

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

HAPPINESS IS PETS V, INC.,	)	
Plaintiff	)	2006L001200
	)	
v.	)	Demands jury trial on all matters.
GARY DAVIS, THERESE DAVIS	)	
and XXXXXXXXXXXX,	)	
Defendants	)	

**DEFENDANTS' ANSWER TO COMPLAINT**

Defendants Gary Davis and Therese Davis (hereinafter referred to as "Davis") by and through their attorneys, Cherie Travis and Douglas Drenk, provide their Answer to the Complaint.

**ANSWER TO COMMON ALLEGATION**

1. *Plaintiff, Happiness is Pets V, Inc. ("Pets"), is an Illinois corporation located in the City of Warrenville, County of DuPage, State of Illinois.*

Answer: Neither admit nor deny. Davis has insufficient information.

*Pets is a pet store concentrating in the sale of puppies...*

Answer: Admit.

*"...and related accessories to the general public."*

Answer: Neither admit nor deny.

2. *Defendant, Gary Davis ("Gary") is an individual residing in Warrenville, DuPage County, Illinois. Gary is married to Defendant Therese Davis.*

Answer: Admit.

3. *Defendant, Therese Davis ("Therese") is an individual residing in Warrenville, DuPage County, Illinois. Therese is married to Defendant Gary Davis.*

Answer: Admit.

4. *"Defendant, XXXXXXXXXXXX ("XXXXXX") is an individual..."*

Answer: Davis has insufficient information.

5. *Pets is one of several Happiness is Pets locations in the Chicago metropolitan area.*

Answer: Admit.

*Happiness is Pets has operated in the Chicago metropolitan area since 1987.*

Answer: Neither admit nor deny. Davis has insufficient information.

*Pets opened its Warrenville store in September, 2006.*

Answer: Admit.

6. *Defendants Gary, Therese and XXXXX are self-described animal rights activists who oppose the concept of pet stores selling dogs.*

Answer: Deny. Further, defendants affirmatively state that they are merely concerned animal-welfare advocates who oppose cruelty to animals and support the adoption of pets from shelters.

7. *Beginning in or about November, 2006, Gary, Therese and XXXXX united and spearheaded a campaign to damage Pets' reputation in the community, disparage Pets' goods and services and interfere with its prospective business relations with customers. A stated goal of defendants is to drive Pets out of business through their efforts.*

Answer: Deny.

8. *In November, 2006, Therese Davis made the following statements concerning Pets in a letter to the editor of the Warrenville Today, published and distributed throughout Warrenville and adjoining communities in DuPage County on or about November 6, 2006.*

For clarification, "Letter" was published on October 5, 2006.

a. *"Puppy stores are not animal lovers, they are merely money-hungry entities, making a profit off of the misery and suffering of the dogs that were used to endlessly breed cute little profitable merchandise. That's all that these puppies are to them... Merchandise."*

Answer: Admit.

b. *Puppies purchased from pet stores (like the one in new one in our town) have physical ailments and costly medical problems.*

Answer: Deny. Further, defendants state that the actual statement in the “Letter” was:

“Another friend of mine works for a well-known DuPage establishment that takes in unwanted puppies, dogs, kittens and cats and more on a daily basis. A lot of these animals originally came from Puppy stores just like the new one in our town. After these puppies and kittens grow up and aren’t cute anymore or people can’t financially afford the medical and food expenses, or even if they just don’t have the time or energy to care for them anymore, they abandon them at this location.”

c. *Puppy stores [should] become a thing of the past.*

Answer: Deny.

Further, defendants state that the actual statement was:

“Unfortunately, the space at this establishment is limited and if these animals aren’t adopted, the staff must euthanize to make room for the next batch of unwanted pets. My friend is greatly saddened by this aspect of her job and would very much like to see Puppy stores become a thing of the past.”

d. *Let’s put these heartless profit-makers out of business once and for all.*

Answer: Deny.

Further, defendants state that the actual statement was:

“Please be kind, consider adoption instead and let’s put these heartless profit-makers out of business once and for all.”

e. *The medical expenses of the dogs sold by Pets are unaffordable.*

Answer: Deny.

9. *A reasonable reader would have known and recognized that Therese was referring to Pets since she referred to the new pet store in Warrenville and Pets had recently opened its Warrenville store.*

Answer: Deny.

10. *On information and belief, on or about November 17, 2006, Therese stated in an internet post to a website discussion site at [www.topix.net/forum/city/warrenville-i/TF59FNOF52CPE10R](http://www.topix.net/forum/city/warrenville-i/TF59FNOF52CPE10R) (the “Website”):*

*Our first goal is...is to have the Happiness is Pets store shut down in our town of Warrenville. It just opened two months ago.*

Answer: Deny. Further, defendants state that the actual statement was:

“Jeri: Getting puppy mills shut down seems to be a monumental task, but one that my husband, myself and members of our town are currently dedicated in doing. Our first goal (we are starting locally) is to have the happiness is pets store shut down in our town of Warrenville. It just opened up 2 months ago and already there have been numerous (sic) reports by residents in this town, in the local papers, against the store being here. The members of city council have been presented with a full packet of information about puppy mills and this particular chain, happiness is pets, and their puppy mill suppliers.

In answer to your question “What does one have to do to put an end to both of these businesses?”

A unified, intelligent front and small steps.

We are holding (sic) a peaceful protest in front of the happiness is pets in Warrenville on the SW corner of Rt. 59 and Batavia (by McDonalds) on

SUNDAY NOVEMBER 19<sup>th</sup> AT 12:00 NOON

can you come? Will you help us help the dogs doomed in puppymills throughout the country?

We can do it. We can make a difference.

Thank you.”

11. *On information and belief, on or about November 30, 2006, Theresa stated on the Website:*

*“There’s another two-day protest planned for the Warrenville puppy mill-supplied pet store. Saturday, December 23<sup>rd</sup>, noon to 2:00pm and Sunday, December 24<sup>th</sup>, noon to 2:00 pm. Hopefully, this may deter any last-minute impulse buyers from making the owner of this store any wealthier. We also plan to see this store CLOSED by 2007. Then we move on to the next one...and the next”*

Answer: Assuming that “Theresa” refers to Therese Davis, admit.

12. *On or about November 6, 2006, Gary stated on the Website:*

*I just finished extensive researching about them and some of their sources. All the way around, they are bad news for puppies. Please contact your local Warrenville City council person and let them know that you do NOT want this store in Warrenville.*

Answer: Admit. Further, defendants state that the actual statement was:

“One of their primary suppliers is Steve Kruse from Iowa. Research “Happiness

is Pets” and Puppymill on the internet or the same name with Steve Kruse. Also, see my links below. You’ll find more than enough horror stories. I just finished extensive researching about them and some of their sources. All the way around, they are bad news for puppies. Please contact your local Warrenville City council person and let them know that you do NOT want this store in Warrenville. Also, write letters to the editor for both of our local papers. There was a long stretch of complaint letters and they have since dropped off. It would be nice to see them appear again.

These links should be more than enough to prove both their source and the puppy mill link.

<http://www.petstorecruelty.org/index.html>

They get almost all of their puppies from Steve Kruse in Iowa:  
<http://petshoppuppies.com/report.asp?ID=4...>

Here’s my report on the store in Arlington Heights:  
<http://www.petshoppuppies.com/report.asp?ID=P...>

Here’s my report on the store in Downer’s Grove:  
<http://www.petshoppuppies.com/report.asp?ID=P...>

And Orland Park:  
<http://www.petshoppuppies.com/report.asp?ID=P...>

And Naperville:  
<http://www.petshoppuppies.com/report.asp?ID=P...>

[http://www.caps-web.org/iowa\\_kruse.php](http://www.caps-web.org/iowa_kruse.php)

CAPS stand for Companion Animal Protection Society. This is their entry on one of the primary suppliers for Happiness is Pets.

<http://www.ripoffreport.com/results.asp?searc...>”

*Gary further stated that Pets gets most of its puppies from a “puppy-mill in Iowa.*

Answer: Deny.

13. *The stated and avowed purpose of Gary and Therese is to irreparably injure Pets and destroy its business.*

Answer: Deny.

14. *In furtherance of their avowed purpose of shutting down Pets and destroying its business, on or about November 13, 2006, Therese wrote the following statements*

*of and concerning Pets in the Letter distributed throughout Warrenville and adjoining communities in DuPage County:*

Answer: Deny. There was no such letter on or about November 13, 2006. The letter to the editor dated October 5, 2006 was addressed in detail in paragraph 8.

15. *In furtherance of their plan...*

Answer: Defendants deny the existence of a plan.

*Gary, Therese and XXXXXX organized and conducted a protest and picket in front of Pets' store on November 19, 2006 at 12:00pm.*

Answer: Defendants admit to having organized such an event. Defendants deny having ever referred to the demonstration as a "picket."

*At the protest, Defendants held signs...*

Answer: Admit.

*...and shouted slogans into megaphones urging consumers and potential customers of Pets to "Boycott Happiness is Pets" and "Buyer Beware."*

Answer: Deny.

16. *In furtherance of their plan...*

Answer: Defendants deny existence of a plan.

*...on or about November 6, 2006, XXXXXXXX made statements...*

Answer: Defendants Gary and Therese neither admit nor deny the actions of any other party.

17. *In furtherance of Defendants' plan...*

Answer: Defendants deny existence of a plan.

*...on November 6, 2006, Gary made statements to the press and to the Warrenville City Council that:*

a. *Pets' puppies were breed (sic) in "puppy-mills" which permit and foster over-breeding (sic), inbreeding, minimal veterinary care, poor availability of food and shelter, lack of socialization with humans and overcrowded cage.*

b. *That Happiness is Pets' dogs face an array of immediate veterinary*

*problems or genetically-borne diseases.*

*c. That Pets puppies are in poor health (sic) due to over-breeding.*

Answer: Deny. Defendants further state that the actual statement made was:

“It is a sad fact that there are unethical breeders known as puppy mills. A puppy mill is a breeding facility that produces purebred puppies in large numbers. The puppies are sold either directly to the public via the Internet, newspaper ads, at the mill itself or sold to brokers and pet shops across the country. Puppy mills have long concerned the Humane Society of the United States. The documented problems of puppy mills include overbreeding, inbreeding, minimal veterinary care, poor quality of food and shelter, lack of socialization with humans, overcrowded cages, and the killing of unwanted animals. To the unwitting consumer, this situation frequently means buying a puppy facing an array of immediate veterinary problems or harboring genetically-borne diseases that do not appear until years later. The Humane Society of the United States strongly opposes the sale, through pet shops and similar outlets, of puppies and dogs from mass-breeding establishments.”

**COUNT I (Defamation per se – Therese Davis)**

18. *Pets restates and incorporates paragraphs 1-17 of the Common Allegations as through (sic) they were fully stated in Count 1.*

Defendants Davis restate and incorporate paragraphs 1-17 of their Answer as though they were fully stated in their Answer to Count 1.

19. *The statements made by Therese are false and defamatory per se in that they impute a lack of professional ethics and integrity to Pets as being in the business of knowingly selling sick, damaged and abused dogs to the general public.*

Answer: Deny.

20. *Therese published the statements with negligence. She knew or should have known that she lacked personal knowledge of Pets’ dogs and their physical and medical conditions.*

Answer: Deny.

21. *In addition, Therese published the statements with knowledge that they were false and/or with reckless disregard as to the truth of the statements.*

Answer: Deny.

22. *The publication of such defamatory falsehoods by Therese was willful and wanton, and was calculated to cause, and did cause, damage to Pets and injury to its reputation and good name.*

Answer: Deny. Defendants further state that Plaintiff represented publicly that his business had not been harmed by the demonstrators. “The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets’ owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business.”

“*Animal lovers hound pet store to stop dog sales,*” Naperville Sun, December 14, 2006.

**COUNT II (Defamation per se – Gary Davis)**

23. *Pets restates and incorporates paragraphs 1-17 of the Common Allegations as through (sic) they were fully stated in Count II.*

Defendants Davis restate and incorporate paragraphs 1-17 of their Answer as though they were fully stated in their Answer to Count II.

24. *The statements made by Gary are false and defamatory per se in that they impute a lack of professional ethics and integrity to Pets as being in the business of knowingly selling sick, damaged and abused dogs to the general public.*

Answer: Deny.

25. *Gary published the statements with negligence. He knew or should have known that he lacked personal knowledge of Pets’ dogs and their physical and medical conditions.*

Answer: Deny.

26. *In addition, Gary published the statements with knowledge that they were false and/or with reckless disregard as to the truth of the statements.*

Answer: Deny.

27. *The publication of such defamatory falsehoods by Gary was willful and wanton, and was calculated to cause, and did cause, damage to Pets and injury to its reputation and good name.*

Answer: Deny. Defendants further state that Plaintiff publicly stated that his business had not been harmed by the demonstrators. “The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets’ owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business.”

*“Animal lovers hound pet store to stop dog sales,” Naperville Sun, December 14, 2006.*

**COUNT III (Defamation per se – XXXXXX XXXXXXXX)**

28. -32. *Does not relate to Defendants Davis.*

**COUNT IV (Product Disparagement – Therese Davis)**

33. *Pets restates and incorporates paragraphs 1-17 of the Common Allegations as through (sic) they were fully stated in Count IV.*

Defendants Davis restate and incorporate paragraphs 1-17 of their Answer as though they were fully stated in their Answer to Count IV.

34. *The statements by Therese constitute product disparagement in that they falsely disparaged Pets’ goods and services by stating that puppies sold by Pets were sick, damaged and abused and required unaffordable medical attention.*

Answer: Deny.

35. *Therese published the statements with negligence. She knew or should have known that she lacked personal knowledge of Pets dogs and their physical and medical conditions.*

Answer: Deny.

36. *In addition, Therese published the statements with knowledge that they were false and/or with reckless disregard as to the truth of the statements.*

Answer: Deny.

37. *The publication of such disparaging falsehoods by Therese was willful and wanton, and was calculated to cause, and did cause, damage to Pets and injury to its reputation and good name.*

Answer: Deny.

38. *Pets has been and will continue to be irreparably harmed as a consequence of Therese’s disparagement of its goods and services for which it has no adequate remedy at law.*

Answer: Deny. Defendants further state that Plaintiff made public statements that his business had not been harmed by the demonstrators. “The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets’ owner Ron Berning] said he knows that customers will continue to return to his

shops because they trust his business.”

“*Animal lovers hound pet store to stop dog sales,*” Naperville Sun, December 14, 2006.

**COUNT V (Product Disparagement – Gary Davis)**

39. *Pets restates and incorporates paragraphs 1-17 of the Common Allegations as through (sic) they were fully stated in Count V.*

Defendants Davis restate and incorporate paragraphs 1-17 of their Answers as though they were fully stated in their answer to Count V.

40. *The statements by Gary constitute product disparagement in that they falsely disparaged Pets’ goods and services by stating that puppies sold by Pets were sick, damaged and abused and required unaffordable medical attention.*

Answer: Deny.

41. *Gary published the statements with negligence. He knew or should have known that he lacked personal knowledge of Pets dogs and their physical and medical conditions.*

Answer: Deny.

42. *In addition, Gary published the statements with knowledge that they were false and/or with reckless disregard as to the truth of the statements.*

Answer: Deny.

43. *The publication of such disparaging falsehoods by Gary was willful and wanton, and was calculated to cause, and did cause, damage to Pets and injury to its reputation and good name.*

Answer: Deny.

44. *The publication of such disparaging falsehoods by Therese was willful and wanton, and was calculated to cause, and did cause, damage to Pets and injury to its reputation and good name.*

Answer: Defendants deny and further assert that this allegation against Therese is duplicative as it was already covered in paragraph 37.

45. *Pets has been and will continue to be irreparably harmed as a consequence of Gary’s disparagement of its goods and services for which it has no adequate remedy at law.*

Answer: Deny.

**COUNT VI (Product Disparagement – XXXXXXXX XXXXXXXX)**

46-51. *Does not relate to Defendants Davis.*

**COUNT VII (Tortious Interference with Business Relations—Therese Davis)**

52. *Pets restates and incorporates paragraphs 1-17 of the Common Allegations as through (sic) they were fully stated in Count VII.*

Defendants Davis restate and incorporate paragraphs 1-17 of their Answer as though they were fully stated in their Answer to Count VII.

53. *The statements by Therese were made to consumers with whom Pets had a reasonable expectation of entering into valid business relationships.*

Answer: Deny.

54. *Therese had knowledge of Pets' reasonable expectation of entering into valid business relationships with consumers to whom she targeted her statements.*

Answer: Deny.

55. *The statements made by Therese were made with the intent to defeat the legitimate business expectancy of Pets.*

Answer: Deny.

56. *The statements made by Therese had the effect of inducing persons not to do business with Pets and not to purchase puppies or accessories from Pets.*

Answer: Deny. Defendants further state that Plaintiff made public statements that his business had not been harmed by the demonstrators. "The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets' owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business."

"Animal lovers hound pet store to stop dog sales," Naperville Sun, December 14, 2006.

57. *As a proximate result of Therese's statements persons did not do business with Pets and did not purchase puppies or accessories from Pets and Pets was damaged by injury to its reputation, lost customers and lost sales.*

Answer: Deny. Defendants further state that Plaintiff made public statements that his business had not been harmed by the demonstrators. "The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets'

owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business.”

“*Animal lovers hound pet store to stop dog sales*,” Naperville Sun, December 14, 2006.

58. *The interference with Pets’ business relations by Therese was willful and wanton and was calculated to cause, and did cause, damage to Pets’ business relations.*

Answer: Deny. Defendants further state that Plaintiff made public statements that his business had not been harmed by the demonstrators. “The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets’ owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business.”

“*Animal lovers hound pet store to stop dog sales*,” Naperville Sun, December 14, 2006.

59. *Pets has been and will continue to be irreparably harmed as a consequence of Therese’s interference with its business relations for which it has no adequate remedy at law.*

Answer: Deny.

#### **COUNT VIII (Tortious Interference with Business Relations—Gary Davis)**

60. *Pets restates and incorporates paragraphs 1-17 of the Common Allegations as through (sic) they were fully stated in Count VIII.*

Defendants Davis restate and incorporate paragraphs 1-17 of their Answer as though they were fully stated in their Answer to Count VIII.

61. *The statements by Gary were made to persons with whom Pets had a reasonable expectation of entering into valid business relationships.*

Answer: Deny.

62. *Gary had knowledge of Pets’ reasonable expectation of entering into valid business relationships with consumers to whom he targeted his statements.*

Answer: Deny.

63. *The statements made by Gary were made with the intent to defeat the legitimate business expectancy of Pets.*

Answer: Deny.

64. *The statements made by Gary were intentionally made to induce persons not to do business with Pets and not to purchase puppies or accessories from Pets.*

Answer: Deny.

65. *The statements made by Gary had the effect of inducing persons not to do business with Pets and not to purchase puppies or accessories from Pets.*

Answer: Deny. Defendants further state that Plaintiff made public statements that his business had not been harmed by the demonstrators. “The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets’ owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business.”  
“*Animal lovers hound pet store to stop dog sales,*” Naperville Sun, December 14, 2006.

66. *As a proximate result of Gary’s statements persons did not do business with Pets and did not purchase puppies or accessories from Pets and Pets was damaged by injury to its reputation, lost customers and lost sales.*

Answer: Deny. Defendants further state that Plaintiff made public statements that his business had not been harmed by the demonstrators. “The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets’ owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business.”  
“*Animal lovers hound pet store to stop dog sales,*” Naperville Sun, December 14, 2006.

67. *The interference with Pets’ business relations by Gary was willful and wanton and was calculated to cause, and did cause, damage to Pets’ business relations.*

Answer: Deny. Defendants further state that Plaintiff made public statements that his business had not been harmed by the demonstrators. “The picketing at his Warrenville store has not impacted shoppers, and Berning [Happiness is Pets’ owner Ron Berning] said he knows that customers will continue to return to his shops because they trust his business.”  
“*Animal lovers hound pet store to stop dog sales,*” Naperville Sun, December 14, 2006.

68. *Pets has been and will continue to be irreparably harmed as a consequence of Gary’s interference with its business relations for which it has no adequate remedy at law.*

Answer: Deny.

**COUNT IX (Tortious Interference with Business Relations- XXXXXX  
XXXXXX)**

69-76. *Does not relate to Defendants Davis.*

WHEREFORE, Defendants Davis respectfully request that the Court dismiss complaint enter judgment in favor of Defendants.

Respectfully submitted,

Gary and Therese Davis

By: \_\_\_\_\_  
One of its Attorneys

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