes me not worry about my dog when I leave the house.

- Athena J



# Frequently asked questions

## What is Wag!?

Wag! is the nation's fastest-growing network of pre-screened and insured pet sitters and dog walkers. In less than 15 minutes you can book a nearby dog sitter, daycare provider, or dog walker, who'll take complete care of your loved one - at their place or yours.

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## Who's walking my dog?

Wag! pairs your furry family member with an experienced and vetted dog walker in your neighborhood. All background checked and insured.

---

## Is Wag! right for my dog?

The Wag! matchmaking process is designed to find your perfect match. On Wag! you can find and book a walker with experience caring for:

- Puppies

### **Is Wag! right for my dog?**

The Wag! matchmaking process is designed to find your perfect match. On Wag! you can find and book a walker with experience caring for:

- Puppies
- Older dogs
- Disabled dogs
- Dogs that require medication
- Dogs with separation anxiety
- Dogs who need lots of playtime

Being upfront about any special requirements is the best way to find the perfect match for your dog.

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### **What does it cost?**

The price of a Wag! dog walk is determined by location and walk length and usually starts at \$20 per 30-minute dog walk. It includes GPS tracking, video and text message updates during the walk.

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### **How long are Wag! dog walks?**

At Wag!, we offer 30-minute and 60-minute walks. Depending on the breed, age, and health of your pup, their physical

### **How long are Wag! dog walks?**

At Wag!, we offer 30-minute and 60-minute walks. Depending on the breed, age, and health of your pup, their physical needs may vary. We recommend asking your veterinarian to help determine the appropriate amount of exercise to keep your dog happy and healthy!

---

### **What type of walk should I request?**

We offer three types of walks: ASAP, One-Time, and Recurring. ASAP walks are best if you would like your walker to arrive within the hour. One-time walks are best if you are looking to have your pup walked at a specific time in the day, or if you're looking to schedule a walk for a later date. Recurring walks are the way to go if you'd like to set up a recurring schedule with a walker on a weekly or daily basis.

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### **How does Wag! evaluate dog walkers?**

Every walker undergoes a thorough vetting process - which includes dog handling, safety tests, phone screening, and background checks - many of our walkers have worked as veterinary technicians, shelter volunteers and the majority have been lifelong dog owners and caretakers. 95% of Wag! walks result in a perfect 5-star review.

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### **How do I pay for the service?**

Wag! accepts all major credit cards, including VISA, MasterCard and American Express. Never pay by cash or check as this makes your booking ineligible for premium insurance and 24/7 support.

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### **When will I be charged for service?**

Your card is charged after the service is complete. Wag! will hold onto the funds and release payment to your walker or sitter within 48 hours of the service being completed.

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### **How do I claim my FREE walk?**

Submit your booking request in the next hour or at a time of your choosing.

**Didn't find the answer?**

.....

### HOW DO I CLAIM MY FREE WALK?

Submit your booking request in the next hour or at a time of your choosing.

## Didn't find the answer?

[MORE FAQs](#)

### About Wag!

Help Center  
About Wag!  
Trust and Safety  
Community Guidelines  
Wag! Partners  
Press  
Blog  
Careers  
Become Wag! Walker

### Top Wag! Cities

San Francisco  
Los Angeles  
Chicago  
New York  
Atlanta  
Washington D.C.  
Dallas  
Miami  
Philadelphia  
All Walking Cities  
All Boarding Cities

### Resources

Dog Health  
Dog Training  
Dog Grooming  
Dog Breeds  
Dog Names  
Dog Activities  
Dog Senses  
Dog Behavior

### Lifestyles

Dog Beaches  
Dog Campgrounds  
Dog Parks  
Dog Trails

### Legal Links

Privacy Policy  
Terms & Conditions

### Security

Responsible Disclosure

# Wag!



Download the Wag! App



## EXHIBIT B

# Terms of Service

Welcome to Wag!

These Terms of Service constitute a legally binding agreement (the “Terms”) between you and Wag! (“Wag!,” “we,” “us” or “our”) governing your use of Wag! applications, websites, contents, products, and/or services (the “Services”). By accessing or using the Services, you agree to be bound by these Terms. Please read them carefully.

Wag! provides an online venue that allows pet owners and third-party pet care service providers (“Pet Care Providers”) to connect with each other using Services made available by Wag! Labs Inc. and its parents, subsidiaries, representatives, affiliates, officers and directors (collectively, “Wag!”). Wag! has no control over the conduct of Pet Care Providers, or any other users of the Services.

Please be advised: These Terms contain provisions that govern how claims that you and Wag! have against each other can be brought (see below). These provisions will, with limited exception, require that you submit claims you have against Wag! to binding and final arbitration on an individual basis, not as a plaintiff or class member in any class, group or representative action or proceeding.

Wag! may amend the Terms and modify or update the Services from time to time. Your continued use of the Services after any such changes are posted here will constitute your acceptance of the amended Terms.

By agreeing to these Terms, you expressly acknowledge that you understand the Terms (including the dispute resolution and arbitration provisions contained herein) and accept all of them. If you do not agree to be bound by these Terms, you may not use or access the Services.

## YOUR REPRESENTATIONS AND WARRANTIES

You represent and warrant that you are at least 18 years old and legally entitled to enter these Terms, and that you have the authority and capacity to enter into and abide by these Terms.

You further agree and warrant that:

**Your Information.** All information that you provide to Wag! or through the Services is true and accurate, and you will maintain that information up-to-date. You will provide us with whatever proof of identity we may reasonably request. You will keep secure and confidential your account password or any identification we provide you which allows access to the Services.

**Account Circumvention.** You will not use the Services to identify pet owners or Pet Care Providers to complete offline transactions that circumvent your payment obligations for the Services. You may not authorize others to use your user status, and you may not assign or otherwise transfer your user account to any other person or entity.

**Legal Compliance.** You will comply with all applicable state, federal, and local laws while using the Services. You will not copy or distribute the Services without written permission from Wag!.

**Access and Use.** You may only access the Services using authorized means. You will not use the Services for any fraudulent purposes or to cause nuisance, annoyance or inconvenience. It is your responsibility to ensure you have the correct software and equipment for use with the Services. You will only use an access point or data account that you are authorized to use. Wag! reserves the right to terminate your use of the Services if you use an incompatible or unauthorized device.

**Protection of Services and Users.** You will not:

- Create Internet "links" to the Services or "frame" or "mirror" any software on any other server or wireless or Internet-based device.
- Reverse engineer or access the Services (except as permitted by applicable law) in order to, build a competitive product or service, build a product using similar ideas, features, functions or graphics of the Services, or copy any ideas, features, functions or graphics of the Services.
- Launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Services.
- Send spam or otherwise duplicative or unsolicited messages in violation of applicable laws through the Services.
- Send or store through or on the Services infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or in violation of third party privacy rights.
- Send or store through or on the Services material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs.
- Interfere with or disrupt the integrity or performance of the Services or the data contained therein.
- Attempt to gain unauthorized access to the Services or its related systems or networks.
- Try to harm the Services in any way.



[Become A Walker](#)

[Services](#)

[Help Center](#)

[Blog](#)

Subject to your compliance with these Terms, Wag! grants you a limited, non-exclusive, non-transferable, revocable license to use the Services solely for your own personal, non-commercial purposes. All rights not expressly granted are reserved by Wag! and its licensors.

[login](#)

**BECOME A WALKER**

## PET OWNER OBLIGATIONS

Pet owners warrant and agree that: (1) your pets are free from fleas, ticks, and other pests; and (2) you will have your pets fully vaccinated and up to date on all forms of preventative medicine prior to receiving services from a Pet Care Provider.

## PAYMENT TERMS

You understand that use of the Services may result in charges to you for the services you receive from a Pet Care Provider. After you have received services or goods obtained through your use of the Services, Wag! will facilitate your payment of the applicable charges on behalf of the Pet Care Provider, as such Pet Care Provider's limited payment collection agent. Payment of such charges in such manner shall be considered the same as payment made directly by you to the Pet Care Provider. Charges will be inclusive of applicable taxes where required by law. Charges paid by you are final and non-refundable, unless otherwise determined by Wag!. You retain the right to request lower charges from a Pet Care Provider for services received by you from such Third Party Provider at the time you receive such services or goods. Wag! will respond accordingly to any request from a Pet Care Provider to modify charges for a particular service.

All charges are due immediately and payment will be facilitated by Wag! using the preferred payment method designated in your Wag! account, after which Wag! will send you a receipt by email. If your primary payment method is determined to be expired, invalid or otherwise not able to be charged, you agree that Wag! may, as the Pet Care Provider's limited payment collection agent, use a secondary payment method in your account, if available.

As between you and Wag!, Wag! reserves the right to establish, remove and/or revise charges for any or all services obtained through the use of the Services at any time in Wag!'s sole discretion. Wag! will use reasonable efforts to inform you of charges that may apply, provided that you will be responsible for charges incurred under your Wag! account regardless of your awareness of such charges or the amounts thereof. Wag! may from time to time provide certain users with promotional offers and discounts that may result in different amounts charged for the same or similar services obtained through the use of the Services, and you agree that such promotional offers and discounts, unless also made available to you, shall have no bearing on your use of the Services or the charges applied to you. You may elect to cancel your request for services from a Pet Care Provider at any time prior to such Pet Care Provider's arrival, in which case you may be charged a cancellation fee.

This payment structure is intended to fully compensate the Pet Care Provider for the services provided. Wag! does not designate any portion of your payment as a tip or gratuity to the Pet Care Provider. Any representation by Wag! to the effect that tipping is "voluntary," "not required," and/or "included" in the payments you make for services or goods provided is not intended to suggest that Wag! provides any additional amounts, beyond those described above, to the Pet Care Provider. You understand and

agree that, while you are free to provide additional payment as a gratuity to any Pet Care Provider who provides you with services obtained through the Services, you are under no obligation to do so. Gratuities are voluntary. After you have received services or goods obtained through the Services, you will have the opportunity to rate your experience and leave additional feedback about your Pet Care Provider.

## CONSENT TO AUTODIALED TEXT MESSAGES AND PHONE CALLS

You agree that Wag! may contact you by autodialed text messages and phone calls with information about the Services, your account, and with marketing messages, even if your phone number is on a do-not-call list. You are not required to provide this consent as a condition of purchasing anything or using the Services, and may opt out at any time by contacting customer care at (628)-400-4426. In the event you change or deactivate your mobile telephone number, you agree to promptly update your Wag! account information to ensure that your messages are not sent to the person that acquires your old number.

## CONSENT TO CALL RECORDING

You agree that any phone calls to or from Wag! may be monitored or recorded for quality assurance purposes.

## CONSENT TO WALKER PHOTO AND VIDEO ACTIVITIES

You understand and agree that certain Pet Care Providers may take pictures, videos, and other forms of recorded media of your pet during the course of providing Services to you. You further understand and agree that Pet Care Providers may post, upload, share, store, or otherwise provide any such pictures, videos, or other forms of recorded media to Wag! through the Services. You understand and agree that such recorded media may be used not only to provide information to you as part of the Services, but also to assist Wag! in quality control, safety, and promotional and marketing activities. You agree that you have no right, title, or other ownership interest to or in such pictures, videos, or other forms of recorded media, and that the use of such media, including the posting or display of such media, is within Wag!'s sole discretion.

## WAG! INTELLECTUAL PROPERTY

Wag! alone (and its licensors, where applicable) shall own all of the right, title and interest (including all related intellectual property rights), in and to the past, present, and future versions of the Services and all content therein. This content shall include, but is not limited to all layout, text, illustrations, instructions, files, images, designs, software, scripts, graphics, photos, sounds, music, videos, information, materials, technology, interactive features, the "look and feel" of the Services, the compilation and arrangement of the Services, Wag! trademarks, all copyrightable material (including

source code and object code) and derivative works or enhancements of any of the above, unless ownership rights remain with a user as part of a User Submission, as described in the User Content section below.

Wag! alone (and its licensors, where applicable) shall also own all of the right, title, and interest (including all related intellectual property right), in and to any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Services.

These Terms are not a sale and do not convey to you any rights of ownership in or related to the Services, or any intellectual property rights owned by Wag!. The Wag! name, Wag! logo, and the product names associated with the Services are trademarks of Wag! or third parties, and no right or license is granted to use them.

## Copyright and Alleged Intellectual Property Violations by Users

You may have heard of the Digital Millennium Copyright Act (the "DMCA"), as it relates to online service providers, like Wag!, being asked to remove material that allegedly violates someone's copyright. We respect others' intellectual property rights, and we reserve the right to delete or disable content alleged to be infringing any intellectual property rights at our sole discretion, and to terminate the accounts of repeat alleged infringers; to review our complete Copyright Dispute Policy and learn how to report potentially infringing content, please email [woofsupport@wagwalking.com](mailto:woofsupport@wagwalking.com). To learn more about the DMCA, click here.

## User Content

Anything you post, upload, share, store, or otherwise provide through the Services is your "User Submission." Some User Submissions are viewable by other users. In order to display your User Submissions on the Services, and to allow other users to enjoy them (where applicable), you grant us certain rights in those User Submissions. Please note that all of the following licenses are subject to our Privacy Policy <https://wagwalking.com/privacy> to the extent they relate to User Submissions that are also your personally-identifiable information.

For all User Submissions, you hereby grant Wag! a license to translate, modify (for technical purposes, for example making sure your content is viewable on an iPhone as well as a computer) and reproduce and otherwise act with respect to such User Submissions, in each case to enable us to operate the Services, as described in more detail below. This is a license only – your ownership in User Submissions is not affected. However, pursuant to the Intellectual Property Terms & Conditions above, Wag! alone (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Services, whether provided in a User Submission or not.



If you store a User Submission in your own personal Wag! account, in a manner that is not viewable by any other user except you (a "Personal User Submission"), you grant Wag! the license above, as well as a license to display, perform, and distribute your Personal User Submission for the sole purpose of making that Personal User Submission accessible to you and providing the Services necessary to do so.

If you share a User Submission only in a manner that only certain specified users can view (for example, a private message to one or more other users)(a "Limited Audience User Submission"), then you grant Wag! the licenses above, as well as a license to display, perform, and distribute your Limited Audience User Submission for the sole purpose of making that Limited Audience User Submission accessible to such other specified users, and providing the Services necessary to do so. Also, you grant such other specified users a license to access that Limited Audience User Submission, and to use and exercise all rights in it, as permitted by the functionality of the Services.

If you share a User Submission publicly on the Services and/or in a manner that more than just you or certain specified users can view (a "Public User Submission"), then you grant Wag! the licenses above, as well as a license to display, perform, and distribute your Public User Submission for the purpose of making that Public User Submission accessible to all Wag! users and providing the Services necessary to do so, as well as all other rights necessary to use and exercise all rights in that Public User Submission in connection with the Services for any purpose. Also, you grant all other users of the Services a license to access that Public User Submission, and to use and exercise all rights in it, as permitted by the functionality of the Services.

You agree that the licenses you grant are royalty-free, perpetual, sublicenseable, irrevocable, and worldwide.

Finally, you understand and agree that Wag!, in performing the required technical steps to provide the Services to our users (including you), may need to make changes to your User Submissions to conform and adapt those User Submissions to the technical requirements of connection networks, devices, services, or media, and the foregoing licenses include the rights to do so.

## THIRD PARTY INTERACTIONS

During your use of the Services, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of third party service providers, advertisers or sponsors showing their goods and/or services through the Services. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between you and the applicable third-party. Wag! and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase, transaction or promotion between you and any such third-party. Wag! does not endorse any sites on the Internet that are linked through the Services, and in no event shall Wag! or its licensors be responsible for any content, products, services or other materials on or available from

such sites or third party providers. You recognize that certain third-party providers of goods and/or services may require your agreement to additional or different terms and conditions prior to your use of or access to such goods or services, and Wag! disclaims any and all responsibility or liability arising from such agreements between you and the third party providers.

Wag! may rely on third party advertising and marketing supplied through the Services and other mechanisms to subsidize the Services. By agreeing to these terms and conditions you agree to receive such advertising and marketing. If you do not want to receive such advertising you should notify us in writing. Wag! reserves the right to charge you a higher fee for the Services should you choose not to receive these advertising services. This higher fee, if applicable, will be posted on Wag!'s website located at <https://www.wagwalking.com>. Wag! may compile and release information regarding you and your use of the Services on an anonymous basis as part of a customer profile or similar report or analysis. You agree that it is your responsibility to take reasonable precautions in all actions and interactions with any third party you interact with through the Services.

## INDEMNIFICATION

By entering into these Terms and using the Services, you agree, to the fullest extent permitted by applicable law, that you shall defend, indemnify and hold Wag!, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, members, employees, attorneys, assigns and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

- a. your violation or breach of any term of these Terms or any applicable law or regulation;
- b. your violation of any rights of any third party, including Pet Care Providers;
- c. the actions of your pets; or
- d. your use or misuse of the Services.

## DISCLAIMER OF WARRANTIES

WAG! MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES. WAG! DOES NOT REPRESENT OR WARRANT THAT:

- a. THE USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA,
- b. THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS,
- c. ANY STORED DATA WILL BE ACCURATE OR RELIABLE,
- d. THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS,
- e. ERRORS OR DEFECTS IN THE SERVICES WILL BE CORRECTED, OR

- f. THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

THE SERVICES ARE PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY WAG!. WAG! MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, SAFETY, TIMELINESS, QUALITY, SUITABILITY OR AVAILABILITY OF ANY SERVICES, PRODUCTS OR GOODS OBTAINED BY THIRD PARTIES THROUGH THE USE OF THE SERVICES. YOU ACKNOWLEDGE AND AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE SERVICES, AND ANY THIRD PARTY SERVICES OR PRODUCTS REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## INTERNET DELAYS

WAG!'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. WAG! IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

## LIMITATION OF LIABILITY

WAG! SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOST DATA, PERSONAL INJURY, OR PROPERTY DAMAGE RELATED TO, IN CONNECTION WITH, OR OTHERWISE RESULTING FROM ANY USE OF THE SERVICES, EVEN IF WAG! HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WAG! SHALL NOT BE LIABLE FOR ANY DAMAGES, LIABILITY OR LOSSES ARISING OUT OF: (i) YOUR USE OF OR RELIANCE ON THE SERVICES OR YOUR INABILITY TO ACCESS OR USE THE SERVICES; OR (ii) ANY TRANSACTION OR RELATIONSHIP BETWEEN A PET OWNER AND ANY PET CARE PROVIDER, EVEN IF WAG! HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WAG! SHALL NOT BE LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING FROM CAUSES BEYOND WAG!'S REASONABLE CONTROL. IN NO EVENT SHALL WAG!'S TOTAL LIABILITY TO YOU IN CONNECTION WITH THE SERVICES FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION EXCEED FIVE HUNDRED U.S. DOLLARS (US \$500).

WAG!'S SERVICES MAY BE USED BY YOU TO REQUEST AND SCHEDULE PET CARE SERVICES WITH PET CARE PROVIDERS, BUT YOU AGREE THAT WAG! HAS NO RESPONSIBILITY OR LIABILITY TO YOU RELATED TO ANY PET CARE SERVICES PROVIDED TO YOU BY PET CARE PROVIDERS OTHER THAN AS EXPRESSLY SET FORTH IN THESE TERMS.

THE LIMITATIONS AND DISCLAIMER IN THIS SECTION DO NOT PURPORT TO LIMIT LIABILITY OR ALTER YOUR RIGHTS AS A CONSUMER THAT CANNOT BE EXCLUDED UNDER APPLICABLE LAW.

## NOTICE

Wag! may give notice by means of a general notice on the Services, electronic mail to your email address on record in Wag!'s account information, or by written communication sent by first class mail or pre-paid post to your address on record in Wag!'s account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after sending. You may give notice to Wag! (such notice shall be deemed given when received by Wag) by sending an electronic mail message to Wag! at: [legal@wagwalking.com](mailto:legal@wagwalking.com).

## ASSIGNMENT

These Terms may not be assigned by you without the prior written approval of Wag! but may be assigned at any time by Wag! to:

- i. a parent or subsidiary
- ii. an acquirer of assets
- iii. a successor by merger

Any purported assignment in violation of this section shall be void.

## TERM AND TERMINATION OF TERMS

These Terms are effective upon your access or use of the Services. You or Wag! may terminate your participation in the Services at any time, for any reason and Wag! may prohibit your use of the Services at any time in its sole discretion. These Terms, and any subsequent modification of these Terms, shall remain in effect at all times after you or Wag! terminate your participation or access to the Services.

## DISPUTES/MANDATORY INDIVIDUAL ARBITRATION

Any dispute or claim relating in any way to your use of the Services will be resolved by binding arbitration on an individual basis, rather than in court, except that you may assert claims in small claims court if your claims qualify. ANY ARBITRATION UNDER THESE TERMS WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED. The Federal Arbitration Act and federal arbitration law apply to this agreement.

"Disputes" or "claims" under this provision shall include, but are not limited to, any dispute, claim or controversy, whether based on past, present, or future events, arising out of or relating to: the Terms and prior versions thereof (including the breach, termination, enforcement, interpretation or validity thereof), the Services, any other goods or services made available through the Services, your

relationship with Wag!, the threatened or actual suspension, deactivation or termination of your account with Wag!, payments made by you or any payments made or allegedly owed to you, any promotions or offers made by Wag!, any claims for fraud, defamation, emotional distress, breach of any express or implied contract or covenant, claims arising under federal or state consumer protection laws; claims arising under antitrust laws, claims arising under the Telephone Consumer Protection Act and Fair Credit Reporting Act; and claims arising under the Uniform Trade Secrets Act, Civil Rights Act of 1964, Americans With Disabilities Act, and state statutes, if any, addressing the same or similar subject matters, and all other federal and state statutory and common law claims. All disputes concerning the arbitrability of a claim (including disputes about the scope, applicability, enforceability, revocability or validity of the Arbitration Agreement) shall be decided by the arbitrator, except as expressly provided below.

There is no judge or jury in arbitration, and court review of an arbitration award is limited. However, an arbitrator can award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief or statutory damages), and must follow these Terms as a court would.

To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to [legal@wagwalking.com](mailto:legal@wagwalking.com). The arbitration will be conducted by JAMS under its rules, including the JAMS Consumer Minimum Standards. JAMS's rules are available at [www.jamsadr.com](http://www.jamsadr.com) or by calling 1-800-352-5267. Payment of all filing, administration and arbitrator fees will be governed by the JAMS rules. We will reimburse those fees for claims totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. Likewise, Wag! will not seek attorneys' fees and costs in arbitration unless the arbitrator determines the claims are frivolous. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the county where you live or at another mutually agreed location.

**WE EACH AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION.**

The arbitrator shall have no authority to consider or resolve any claim or issue any relief on any basis other than an individual basis. The arbitrator shall have no authority to consider or resolve any claim or issue any relief on a class, collective, or representative basis. Other than disputes regarding the validity of the class action waiver contained herein, which disputes may be resolved only by a civil court of competent jurisdiction, all disputes regarding the scope and validity of these Terms will be resolved by the arbitrator.

If for any reason a claim proceeds in court rather than in arbitration we each waive any right to a jury trial. We also both agree that you or we may bring suit in court to enjoin infringement or other misuse of intellectual property rights.

## CHOICE OF LAW

Except as provided above in the DISPUTES/MANDATORY INDIVIDUAL ARBITRATION section, these

Terms will be governed by the laws of California without regard to choice of law principles. This choice of law provision is only intended to specify the use of California law to interpret this Agreement and does not create any other substantive right to non-Californians to assert claims under California law whether by statute, common law, or otherwise.

## GENERAL

No joint venture, partnership, employment, or agency relationship exists between you, Wag! or any third party provider as a result of these Terms or use of the Services.

If any provision of the Terms is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced to the fullest extent under law.

The failure of Wag! to enforce any right or provision in these Terms shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Wag! in writing.

These Terms comprise the entire agreement between you and Wag! and supersedes all prior or contemporaneous negotiations, discussions or terms, whether written or oral, between the parties regarding the subject matter contained herein. If any provision of these Terms is or becomes invalid or non-binding, the parties shall remain bound by all other provisions hereof. In that event, the parties will replace the invalid or non-binding provision with provisions that are valid and binding and that have, to the greatest extent possible, a similar effect as the invalid or non-binding provision, given the contents and purpose of these Terms.

## THIRD PARTY APPLICATIONS

The Services may be available or accessed in connection with Wag! applications ("Applications") made available by third party providers such as Apple, Inc., or Google, Inc. ("Provider") through their storefronts such as the App Store and Google Play.

- a. Both you and Wag! acknowledge that the Terms are concluded between you and Wag! only, and not with any Provider, and that a Provider is not responsible for the Wag! Services;
- b. The Application is licensed to you on a limited, non-exclusive, non-transferrable, non-sublicensable basis, solely to be used in connection with the Services for your private, personal, non-commercial use, subject to all the terms and conditions of these Terms as they are applicable to the Services;
- c. You will only use the Application in connection with a Provider's device that you own or control;
- d. You acknowledge and agree that a Provider has no obligation whatsoever to furnish any maintenance and support services with respect to the Application;
- e. In the event of any failure of the Application to conform to any applicable warranty, including those implied by law, you may notify the Provider of such failure; upon notification, the Provider's sole warranty obligation to you will be to refund to you the purchase price, if any, of the Application;
- f. You acknowledge and agree that Wag!, and not the Provider, is responsible for addressing any



claims you or any third party may have in relation to the Application;

- g. You acknowledge and agree that, in the event of any third party claim that the Application or your possession and use of the Application infringes that third party's intellectual property rights, Wag!, and not the Provider, will be responsible for the investigation, defense, settlement and discharge of any such infringement claim;
- h. You represent and warrant that you are not located in a country subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, and that you are not listed on any U.S. Government list of prohibited or restricted parties;
- i. Both you and Wag! acknowledge and agree that, in your use of the Application, you will comply with any applicable third party terms of agreement which may affect or be affected by such use; and
- j. Both you and Wag! acknowledge and agree that the Provider and its subsidiaries are third party beneficiaries of these Terms, and that upon your acceptance of these Terms, the Provider will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third party beneficiary hereof.
- k. In the event you use the Application to provide you with real-time route guidance, YOUR USE OF THIS REAL TIME ROUTE GUIDANCE APPLICATION IS AT YOUR SOLE RISK. LOCATION DATA MAY NOT BE ACCURATE.

## About Wag!

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## Top Wag! Cities

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## Legal Links

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## Social

## Security

[Responsible Disclosure](#)

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\* Free dog walk offer is valid for customers who have not previously used Wag!. ©2019 Wag Labs, Inc. All rights reserved.