

No. \_\_\_\_\_

IN THE SUPREME COURT  
OF THE STATE OF NEVADA

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Elizabeth A. Brown  
Clerk of Supreme Court

PETSMART, INC.

*Petitioners,*

vs.

EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF  
NEVADA,

COUNTY OF CLARK

Honorable Timothy D. Williams

*Respondent,*

JAMES TODD and RAPHAELA TODD

*Real Parties in Interest.*

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County of Clark, Case No. A-19-788762-C

Honorable Timothy D. Williams (702) 671-4406

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EXHIBITS IN SUPPORT OF PETITION FOR  
PEREMPTORY WRIT OF MANDATE IN THE FIRST  
INSTANCE, OR AN ALTERNATIVE WRIT OR OTHER  
APPROPRIATE RELIEF  
(VOLUME 1 of 5, EXHIBITS 1-8 )

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Attorneys for Petitioner, PETSMART, INC.

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| 10. | <b>PLAINTIFFS' OPPOSITION TO<br/>DEFENDANT PETSMART'S<br/>SECOND MOTION FOR<br/>SUMMARY JUDGMENT OR,<br/>IN THE ALTERNATIVE,<br/>SUMMARY ADJUDICATION<br/>ON ISSUES</b>           | <b>Volume 3<br/>229-282<br/>and<br/>Volume 4<br/>287-335</b> |
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# EXHIBIT “1”

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15 DISTRICT COURT  
16 CLARK COUNTY, NEVADA

17 JAMES TODD, individually;  
18 RAPHAELA TODD, individually;

Case No.: A-19-788762-C  
Dept. No.: 16

19 Plaintiffs,

20 vs.

21 A HOME 4 SPOT ANIMAL  
22 RESCUE, a Nevada Domestic Non-  
23 Profit Corporation;  
24 JANE DOES EMPLOYEE;  
25 PETSMART, INC.;  
26 THE ANIMAL FOUNDATION;  
27 DOES I through X; and  
28 ROE CORPORATIONS I through X,  
Inclusive jointly and severally;

Defendants.

**PLAINTIFFS' FIRST  
AMENDED COMPLAINT**

1 A HOME 4 SPOT ANIMAL  
2 RESCUE, a Nevada Domestic Non-  
Profit Corporation;

3 Counter-Claimant,

4  
5 vs.

6 RAPHAELA TODD;

7 Counter-Defendant.

8 PETSMART, INC.;

9 Cross-Claimant/Counter-  
10 Defendant,

11 vs.

12 A HOME 4 SPOT ANIMAL  
13 RESCUE, a Nevada Domestic Non-  
Profit Corporation;

14  
15 Cross-Defendant/Counter-  
16 Claimant.

17 NOW COME, Plaintiffs, by and through their attorneys, ASKEROTH  
18 LAW GROUP, and for their First Amended Complaint against Defendants  
19 states, alleges and complains as follows:

20 JURISDICTION AND VENUE

21 1. Plaintiff, JAMES E. TODD (hereinafter referred to as  
22 "Plaintiff" and/or "JIM") is now, and at the time of the events complained  
23 of herein, was and is a resident of Clark County, Nevada.

24 2. Plaintiff, RAPHAELA TODD (hereinafter referred to as  
25 "Plaintiff" and/or "RAPHAELA") is now, and at the time of the events  
26 complained of herein, was and is a resident of Clark County, Nevada.

27 3. Defendant, A HOME 4 SPOT ANIMAL RESCUE is a Nevada  
28 Domestic Non-Profit Corporation which, at all times material hereto, was



1 authorized to and did conduct business in Clark County, Nevada  
2 (hereinafter referred to as "A HOME 4 SPOT").

3 4. JANE DOE EMPLOYEE is an agent or employee of  
4 Defendant, A HOME 4 SPOT and/or PETSMART, whose true name and  
5 identity and capacity is unknown to Plaintiff at this time. JANE DOE  
6 EMPLOYEE is an individual person acting on behalf of or in concert with,  
7 or at the direction of, the Defendants.

8 5. Defendant, PETSMART, INC., is a Nevada Foreign  
9 Corporation which, at all times material hereto, was authorized to and did  
10 conduct business in Clark County, Nevada (hereinafter referred to as  
11 "PetSmart").

12 6. Defendant, THE ANIMAL FOUNDATION, is a Nevada  
13 Domestic Non-Profit Corporation which, at all times material hereto, was  
14 authorized to and did conduct business in Clark County, Nevada  
15 (hereinafter referred to as "ANIMAL FOUNDATION").

16 7. DOES I through X inclusive are persons and ROE  
17 CORPORATIONS I through X are corporations, related subsidiary or  
18 parent entities, associates, or business entities, whose true names and  
19 identities and capacities are unknown to Plaintiff at this time. The DOE  
20 Defendants are individual persons acting on behalf of or in concert with, or  
21 at the direction of, the Defendant. The ROE Defendants are entities, groups,  
22 or associations which may be responsible for the injurious activities of the  
23 other Defendants. The ROE Defendants may be corporations, associations,  
24 partnerships, subsidiaries, holding companies, owners, predecessor or  
25 successor entities, joint venturers, parent corporations, or related business  
26 entities of the Defendant. The ROE Defendants may also be limited partners  
27 or general partners or some other type of related business entity, whose  
28 identity is known to Plaintiff at this time, who may own or control, in whole





1 or in part, Defendant. Plaintiff alleges that each named Defendant and the  
2 DOE and ROE Defendants caused, directed, allowed or set in motion the  
3 injurious events set forth herein. Each named Defendant and the DOE and  
4 ROE Defendants are legally responsible for the events and happenings  
5 stated in this Complaint, and thus, proximately caused injury and damages  
6 to Plaintiff. Plaintiff will ask leave of this Court to insert the true names and  
7 capacities for such DOE and ROE Defendants when discovered to  
8 substitute those true names as Defendants into these proceedings for the  
9 DOE and ROE Defendants.

10 8. At all times relevant hereto, each Defendant was a related  
11 subsidiary or parent entity, association, corporation, or the officer, director,  
12 agent, and/or employee of all the other Defendants, and each of them were  
13 at all relevant times acting within the course, scope and/or performance of  
14 said agency, master/servant and/or employment relationship.

15 9. On January 13, 2018, RAPHAELA, who is and was JIM's wife,  
16 adopted a dog named, "Chip" from a pet adoption event being held by the  
17 A HOME FOR SPOT at PETSMART's location on Rainbow Boulevard and  
18 Lake Mead Boulevard in Las Vegas, Nevada; that upon information and  
19 belief, A HOME 4 SPOT obtained "Chip" from ANIMAL FOUNDATION.

20 10. RAPHAELA explained to the JANE DOE EMPLOYEE that  
21 she was seeking a dog to be a companion to her other senior dog, "Minnie,"  
22 who would be gentle and sweet.

23 11. RAPHAELA saw a large dog named, "Chip" in Defendant's  
24 group of dogs and inquired about his background.

25 12. JANE DOE EMPLOYEE told RAPHAELA that Chip was a  
26 friendly, sweet Staffordshire Terrier/Boxer/German Shepherd mix, who  
27 would be perfect as a new friend for Minnie.

28 13. RAPHAELA specifically inquired about Chip's background



1 and history of any known dangerous propensities. In response, JANE DOE  
2 EMPLOYEE told RAPHAELA that Chip was involved in a "minor incident"  
3 with his previous owner, who adopted Chip from A HOME 4 SPOT prior  
4 to January 13, 2018.

5 14. RAPHAELA was told that after being with the previous  
6 owner for about a week, Chip was provoked by an individual and in  
7 response "nipped" the person, not causing any serious injury.

8 15. RAPHAELA had no reason to be concerned about this alleged  
9 prior incident, as it was understandable that a dog in a new environment  
10 would nip if taunted or provoked.

11 16. JANE DOE EMPLOYEE reassured RAPHAELA that Chip  
12 was a gentle giant and would be a great fit as a new friend for her other  
13 dog, and for her home.

14 17. Based upon the information provided, RAPHAELA decided  
15 to adopt Chip.

16 18. RAPHAELA paid the required \$250 adoption fee for Chip to  
17 A HOME 4 SPOT and took him into Plaintiffs' home in the late afternoon of  
18 January 13, 2018.

19 19. On the evening of January 14, 2018, JIM and RAPHAELA  
20 were sitting in the living room together. JIM was watching television in a  
21 lounge chair, while RAPHAELA sat nearby on the couch on her laptop.  
22 Chip was lying on the floor nearby. JIM got up from his lounge chair and  
23 went into the kitchen. At that time, Chip got up from where he was initially  
24 lying and to then lie down on the floor in front of the chair JIM had just  
25 been sitting in. A few moments later, JIM returned to the living room and  
26 saw Chip lying on the floor in the front of his lounge chair. Before he could  
27 say anything to Chip, the dog was staring and growling at JIM, who just  
28 stood there, not moving. Chip continued to growl at JIM even louder. JIM



1 called RAPHAELA so she could call Chip's name to distract him. Before  
2 RAPHAELA could say Chip's name, Chip jumped up from his lying  
3 position and onto JIM, biting down hard onto JIM's right forearm. Chip was  
4 standing on his hind legs, mouth clamped down on JIM's forearm, while  
5 shaking his head back and forth. Chip would not release. RAPHAELA  
6 jumped up from the couch and forced her fingers into the sides of Chip's  
7 mouth to pry them open from JIM's forearm. As a result, RAPHAELA  
8 sustained puncture wounds to two fingers of her right hand.

9 20. JIM ran out of the house to get away from Chip, who kept  
10 trying to attack him as RAPHAELA held onto Chip by his collar.

11 21. RAPHAELA's brother was present and able to call 911.  
12 RAPHAELA was able to drag Chip into the garage where he was  
13 quarantined until Animal Control arrived.

14 22. JIM was transported for emergency medical attention for the  
15 multiple deep punctures and tears in his right forearm.

16 23. Animal Control arrived at Plaintiffs' home and facilitated  
17 Chip's removal from the home.

18 24. After the subject incident. RAPHAELA received  
19 documentation indicating that A HOME 4 SPOT was informed by Lied  
20 Animal Shelter aka ANIMAL FOUNDATION in November 2017 that Chip  
21 was deemed "not an adoption or foster candidate" due to his behavior  
22 history; upon information and belief ANIMAL FOUNDATION also knew  
23 or should have known that "Chip" was unfit for adoption, and a danger to  
24 the public, and should not have transferred "Chip" to A HOME 4 SPOT  
25 ANIMAL FOUNDATION for adoption.

26 25. After the subject incident, RAPHAELA made a request to  
27 Clark County Animal Control to find out what information they might have  
28 on Chip.



1           26.   Contrary to the representations of JANE DOE EMPLOYEE,  
2   the records received from Animal Control revealed that the unprovoked  
3   attack on JIM was not Chip's first unprovoked attack resulting in serious  
4   injuries.

5           27.   Records obtained by RAPHAELA from the City of Las Vegas  
6   Department of Public Safety revealed that on December 25, 2017, Chip  
7   viciously attacked the 48 year-old daughter of his prior owner, without  
8   provocation, and causing serious injury requiring surgery.

9           28.   Immediately after this December 25, 2017 attack, Chip's prior  
10   owner notified A HOME 4 SPOT regarding Chip's unprovoked attack upon  
11   her daughter and explained how serious her daughter's injuries were. She  
12   told them that she would not take Chip back into her home as they were  
13   too afraid of him.

14          29.   As a result of this December 25, 2017 attack, Chip was  
15   required to be placed under quarantine for ten (10) days.

16          30.   A HOME 4 SPOT re-took possession of Chip on January 4,  
17   2018 after his quarantine was over.

18          31.   Defendants knew, or through the exercise of reasonable care  
19   should have known, that Chip was previously deemed "not an adoption or  
20   foster candidate" before RAPHAELA adopted Chip, yet failed to fully  
21   disclose the same to her despite specific requests regarding Chip's  
22   demeanor and prior history.

23          32.   Defendants knew, or through the exercise of reasonable care  
24   should have known, of Chip's history involving the vicious unprovoked  
25   attack just weeks before RAPHAELA adopted Chip, yet failed to fully  
26   disclose the same to her despite specific requests regarding Chip's  
27   demeanor and prior history.

28          33.   That as a direct and proximate result of the actions of



1 Defendants, Plaintiffs sustained bodily injury, all or some of which may be  
2 permanent and disabling, and all to Plaintiffs' damage in a sum in excess of  
3 \$15,000.00.

4 34. That as a direct and proximate result of the actions of  
5 Defendants, Plaintiffs have been required to, and have limited occupational  
6 and recreational activities, which have caused and shall continue to cause  
7 Plaintiffs loss of earning capacity, lost wages, physical impairment, mental  
8 anguish, and loss of enjoyment of life, in an amount to be determined by  
9 the trier of fact.

10 35. That as a direct and proximate result of the action of  
11 Defendants, Plaintiffs have been required to engage the services of an  
12 attorney, incurring attorneys' fees and costs to bring this action.

13 **FIRST CAUSE OF ACTION**

14 **(Negligence)**

15 36. Plaintiffs reallege and incorporate herein by reference  
16 Paragraphs 1-34 above as if fully restated herein.

17 37. Defendants owed a duty to Plaintiffs to exercise reasonable  
18 care to protect Plaintiffs and others from the risk of harm created by Chip's  
19 known vicious propensities.

20 38. In an effort to get Chip adopted yet again, for a fee of \$250.00,  
21 Defendants made representations to RAPHAELA that Chip had no known  
22 prior vicious propensities, failed to disclose that Chip was previously  
23 deemed "not an adoption or foster candidate," and failed to disclose the true  
24 unprovoked nature of Chip's vicious attack and the severity of the injuries  
25 he inflicted upon the prior owner's adult daughter; further, ANIMAL  
26 FOUNDATION failed to act reasonably when it permitted "Chip" to be  
27 transferred to A HOME 4 SPOT for adoption when it knew or should have  
28 known that "Chip" was unfit for adoption, and a danger to the public,



1 including Plaintiffs.

2 39. Defendants' failure to disclose Chip's prior vicious  
3 propensities, failure to disclose that Chip was previously deemed "not an  
4 adoption or foster candidate," and failure to disclose the true unprovoked  
5 nature of Chip's vicious attack and the severity of the injuries he inflicted  
6 upon the prior owner's adult daughter constituted a breach of Defendants'  
7 duties owed to Plaintiffs.

8 40. It was reasonably foreseeable that Defendants' breach of this  
9 duty would cause harm and injury to others in the community including,  
10 but not limited to, Plaintiffs.

11 41. That as a direct and proximate result of the actions of  
12 Defendants, JIM sustained bodily injury, all or some of which may be  
13 permanent and disabling, and all to JIM's damage in a sum in excess of  
14 \$15,000.

15 42. That as a direct and proximate result of the actions of  
16 Defendants, JIM has been required to, and have limited occupational and  
17 recreational activities, which have caused and shall continue to cause his  
18 loss of earning capacity, lost wages, physical impairment, mental anguish,  
19 and loss of enjoyment of life, in an amount to be determined by the trier of  
20 fact.

21 43. That as a direct and proximate result of the action of  
22 Defendants, Plaintiffs have been required to engage the services of an  
23 attorney, incurring attorneys fees and costs to bring this action.

24 **SECOND CAUSE OF ACTION**

25 **(Negligent Infliction of Emotional Distress)**

26 44. Plaintiffs reallege and incorporate herein by reference  
27 Paragraphs 1-42 above as if fully restated herein.

28 45. Defendants' negligent actions caused severe injury to JIM, as



1 described above.

2 46. RAPHAELA is, and at all relevant times was, JIM's wife.

3 47. RAPHAELA was located near the scene of the vicious attack  
4 on JIM, as described above, and was required to physically intervene by  
5 placing her fingers inside of Chip's mouth in an attempt to stop the attack.

6 48. RAPHAELA suffered a shock resulting from the sensory and  
7 contemporaneous observance Chip's vicious attack on JIM, all resulting  
8 from Defendants' negligent actions.

9 49. That as a direct and proximate result of the actions of  
10 Defendants, RAPHAELA sustained mental and emotional injury and  
11 suffered mental anguish and loss of enjoyment of life, in an amount to be  
12 determined by the trier of fact.

13 50. That as a direct and proximate result of the action of  
14 Defendants, Plaintiffs have been required to engage the services of an  
15 attorney, incurring attorneys' fees and costs to bring this action.

16 **THIRD CAUSE OF ACTION**

17 **(Respondeat Superior)**

18 51. Plaintiff realleges and incorporates herein by reference  
19 Paragraphs 1-49 above as if fully restated herein.

20 52. Defendant JANE DOE EMPLOYEE was an agent or employee  
21 of A HOME 4 SPOT and/or PETSMART on January 13, 2018.

22 53. At all times mentioned herein, JANE DOE EMPLOYEE was  
23 acting in the course and scope of her agency or employment with A HOME  
24 4 SPOT and/or PETSMART.

25 54. Under the doctrine of respondeat superior, A HOME 4 SPOT  
26 and/or PETSMART is/are vicariously liable for the negligent acts of  
27 Defendant JANE DOE EMPLOYEE.

28 WHEREFORE. Plaintiffs. expressly reserving the right to amend this



1 complaint prior to or at the time of trial of this action to insert those items  
2 of damage not yet fully ascertainable, prays judgment against all  
3 Defendants, and each of them. as follows:

- 4 1. For general damages sustained by Plaintiffs in an amount in  
5 excess of \$15,000.00;
- 6 2. For special damages sustained by Plaintiffs in an amount in  
7 excess of \$15,000.00;
- 8 3. For reasonable attorney's fees and costs;
- 9 4. For interest at the statutory rate; and
- 10 5. For such other relief as the Court deems just and proper.

11 DATED this 30 day of September, 2019.

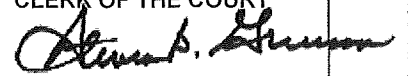
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# EXHIBIT “2”



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16 PETSMART, INC.

17 **DISTRICT COURT**  
18 **CLARK COUNTY, NEVADA**

19 JAMES E. TODD, individually; RAPHAELA  
20 TODD, individually,

21 Plaintiffs,

22 v.

23 A HOME 4 SPOT ANIMAL RESCUE, a  
24 Nevada Domestic Non-Profit corporation;  
25 JANE DOE EMPLOYEE, PETSMART, INC.,  
26 DOES 1 through X; and ROE  
27 CORPORATIONS 1 through X, inclusive  
28 jointly and severally,

Defendants.

CASE NO. A-19-788762-C

Department No. 16

**ANSWER TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT**

Complaint Filed: February 4, 2019  
Trial Date: January 4, 2021 (stack)

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

COMES NOW Defendant, PETSMART, INC., and answers Plaintiff's First Amended  
Complaint as follows:

1. Answering paragraph 1 of Plaintiffs' Complaint, this answering Defendant does not  
have sufficient knowledge or information upon which to base a belief as to the truth of the  
allegations therein, and upon said ground denies each and every allegation contained therein.

2. Answering paragraph 2 of Plaintiffs' Complaint, this answering Defendant does not

1 have sufficient knowledge or information upon which to base a belief as to the truth of the  
2 allegations therein, and upon said ground denies each and every allegation contained therein.

3 3. Answering paragraph 3 of Plaintiffs' Complaint, this answering Defendant does not  
4 have sufficient knowledge or information upon which to base a belief as to the truth of the  
5 allegations therein, and upon said ground denies each and every allegation contained therein.

6 4. Answering paragraph 4 of Plaintiffs' Complaint, this answering Defendant does not  
7 have sufficient knowledge or information upon which to base a belief as to the truth of the  
8 allegations therein, and upon said ground denies each and every allegation contained therein.

9 5. Answering paragraph 5 of Plaintiffs' Complaint, this answering Defendant admits the  
10 same.

11 6. Answering paragraph 6 of Plaintiffs' Complaint, this answering Defendant does not  
12 have sufficient knowledge or information upon which to base a belief as to the truth of the  
13 allegations therein, and upon said ground denies each and every allegation contained therein.

14 7. Answering paragraph 7 of Plaintiffs' Complaint, this answering Defendant does not  
15 have sufficient knowledge or information upon which to base a belief as to the truth of the  
16 allegations therein, and upon said ground denies each and every allegation contained therein.

17 8. Answering paragraph 8 of Plaintiffs' Complaint, this answering Defendant does not  
18 have sufficient knowledge or information upon which to base a belief as to the truth of the  
19 allegations therein, and upon said ground denies each and every allegation contained therein.

20 9. Answering paragraph 9 of Plaintiffs' Complaint, this answering Defendant does not  
21 have sufficient knowledge or information upon which to base a belief as to the truth of the  
22 allegations therein, and upon said ground denies each and every allegation contained therein.

23 10. Answering paragraph 10 of Plaintiffs' Complaint, this answering Defendant does not  
24 have sufficient knowledge or information upon which to base a belief as to the truth of the  
25 allegations therein, and upon said ground denies each and every allegation contained therein.

26 11. Answering paragraph 11 of Plaintiffs' Complaint, this answering Defendant does not  
27 have sufficient knowledge or information upon which to base a belief as to the truth of the  
28 allegations therein, and upon said ground denies each and every allegation contained therein.

1           12.     Answering paragraph 12 of Plaintiffs' Complaint, this answering Defendant does not  
2 have sufficient knowledge or information upon which to base a belief as to the truth of the  
3 allegations therein, and upon said ground denies each and every allegation contained therein.

4           13.     Answering paragraph 13 of Plaintiffs' Complaint, this answering Defendant does not  
5 have sufficient knowledge or information upon which to base a belief as to the truth of the  
6 allegations therein, and upon said ground denies each and every allegation contained therein.

7           14.     Answering paragraph 14 of Plaintiffs' Complaint, this answering Defendant does not  
8 have sufficient knowledge or information upon which to base a belief as to the truth of the  
9 allegations therein, and upon said ground denies each and every allegation contained therein.

10          15.     Answering paragraph 15 of Plaintiffs' Complaint, this answering Defendant does not  
11 have sufficient knowledge or information upon which to base a belief as to the truth of the  
12 allegations therein, and upon said ground denies each and every allegation contained therein.

13          16.     Answering paragraph 16 of Plaintiffs' Complaint, this answering Defendant does not  
14 have sufficient knowledge or information upon which to base a belief as to the truth of the  
15 allegations therein, and upon said ground denies each and every allegation contained therein.

16          17.     Answering paragraph 17 of Plaintiffs' Complaint, this answering Defendant does not  
17 have sufficient knowledge or information upon which to base a belief as to the truth of the  
18 allegations therein, and upon said ground denies each and every allegation contained therein.

19          18.     Answering paragraph 18 of Plaintiffs' Complaint, this answering Defendant does not  
20 have sufficient knowledge or information upon which to base a belief as to the truth of the  
21 allegations therein, and upon said ground denies each and every allegation contained therein.

22          19.     Answering paragraph 19 of Plaintiffs' Complaint, this answering Defendant does not  
23 have sufficient knowledge or information upon which to base a belief as to the truth of the  
24 allegations therein, and upon said ground denies each and every allegation contained therein.

25          20.     Answering paragraph 20 of Plaintiffs' Complaint, this answering Defendant does not  
26 have sufficient knowledge or information upon which to base a belief as to the truth of the  
27 allegations therein, and upon said ground denies each and every allegation contained therein.

28          21.     Answering paragraph 21 of Plaintiffs' Complaint, this answering Defendant does not

1 have sufficient knowledge or information upon which to base a belief as to the truth of the  
2 allegations therein, and upon said ground denies each and every allegation contained therein.

3 22. Answering paragraph 22 of Plaintiffs' Complaint, this answering Defendant does not  
4 have sufficient knowledge or information upon which to base a belief as to the truth of the  
5 allegations therein, and upon said ground denies each and every allegation contained therein.

6 23. Answering paragraph 23 of Plaintiffs' Complaint, this answering Defendant does not  
7 have sufficient knowledge or information upon which to base a belief as to the truth of the  
8 allegations therein, and upon said ground denies each and every allegation contained therein.

9 24. Answering paragraph 24 of Plaintiffs' Complaint, this answering Defendant does not  
10 have sufficient knowledge or information upon which to base a belief as to the truth of the  
11 allegations therein, and upon said ground denies each and every allegation contained therein.

12 25. Answering paragraph 25 of Plaintiffs' Complaint, this answering Defendant does not  
13 have sufficient knowledge or information upon which to base a belief as to the truth of the  
14 allegations therein, and upon said ground denies each and every allegation contained therein.

15 26. Answering paragraph 26 of Plaintiffs' Complaint, this answering Defendant does not  
16 have sufficient knowledge or information upon which to base a belief as to the truth of the  
17 allegations therein, and upon said ground denies each and every allegation contained therein.

18 27. Answering paragraph 27 of Plaintiffs' Complaint, this answering Defendant does not  
19 have sufficient knowledge or information upon which to base a belief as to the truth of the  
20 allegations therein, and upon said ground denies each and every allegation contained therein.

21 28. Answering paragraph 28 of Plaintiffs' Complaint, this answering Defendant does not  
22 have sufficient knowledge or information upon which to base a belief as to the truth of the  
23 allegations therein, and upon said ground denies each and every allegation contained therein.

24 29. Answering paragraph 29 of Plaintiffs' Complaint, this answering Defendant does not  
25 have sufficient knowledge or information upon which to base a belief as to the truth of the  
26 allegations therein, and upon said ground denies each and every allegation contained therein.

27 30. Answering paragraph 30 of Plaintiffs' Complaint, this answering Defendant denies  
28 any wrongdoing, and the allegations set forth therein.

1           31. Answering paragraph 31 of Plaintiffs' Complaint, this answering Defendant does not  
2 have sufficient knowledge or information upon which to base a belief as to the truth of the  
3 allegations therein, and upon said ground denies each and every allegation contained therein.

4           32. Answering paragraph 32 of Plaintiffs' Complaint, this answering Defendant does not  
5 have sufficient knowledge or information upon which to base a belief as to the truth of the  
6 allegations therein, and upon said ground denies each and every allegation contained therein.

7           33. Answering paragraph 33 of Plaintiffs' Complaint, this answering Defendant does not  
8 have sufficient knowledge or information upon which to base a belief as to the truth of the  
9 allegations therein, and upon said ground denies each and every allegation contained therein.

10          34. Answering paragraph 34 of Plaintiffs' Complaint, this answering Defendant does not  
11 have sufficient knowledge or information upon which to base a belief as to the truth of the  
12 allegations therein, and upon said ground denies each and every allegation contained therein.

13          35. Answering paragraph 35 of Plaintiffs' Complaint, this answering Defendant does not  
14 have sufficient knowledge or information upon which to base a belief as to the truth of the  
15 allegations therein, and upon said ground denies each and every allegation contained therein.

16          36. Answering paragraph 36 of Plaintiffs' Complaint, this answering Defendant does not  
17 have sufficient knowledge or information upon which to base a belief as to the truth of the  
18 allegations therein, and upon said ground denies each and every allegation contained therein.

19          37. Answering paragraph 37 of Plaintiffs' Complaint, this answering Defendant denies  
20 any wrongdoing, and that it owed Plaintiffs any legal duty.

21          38. Answering paragraph 38 of Plaintiffs' Complaint, this answering Defendant denies  
22 any wrongdoing, and further denies that it made any representations about the dog, nor knew of any  
23 alleged propensities.

24          39. Answering paragraph 39 of Plaintiffs' Complaint, this answering Defendant denies  
25 any wrongdoing, and further denies the other allegations contained therein.

26          40. Answering paragraph 40 of Plaintiffs' Complaint, this answering Defendant denies  
27 any wrongdoing, and the allegations set forth therein.

28          41. Answering paragraph 41 of Plaintiffs' Complaint, this answering Defendant denies

1 any wrongdoing, and the allegations set forth therein.

2 42. Answering paragraph 42 of Plaintiffs' Complaint, this answering Defendant does not  
3 have sufficient knowledge or information upon which to base a belief as to the truth of the  
4 allegations therein, and upon said ground denies each and every allegation contained therein.

5 43. Answering paragraph 43 of Plaintiffs' Complaint, this answering Defendant does not  
6 have sufficient knowledge or information upon which to base a belief as to the truth of the  
7 allegations therein, and upon said ground denies each and every allegation contained therein.

8 44. Answering paragraph 44 of Plaintiffs' Complaint, this answering Defendant denies  
9 any wrongdoing, and the allegations set forth therein.

10 45. Answering paragraph 45 of Plaintiffs' Complaint, this answering Defendant denies  
11 any negligence or wrongdoing.

12 46. Answering paragraph 46 of Plaintiffs' Complaint, this answering Defendant does not  
13 have sufficient knowledge or information upon which to base a belief as to the truth of the  
14 allegations therein, and upon said ground denies each and every allegation contained therein.

15 47. Answering paragraph 47 of Plaintiffs' Complaint, this answering Defendant does not  
16 have sufficient knowledge or information upon which to base a belief as to the truth of the  
17 allegations therein, and upon said ground denies each and every allegation contained therein.

18 48. Answering paragraph 48 of Plaintiffs' Complaint, this answering Defendant does not  
19 have sufficient knowledge or information upon which to base a belief as to the truth of the  
20 allegations therein, and upon said ground denies each and every allegation contained therein.

21 49. Answering paragraph 49 of Plaintiffs' Complaint, this answering Defendant denies  
22 any wrongdoing, and as to the other allegations, does not have sufficient knowledge or information  
23 upon which to base a belief as to the truth of the allegations therein, and upon said ground denies  
24 each and every allegation contained therein.

25 50. Answering paragraph 50 of Plaintiffs' Complaint, this answering Defendant denies  
26 any wrongdoing, and the allegations set forth therein.

27 51. Answering paragraph 51 of Plaintiffs' Complaint, this answering Defendant denies  
28 any wrongdoing, and the allegations set forth therein.

1           52.     Answering paragraph 52 of Plaintiffs' Complaint, this answering Defendant denies  
2 that the Jane Doe was an employee was the agent or employee of PetSmart.

3           53.     Answering paragraph 53 of Plaintiffs' Complaint, this answering Defendant denies  
4 that the Jane Doe was acting in any agency or employment for PetSmart.

5           54.     Answering paragraph 54 of Plaintiffs' Complaint, this answering Defendant denies  
6 that it is vicariously liable for any acts of the Jane Doe Employee.

7           Defendant, PETSMART, INC. asserts the following affirmative and other defenses.

8                                 **FIRST AFFIRMATIVE DEFENSE**

9   (Comparative Negligence)

10          54.     Alleges that Plaintiffs' injuries, if any, were caused and contributed to by Plaintiffs'  
11 own negligence. Pursuant to NRS 41.141, Plaintiffs may not recover if their comparative negligence  
12 is greater than any negligence allocated to Responding Defendant.

13                                 **SECOND AFFIRMATIVE DEFENSE**

14   (Assumption of Risk)

15          55.     Alleges that Plaintiffs' injuries, if any, were caused and contributed to by Plaintiffs'  
16 own assumption of risk.

17                                 **THIRD AFFIRMATIVE DEFENSE**

18   (Failure to State a Claim)

19          56.     Alleges that the Complaint, and each cause of action thereof, fails to state facts  
20 sufficient to constitute a cause of action.

21                                 **FOURTH AFFIRMATIVE DEFENSE**

22   (Statute of Limitations)

23          57.     Alleges the Complaint, and each cause of action thereof, is barred the statute of  
24 limitations.

25                                 **FIFTH AFFIRMATIVE DEFENSE**

26   (Fault of Others)

27          58.     Alleges that other persons or entities, whether or not parties, each, were negligent and  
28 such negligence was a proximate cause of Plaintiffs' injuries, if any, and should any judgment be



1 awarded to Plaintiffs, it must be apportioned among all such negligent persons or entities and offset  
2 against any judgment against Defendant.

3 **SIXTH AFFIRMATIVE DEFENSE**

4 **(No Notice)**

5 59. Alleges that Defendant had no notice of the alleged dangerous issue with the subject  
6 dog, and hence, cannot be liable for the same.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 **(Joint and Several Liability)**

9 60. Alleges that pursuant to NRS 41.141(4) – (5), et. seq., Responding Defendant is  
10 severally liable only for the portion of the damages equal to the percentage of negligence attributable  
11 to such Defendant by the jury or trier of fact. Civil Code Section 1431.2, Defendant's liability for  
12 non-economic losses will be several only and not joint. Answering Defendant shall only be liable for  
13 the amount of non-economic damages in the proportionate amount of liability assessed to such  
14 Defendant.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 **(Lack of Control)**

17 61. Alleges that it did not own or control the subject dog which allegedly bit Plaintiff.

18 **NINTH AFFIRMATIVE DEFENSE**

19 **(No Legal Duty)**

20 62. Alleges that it did not owe any legal duty to Plaintiffs, since Responding Defendant  
21 was not involved in the adoption of the dog, and was not involved in the adoption transaction.

22  
23 WHEREFORE, Defendant asks judgment as follows:

- 24 1. That Plaintiffs takes nothing;  
25 2. For costs of suit; and  
26 3. For other proper relief.  
27  
28

1 DATED: September 30 2019

LAW OFFICES OF LANE S. KAY

2  
3 By: 

4 LANE S. KAY  
Attorneys for Defendant,  
PETSMART, INC.

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# EXHIBIT “3”

DISTRICT COURT  
CLARK COUNTY, NEVADA

JAMES E. TODD, individually;	)	
RAPHAELA TODD, individually	)	
	)	
Plaintiffs,	)	Case No.
	)	A-19-788762-C
vs.	)	
	)	
A HOME 4 SPOT ANIMAL RESCUE, a)	)	
Nevada Domestic Non-Profit	)	
corporation; JANE DOE	)	
EMPLOYEE, PETSMART, INC., DOES)	)	
I through X; and ROE	)	
CORPORATIONS I through X,	)	
inclusive jointly and	)	
severally,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF DIANA ENGLAND  
Taken on Thursday, October 17, 2019  
At 9:54 o'clock a.m.  
At 400 South Fourth Street, Suite 500  
Las Vegas, Nevada

Reported by: Helen M. Zamba, CCR #439

1 mild, so you probably would have been outside the  
2 store, in the parking lot?

3 A. (Witness reading.) Yes.

4 Q. Do you guys have a bunch of like E-Z Ups or  
5 something that you brought out there?

6 A. We're on a sidewalk that's covered, you know,  
7 overhang, the PetSmart. So it has shade most of the  
8 time.

9 If the sun got hot, we had, you know, those  
10 shade sails that we'd wrap around the backs of the  
11 cages.

12 Q. Okay. So in connection with the subject dog,  
13 Chip, did PetSmart ever take possession of Chip at any  
14 point in time?

15 A. No.

16 Q. Was PetSmart involved in the adoption of Chip  
17 in any way?

18 A. No.

19 Q. When dogs are adopted out through A Home 4  
20 Spot, either at a Petco or a PetSmart, does the Petco  
21 or PetSmart get involved in any way in kind of looking  
22 at the dog's history or screening the dog or any of  
23 those things?

24 A. No.

25 Q. So the adoption process of dogs like Chip,

1     that's handled a hundred percent through A Home 4  
2     Spot?

3             A.     Yes.

4             Q.     So then the decision to, number one, whether  
5     or not to place a dog like Chip up for adoption, that's  
6     all through A Home 4 Spot and not PetSmart?

7                     Would you agree?

8             A.     I agree, yes.

9             Q.     And the decision as to whether or not the dog  
10    had whatever temperament to be eligible for adoption,  
11    that was A Home 4 Spot and not PetSmart.

12                    Would you agree?

13            A.     Yes.

14            Q.     And the entire process of placing the dog  
15    with a family like the Todds, that's all through A Home  
16    4 Spot and not with PetSmart.

17                    Would you agree?

18            A.     Yes.

19            Q.     So the -- and you told me, I think, Christina  
20    was involved with this process, and I can ask her.

21                    At the bottom of the second page of  
22    Exhibit 4, there's a notation. Looks like there's a --  
23    Christina is handwritten, and it says aware of previous  
24    bite.

25                    Do you see that?

# EXHIBIT “4”



A Home 4 Spot Animal Rescue

Adopter's Name: Raphaela Todd Home Phone: # 702-606-9358 Alt: # 702-251-4102  
Address 6820 Spanish Ave  
City Las Vegas State NV Zip 89145  
Email: raeannm.todd@gmail.com

EXHIBIT  
4

A Home 4 Spot Animal Rescue (AH4S) would like to thank you for adopting an AH4S dog. Please read the terms carefully and initial after reading.

Adopted Animal Name and Description: Chip Male Shaggy Sheep/Boxer

Pet ID # A972502

Microchip # 881 020 021 710 846

RMT (Initial) I hereby authorize my LOST/FOUND dog to be immediately released to a representative of AH4S in the event I cannot be reached for immediate reclaim of my adopted dog.

RMT (Initial) I agree to provide care for my adopted dog, including, but not limited to, providing adequate high quality food, water, a clean shelter within a comfortable temperature range, and provide necessary medical treatment and veterinary care, including yearly vaccinations. The dog will be treated as a family member with loving care, affection and respect.

RMT (Initial) I agree to keep an identification tag attached to a properly fitted collar which will remain on the adopted dog at all times, whether inside or outside the home, and to obtain all licenses required by local authorities. I will abide by all state and local laws regarding animal ownership. Dogs must be registered and licensed within your county of residence.

RMT (Initial) I agree to have the dog under control when he/she is not within the confines of the property. The adopted dog shall not be chained or tied. The adopted dog will not be an "outside" dog. I will not keep this dog outdoors for extended periods of time and I understand that this dog is an indoor companion. I will provide inside housing at all times.

RMT (Initial) I agree to never strike or otherwise physically or emotionally abuse this dog. I further agree NOT to declaw, debark, crop ears/tail, or otherwise mutilate this dog. I understand that AH4S cannot guarantee the health, temperament, or training of the adopted dog and hereby RELEASE AH4S from all liability once the dog is in my possession. If a health problem develops within the first 48 hours, I will notify AH4S.

RMT (Initial) I understand that my adopted dog will need time to adjust to their new home. This could last a few days or a few weeks. During this time, the dog may exhibit behavior that he/she will not otherwise exhibit after he/she adjusts to their new life. This may include housetraining accident, escape attempts, excessive barking, and chewing among others. I understand a consistent routine will give my adopted dog security and help him/her adjust quicker. I will seek out the help of a professional trainer if I need help with these issues, and upon request, AH4S will provide adopter with information on low cost training.

RMT (Initial) I will transport this dog inside an enclosed vehicle.

RMT (Initial) AH4S may inquire about or examine the dog at any time. If the examiner is not satisfied with the conditions of the dog and/or this agreement has not been fulfilled, AH4S may reclaim the dog.

RMT (Initial) If the adopted dog becomes lost, I will notify AH4S within 24 hours. If I fail to make such notification, and the dog is recovered by AH4S, the dog may not be returned. I acknowledge that I only have three (3) days to reclaim the dog from a public shelter, after three (3) days, the dog will be at high risk of being euthanized.

RMT (Initial) I agree that this dog is a rescue animal, and understands that AH4S cannot make any representations or warranties



pdf

shall not be transferred. The adopted dog will not be an outdoor dog. I will provide inside housing at all times.  
 (Initial) I agree to never strike or otherwise physically or emotionally abuse this dog. I further agree NOT to declaw, debark, crop ears/tail, or otherwise mutilate this dog. I understand that AH4S cannot guarantee the health, temperament, or training of the adopted dog and hereby RELEASE AH4S from all liability once the dog is in my possession. If a health problem develops within the first 48 hours, I will notify AH4S.

(Initial) I understand that my adopted dog will need time to adjust to their new home. This could last a few days or a few weeks. During this time, the dog may exhibit behavior that he/she will not otherwise exhibit after he/she adjusts to their new life. This may include housetraining accident, escape attempts, excessive barking, and chewing among others. I understand a consistent routine will give my adopted dog security and help him/her adjust quicker. I will seek out the help of a professional trainer if I need help with these issues, and upon request, AH4S will provide adopter with information on low cost training.

(Initial) I will transport this dog inside an enclosed vehicle.

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(Initial) If the adopted dog becomes lost, I will notify AH4S within 24 hours. If I fail to make such notification, and the dog is recovered by AH4S, the dog may not be returned. I acknowledge that I only have three (3) days to reclaim the dog from a public shelter, after three (3) days, the dog will be at high risk of being euthanized.

(Initial) I agree that this dog is a rescue animal, and understands that AH4S cannot make any representations or warranties as to this dog's health, physical condition, prior medical history, pre-existing conditions or age. AH4S will provide adopter with one (1) wellness examination by a licensed veterinarian chosen by AH4S.

(Initial) If for any reason I cannot keep the adopted dog, I will notify AH4S and agree to surrender the dog back to AH4S (contact info provided below). Under no circumstances will I surrender the dog to ANY public shelter.

(Initial) I hereby release AH4S from all liability for legal fees, veterinary care expenses or any other expense or liability incurred as a result of this adoption.

(Initial) In consideration of this dog, the adopter agrees to pay a rehoming fee of \$ 250-

Signature:

Date:

NO REFUNDS

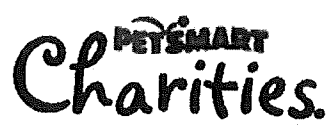
AH4S Representative:

Aware of previous bite  
 AH4S Contact: Diana England, phone: 702-239-7886, email: ah4s@outlook.com  
 AHFS12:001

EXHIBIT 13



11/13/18 Chip  
ADOPTION RELEASE FORM




STORE NO. 9415 DATE SCANNED \_\_\_\_\_ STORE INITIALS \_\_\_\_\_ GROUP NO. 0141

Adopter - Please Complete: By completing this form, you agree to our Privacy Policy, which can be found at [petsmart.com](http://petsmart.com) and [petsmartcharities.org](http://petsmartcharities.org).

☐ Check box Yes! Sign me up for Pet Perks membership

You just need to provide your phone number on this form to enjoy exclusive in-store benefits & if you provide your email address, you will receive exclusive online benefits as a PetPerks member. Log on to [petperks.com](http://petperks.com) for personalized deal alerts.



Give us your e-mail address to receive exclusive offers for your new pet.

E-Mail Address KHEH11UHTLLO@GMAIL.COM

Adopter's Name KAPHEA TUDS

Date 11/13/18

Address 6870 E ARKIS AVE

City VEGAS

State/Province NV

Zip/Postal Code 89115

Phone # 702 600 9358

Please read carefully and sign below.

**Adoption Program**

Thank you for choosing to adopt a pet. PetSmart and PetSmart Charities supports the adoption process by donating in-store space for use by qualified, pre-approved animal welfare organizations. These organizations are not affiliated with PetSmart or PetSmart Charities in any way. We cannot, and do not, guarantee the health of any of the pets available for adoption.

**Your Pet's History**

The animals available for adoption through the Adoption Program often come from a shelter environment and little is known about their past. Each participating animal welfare organization is concerned about the health of the animals in its care. These organizations exercise due caution to prevent disease transmission. Because health care procedures can vary by agency, please request detailed information regarding the health care administered to animals in the adoption organization's care.

Any questions regarding your pet's health should be directed to the adoption group. In addition, we strongly encourage a quarantine period for newly adopted pets. During this period, your new pet should be housed separately from other pets in the home. This will let the pet adapt to the new environment and allow monitoring for any possible signs of disease or aggression.

Important: Please read the information on the reverse side regarding Common Feline and Canine Diseases.

**Your Pet's Current Health and Follow-Up Health Care**

It's imperative that you make an appointment for your new pet with a veterinarian as soon as possible. The veterinarian can check your pet's health and give you valuable information regarding warning signs of illness. With any new pet, it's possible they may have been exposed to diseases that may not show symptoms for several weeks. Some of these diseases may be transmittable to other pets in your household and even to people. Veterinary fees incurred (such as diagnostics, vaccines and/or medications) are the responsibility of the pet owner.

**Privacy Policy**

For details about how we use your information (including with respect to our use of service providers located inside and outside of Canada), see our privacy policy at [petsmart.com](http://petsmart.com) or contact our Privacy Officer at the contact information below. Unless you opt-out, we may: (1) send you information and special offers by mail or e-mail regarding products or services that may be of interest to you; and/or (2) share your personal information with third-parties so they may contact you by mail and e-mail for their own marketing purposes. To opt-out call 888-839-9638 or email [CustomerCare@petsmart.com](mailto:CustomerCare@petsmart.com).

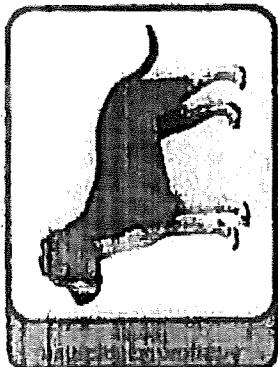
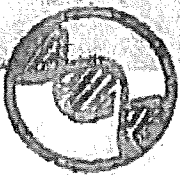
I hereby release PetSmart, Inc., PetSmart Charities, Inc., the adoption agency, and their agents of any liabilities related to the adoption of this pet from the adoption program.

Signature \_\_\_\_\_

<b>Adoption Agency - Please Complete</b>		Adoption Fee \$ <u>250</u>		Altered <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Adoption Agency	<u>HHHS</u>				
Pet's Name	<u>AKIP</u>				
Year Pet Was Born	<u>3</u>				
Dog <input checked="" type="checkbox"/>	Puppy (<1 Year) <input type="checkbox"/>	Cat <input type="checkbox"/>	Kitten (<1 Year) <input type="checkbox"/>	Other <input type="checkbox"/>	
14-HARDG-1434	SSG - Top	Store - Pink	Customer - Blue	Agency - Yellow	<b>AHFS8:001</b>

# DogTrex

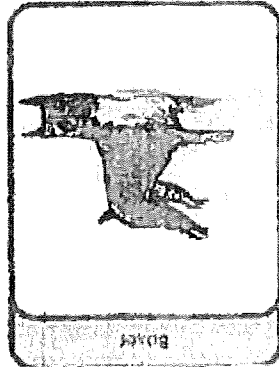
POWERED BY Westminster



- Intelligent, hard-working, and stable dogs
- Very loyal to family and usually good with children. Breed characteristics may lead to not getting along well with other dogs.
- American Staffordshire Terriers seem to enjoy dog sports such as agility, flyball, rally and competitive obedience.



- Personalities can vary from calm and watchful to be quiet to energetic.
- Enjoy participating in dog sports such as agility, freestyle, flyball, and competitive obedience.
- Eager to learn and respond well to reward-based training.



- Intelligent, hard working, and playful dogs with a high amount of energy.
- Bred to enjoy dog sports such as agility, flyball, rally and competitive obedience.
- Eager to learn and respond well to reward-based training using treats and favorite toys.

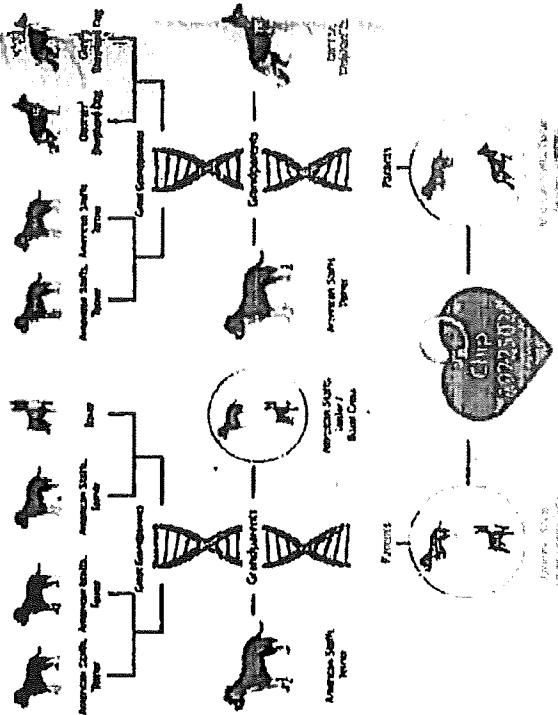


Hi, my name is Chip  
A972502...

Please see a shelter staff member  
or volunteer for more specific  
information on Chip A972502.

## CHIP A972502 IS A AMERICAN STAFFORDSHIRE TERRIER, GERMAN SHEPHERD DOG, BOXER CROSS

Wisdom Panel® is a unique DNA test that allows shelters to identify the different breeds in a mixed-breed dog. Below is the unique ancestry chart specifically for Chip A972502. Check out the back side of this page for more specifics on Chip A972502 and the breeds that we found.



GENDER: Male  
 SPAYED/NEUTERED: Yes  
 PREDICTED ADULT WEIGHT: 54 - 81 lbs.

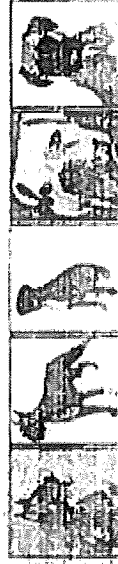
### TOP 3 BREEDS FOUND:



AMERICAN STAFFORDSHIRE TERRIER



GERMAN SHEPHERD DOG



BOXER

# EXHIBIT “5”

1 RSPN  
2 Thomas W. Askeroth, Esq. (SBN 11513)  
3 ASKEROTH LAW GROUP  
4 1980 Festival Plaza Drive #300  
5 Las Vegas, NV 89135  
6 Phone: 725.867.8495 ~ Fax: 725.333.0528  
7 tom@askerotherlaw.com  
8 *Attorney for Plaintiffs*

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 JAMES TODD, individually;  
10 RAPHAELA TODD, individually;

11 Plaintiffs,

12 vs.

13 A HOME 4 SPOT ANIMAL  
14 RESCUE, a Nevada Domestic Non-  
15 Profit Corporation;  
16 JANE DOES EMPLOYEE;  
17 PETSMART, INC.;  
18 DOES I through X; and  
19 ROE CORPORATIONS I through X,  
20 Inclusive jointly and severally;

21 Defendants.

22 A HOME 4 SPOT ANIMAL  
23 RESCUE, a Nevada Domestic Non-  
24 Profit Corporation;

25 Counter-Claimant,

26 vs.

27 RAPHAELA TODD;

28 Counter-Defendant.

Case No.: A-19-788762-C  
Dept. No.: 16

**PLAINTIFFS' RESPONSE TO  
DEFENDANT PETSMART,  
INC.'S FIRST SET OF  
INTERROGATORIES**

1       PETSMART, INC.;

2               Cross-Claimant/Counter-  
3               Defendant,

4       vs.

5               A HOME 4 SPOT ANIMAL  
6               RESCUE, a Nevada Domestic Non-  
7               Profit Corporation;

8               Cross-Defendant/Counter-  
9               Claimant.

10       TO:    Petsmart, Inc., Defendant; and

11       TO:    Defendant's counsel.

12               COMES NOW, Plaintiffs, by and through their attorneys of the law firm  
13       of ASKEROTH LAW GROUP, and responds to Petsmart, Inc.'s Interrogatories  
14       to Plaintiffs as follows:

15       **INTERROGATORY NO. 1:**

16               In your Complaint wherein you allege that propounding party was  
17       negligent, please state each and every fact which supports such contention.

18       **RESPONSE TO INTERROGATORY NO. 1:**

19               Objection, overly-burdensome, vague, and not reasonably tailored to  
20       lead to the discovery of admissible evidence, and calls for legal conclusion.  
21       Without waiving said objection, Plaintiffs respond: Please see Plaintiffs'  
22       NRCP 16.1 Disclosures previously submitted and the allegations contained  
23       in Plaintiff's Complaint.

24       **INTERROGATORY NO. 2:**

25               Please describe in complete detail how your incident occurred.

26       **RESPONSE TO INTERROGATORY NO. 2:**

27               Objection. This interrogatory is vague and overbroad. Without waiving  
28       said objection, Plaintiffs respond:

              Raphaella Todd responds to the best of her recollection: James (aka Jim)





1 and I were both sitting in the living room, I was sitting on the couch,  
2 wearing headphones and watching a movie on my laptop. Jim was sitting  
3 on a recliner, next to the couch. Chip was lying on the floor nearby. Jim  
4 decided to get up to go to the kitchen. At this time, Chip got up and  
5 repositioned himself on the floor in front of the recliner where Jim had been  
6 sitting. As Jim re-entered the living room to return to the recliner, he noticed  
7 Chip lying right in front of the chair. For no reason, Chip started a low  
8 growl at Jim. As I was wearing headphones, I didn't hear the first growl.  
9 Jim called my name so I could try and distract Chip. As I removed my  
10 headphones, I heard Chip growling while he stared at Jim. I opened my  
11 mouth to call the dog, but before I could say anything, Chip jumped up  
12 from lying and biting and locking down onto Jim's right forearm and began  
13 wrenching his huge head from side to side and trying to tackle Jim to the  
14 ground. Jim managed to position the recliner between himself and the dog.

15 I jumped up off the couch and forced my fingers inside the dog's mouth  
16 and had to pry his jaw open from Jim's arm, causing two puncture wounds  
17 to two of the fingers on my right hand. I managed to restrain Chip by the  
18 back of his collar, and yelled at Jim to get out of the house, because Chip  
19 was still trying to go after him. There was blood everywhere. I have no idea  
20 how I did it ... but I was able to drag the dog into the garage, where I was  
21 trapped with him until the ambulance arrived. The dog kept trying to force  
22 himself back into the house, so I couldn't open the door to go check on Jim.  
23 I could hear Jim screaming inside and I couldn't get to him. My brother,  
24 Guy Comello, who was staying with us at the time, opened the door a crack  
25 to stick a large Chef's knife through to me in case the dog attacked me.  
26 Thankfully, Chip didn't attack me again while I was in the garage with him.  
27 This was an extremely traumatic experience for me as I was trapped inside  
28 the garage with this dog which had just viciously attacked Jim. I was scared



1       that he was going to attack me as well. I managed to squeeze myself back  
2       into the house after I heard the paramedics arrive outside.

3       The ambulance took my husband to Mountainview Hospital, they let  
4       me ride in the front. While we were at the hospital, Animal Control came  
5       to the house, and my brother allowed them access to our home so they  
6       could remove Chip.

7       James Todd responds to the best of his recollection: I was sitting in the  
8       recliner. The dog was laying at my feet. I got up to get a drink of water  
9       walked into the kitchen. The dog followed me into the kitchen. I got a glass  
10      of water, started to drink. The dog looked up at me, had no interest in what  
11      I was doing, and returned to the living room. I finished my water and  
12      returned to the living room. Chip was now lying right in front of the  
13      recliner. I came closer to the recliner and the dog started growling, at which  
14      time, without looking at the dog, I tried to get Raeann's attention. Once she  
15      pulled the headphones from her ears and noticed the dog was growling,  
16      before she could utter a word, the dog leaped up from his lying position  
17      and grabbed my right arm by biting down hard. At which point I got the  
18      recliner between me and the dog because he grabbed my arm and would  
19      not let go. I tried my best not to panic. He was not even 10 inches from my  
20      face, trying to figure out what to do next. I was screaming. As I fought the  
21      dog, thoughts of losing my arm came into my mind, losing my career, my  
22      carpentry, my hobbies, my sports, everything I love to do. The dog would  
23      not let go. Time seemed to slow down. He would not let go, shook his head  
24      back and forth with my arm in his mouth. I could hear myself screaming. It  
25      seemed like a long time before Raeann got off the couch to try and get the  
26      dog off of me. As Raeann was trying to get the dog off of me, it seemed to  
27      take a long time, I can't tell you the exact amount of time. As soon as the  
28      dog released my arm, I flipped the recliner toward the dog, into the middle



1 of the living room, at which time the dog seemed to start coming back after  
2 me, at which time Raeann went for the dog. I was screaming in fear,  
3 screaming from the pain. I then ran into the kitchen, grabbed a towel and  
4 ran out the back door. I opened the back door and yelled inside to call 911.  
5 I came back in because I was worried about Raeann being with the dog, and  
6 that he would attack her next. Once the dog was in the garage, I came back  
7 in the house and went in front of the house, waiting for help to come. I  
8 called to Raeann through the garage vent in front of our house, who was  
9 stuck in the garage with the dog, telling her to get the f\*\*k out of there. She  
10 said she couldn't because the dog wouldn't let her out, but she was OK. I  
11 kept telling her she needed to get the f\*\*k out of the garage. She kept saying  
12 that she was trying, but the dog wouldn't let her back in the house. The Fire  
13 Department, Ambulance, Police and Dog Catcher came. I was a state of  
14 confusion, as there were many people surrounding me. I remember taking  
15 the kitchen towel off of my arm so the Fire Department could see how bad  
16 it was. I was then loaded into the ambulance and brought to the hospital.

17 **INTERROGATORY NO. 3:**

18 Did you ever spoke with any PetSmart employee about the subject dog's  
19 adoption, prior to the adoption itself?

20 **RESPONSE TO INTERROGATORY NO. 3:**

21 Objection. This interrogatory is vague and overbroad. Without waiving  
22 said objection, Plaintiffs respond:

23 Raphaella Todd responds to the best of her recollection: I do not believe  
24 so. I spoke with two people, who I believe were with the rescue group but  
25 since they were on Petsmart's property I reasonably believed that they had  
26 Petsmart's permission to be there and conduct the adoptions, and were  
27 acting on behalf of Petsmart.

28 Plaintiff James Todd responds to the best of his recollection: I was not



1 present at the time of the adoption at Petsmart.

2 **INTERROGATORY NO. 4:**

3 If your response to the previous interrogatory is in the affirmative,  
4 please identify the employee, the date of the conversation, and what was  
5 said by whom.

6 **RESPONSE TO INTERROGATORY NO. 4:**

7 Not applicable.

8 **INTERROGATORY NO. 5:**

9 Do you dispute that the subject dog was adopted from A Home 4 Spot,  
10 and not PetSmart?

11 **RESPONSE TO INTERROGATORY NO. 5:**

12 Objection, vague and calls for legal conclusion. Without waiving,  
13 Plaintiffs respond to the best of their recollection:

14 We adopted the subject dog from A Home 4 Spot, however, the  
15 adoption occurred on Petsmart property, and I reasonably believed that  
16 they had Petsmart's permission to be there and conduct the adoptions, and  
17 were acting on behalf of Petsmart.

18 **INTERROGATORY NO. 6:**

19 Please state the name, address and group number/policy number for  
20 any health/medical insurance that you had in place at the time of the  
21 accident, and continuing up to the current time.

22 **RESPONSE TO INTERROGATORY NO. 6:**

23 Our health insurance at the time of the subject incident continuing  
24 through to present is: Aetna Health Inc.; Group #830058-011-00001; Issuer:  
25 (80840) 91400860054; ID: W1999 50630.

26 **INTERROGATORY NO. 7:**

27 Please state the name, address and telephone number of your primary  
28 care physician at the time of the subject incident.



1       **RESPONSE TO INTERROGATORY NO. 7:**

2           Objection. This interrogatory is vague, compound, overly-broad,  
3 outside the scope of permissible discovery, and potentially violates right to  
4 privacy under NRS 49.215 to 49.245. A further objection is made on the basis  
5 of the Supreme Court of Nevada's finding as contained in *Schlatter v. Eight*  
6 *Judicial District Court of Nevada*, 93 Nev. 189, 561 P.2d 1342 (1977), in which  
7 the Court cited NRCP 26(b)(1) in stating that the scope of discovery in civil  
8 litigation is limited to "medical records containing information relevant to  
9 the injury complained of or any pre-existing injury related thereto."  
10 Further, this request is overbroad as it is not sufficiently limited in time or  
11 scope.

12           Without waiving said objections, Plaintiffs respond: Gary M. DeShazo,  
13 DO at 8440 West Lake Mead Boulevard, Las Vegas, NV 89128; 702-870-8852.

14       **INTERROGATORY NO. 8:**

15           Please itemize all medical expenses you incurred (billed and paid, plus  
16 any adjustments) for any medical treatment you received due to the  
17 incident.

18       **RESPONSE TO INTERROGATORY NO. 8:**

19           James Todd's medical expenses:

20

MEDICAL PROVIDER	DATES OF SERVICE	TOTAL CHARGES
American Medical Response	1/17/18;	\$1,139.94
Mountain View Hospital	1/14/18 - 1/19/18;	\$37,994.00
Harbor Island Medical Center	1/22/18 - 4/26/18;	TBD
Steinberg Diagnostic Medical Imaging	2/16/18;	TBD
Laboratory Medicine Consultants	1/16/18 - 1/17/18;	\$190.40
Richard A, Cestkowski, DO	6/6/19;	TBD
Alan Raddatz, MSW, BCD		TBD
Wal-Mart Pharmacy		TBD
Walgreens Pharmacy		TBD
Total Past Medical Expenses		\$39,324.34
Future Medical Expenses		TBD

28

1	Loss of Wages and Benefits	TBD
2	Special Damages	TBD

3 Raphaella Todd's medical expenses:

4	<b>MEDICAL PROVIDER</b>	<b>DATES OF SERVICE</b>	<b>TOTAL CHARGES</b>
5	Maryjane A. Henning, MS		TBD
6	Total Past Medical Expenses		TBD
7	Future Medical Expenses		TBD
8	Loss of Wages and Benefits		TBD
9	Special Damages		TBD

10 **INTERROGATORY NO. 9:**

11 If you are making a loss of earnings claim in this case, please state the  
12 name, address and telephone number of your employer at the time of the  
13 incident, and any employers you have had for the past 10 years.

14 **RESPONSE TO INTERROGATORY NO. 9:**

15 Plaintiff James Todd responds to the best of his recollection:

16 John Reich, Owner  
17 Kitchenland, Inc.  
18 6455 Dean Martin Drive, Suite K  
19 Las Vegas, NV 89118  
20 702-896-0265  
21 *October, 1984 to present*

22 Plaintiff Raphaella Todd responds to the best of her recollection:

23 Wood, Smith, Henning & Berman LLP  
24 2881 Business Park Court, Suite #200  
25 Las Vegas, NV 89128  
26 702-251-4100  
27 *September 13, 2010 to present*

28 Gage & Gage, LLP  
(now known as The Gage Law Firm, PLLC)  
1980 Festival Plaza Drive, #270  
Las Vegas, NV 89135  
702-869-0800  
*August, 2004 to September, 2010*



1       **INTERROGATORY NO. 10:**

2           If you are making a loss of earnings claim in this case, please state the  
3       dates you missed from work, your hourly wage, and the amount of money  
4       you lost.

5       **RESPONSE TO INTERROGATORY NO. 10:**

6           Plaintiff James Todd responds to the best of his recollection: I missed six  
7       weeks of work after the attack (January 15, 2018 through February 26, 2018).  
8       Because of money issues, I motivated myself to return to work on February  
9       26, 2018, even though I was still in a lot of pain, with numbness in my right  
10      arm and hand. My boss allowed me to return on light duty for about three  
11      more weeks that followed. At that time, my hourly wage was \$27.50. (6  
12      weeks [30 days] @ \$220.00 per day lost) My lost earnings total \$6,600.00.

13          Plaintiff Raphaela Todd responds to the best of her recollection: I missed  
14      3½ days of work to stay with Jim in the hospital: January 15, 2018 (Martin  
15      Luther King Day- *Firm was closed*); January 16, 2018 (out); January 17, 2018  
16      (half day); January 18, 2018 (out); and January 19, 2018 (out). I missed 28  
17      hours of work. My hourly wage at that time was \$30.79, which equals  
18      \$862.12 in lost earnings.

19      **INTERROGATORY NO. 11:**

20          Please identify any schools you have attended, starting with high  
21      school, and through the current time.

22      **RESPONSE TO INTERROGATORY NO. 11:**

23          Plaintiff James Todd responds to the best of his recollection: Hicksville  
24      High School, Hicksville, NY.

25          Plaintiff Raphaela Todd responds to the best of her recollection:  
26      Sheepshead Bay High School, Sheepshead Bay, NY and New York Business  
27      School, New York, NY.

28      ///



1       **INTERROGATORY NO. 12:**

2           If you have been convicted of a felony, please identify the same, and the  
3       date of the felony.

4       **RESPONSE TO INTERROGATORY NO. 12:**

5           Not applicable.

6       **INTERROGATORY NO. 13:**

7           Please state the name, address and telephone number of any health care  
8       provider that you have seen for treatment or examination for any mental  
9       health issue or post-traumatic stress disorder for the subject accident, and  
10      the dates of the same.

11      **RESPONSE TO INTERROGATORY NO. 13:**

12          Plaintiff James Todd responds:

13       Treating Technicians and/or  
14       NRCP 30(b)(6) Witness and/or  
15       Custodian of Records  
16       American Medical Response  
17       50 S Main St. #401  
18       Akron, OH 44308

19       Treating Physicians and/or  
20       NRCP 30(b)(6) Witness and/or  
21       Custodian of Records  
22       Mountain View Hospital  
23       3100 N Tenaya Way  
24       Las Vegas, NV 89128

25       Gary Deshazo, DO and/or  
26       Treating Physicians and/or  
27       NRCP 30(b)(6) Witness and/or  
28       Custodian of Records  
29       Harbor Island Medical Center  
30       8440 W Lake Mead Blvd. #103  
31       Las Vegas, NV 89128

32       Treating Physicians and/or  
33       NRCP 30(b)(6) Witness and/or  
34       Custodian of Records





1 Steinberg Diagnostic Medical Imaging  
2 2767 N Tenaya Way  
3 Las Vegas, NV 89129

4 Treating Physicians and/or  
5 NRCP 30(b)(6) Witness and/or  
6 Custodian of Records  
7 Laboratory Medicine Consultants  
8 8085 Rivers Ave. #100  
9 N Charleston, SC 29406

10 Richard A. Cestkowski, DO  
11 NRCP 30(b)(6) Witness and/or  
12 Custodian of Records  
13 2628 W Charleston Blvd.  
14 Las Vegas, NV 89102

15 Alan Raddatz, MSW  
16 NRCP 30(b)(6) Witness and/or  
17 Custodian of Records  
18 6960 O'Bannon Drive, Suite 190  
19 Las Vegas, NV 89117  
20 702-320-3180

21 Treating Pharmacists and/or  
22 NRCP 30(b)(6) Witness and/or  
23 Custodian of Records  
24 Walmart Pharmacy  
25 6310 W. Charleston Blvd.  
26 Las Vegas, NV 89146

27 Treating Pharmacists and/or  
28 NRCP 30(b)(6) Witness and/or  
29 Custodian of Records  
30 Walgreens Pharmacy  
31 7599 W. Lake Mead Blvd.  
32 Las Vegas, NV 89128

33 Plaintiff Raphaela Todd responds:

34 Maryjane A. Henning, MS  
35 NRCP 30(b)(6) Witness and/or  
36 Custodian of Records  
37 7371 W. Charleston Blvd., #110  
38 Las Vegas, NV 89117



1       **INTERROGATORY NO. 14:**

2           Please state what information or representations were made to you, for  
3       the subject dog adoption.

4       **RESPONSE TO INTERROGATORY NO. 14:**

5           Objection, this interrogatory is vague, overbroad, burdensome, and  
6       cumulative. Without waiving said objection, Plaintiff Raphaella Todd  
7       responds to the best of her recollection:

8           On the afternoon of January 13, 2018, I went with our senior dog,  
9       Minnie, to PetSmart's Adoption Event to search for her new buddy. Minnie  
10      had lost her best friend, our second dog named "Dingo," who died a few  
11      weeks before, and I felt she was ready for a new friend. I had Minnie with  
12      me, to ensure she and the potential new family member liked each other. I  
13      went to the back of PetSmart where the Adoption Event was being held by  
14      "A Home 4 Spot." There were several dogs kept in kennels. As soon as I  
15      walked in the area, I noticed a very large dog who happened to be out of  
16      the kennel, being held by one of the workers (or a volunteer??) on a leash.  
17      He was wagging his long tail and seemed to be looking at me. I approached  
18      the dog, and was told by the person holding the leash that he was a boy and  
19      his name was "Chip." I scratched the top of his head, and he began to nuzzle  
20      his head against my thigh. The employee/volunteer said, "Awwww, I  
21      think he likes you... look at that..." So, with Minnie by my side, Chip  
22      started to sniff her, and likewise. Tails were wagging. I stayed for close to  
23      an hour, spending time with the dog, I was on my knees petting him all  
24      over, scratching the sides of his neck, he kept licking my face, trying to  
25      nuzzle against me. Minnie seemed to like him.

26           The employee/volunteer, mentioned during this interaction that they  
27      called him a "gentle giant" and "a big mush." I then said that I was  
28      interested in adopting Chip, but what was his history? She never answered



1 the question, but said she was so happy to hear that I would be taking Chip,  
2 then handed me the leash and said she would need to bring the supervisor  
3 over to start the paperwork. The supervisor (whose name I think was  
4 Christina) came over and expressed how happy she was that Chip was  
5 going to his forever home. She handed me the paperwork and told me there  
6 was a \$250.00 adoption fee. I started filling out the documents as she took  
7 Chip's leash and kept petting his head. I asked her how he came to be with  
8 their rescue? She said there was one "minor incident" with the last adopter.  
9 She called it a "minor nip." At this, I stopped filling out the form. I looked  
10 at her and asked, what do you mean? She said the prior owner who adopted  
11 Chip from them had him for about a week. He was in this "brand new  
12 environment" and was being "teased by someone crinkling Christmas  
13 wrap by his head." He "got spooked and nipped the person who was  
14 teasing him." She even said, "it didn't even break the skin, it was such a  
15 minor nip." Because of this "minor incident, the Owner returned Chip."  
16 Being a dog owner my entire life, and most of our dogs from shelters, her  
17 story made sense to me and I continued to complete the paperwork, paid a  
18 \$250 adoption fee and took Chip home. One of the employee/volunteers  
19 then asked for my e-mail address so that she could send me Chip's "shot  
20 records." I gave my e-mail address and they e-mailed the shot records later  
21 that day. As I was told these were the dog's shot records, I never actually  
22 read the e-mail until I retained an attorney after my husband was viciously  
23 attacked. Through these records I later discovered that Chip had a violent  
24 history and was deemed unfit for adoption, all unbeknownst to me at the  
25 time of the adoption.

26 Before I left, the supervisor came over to me and gave me a big hug,  
27 thanked me for taking Chip, that she could tell he was going to have a  
28 wonderful life with me. We both had tears in our eyes.



1           Without waiving said objection, Plaintiff James Todd responds to the  
2           best of his recollection: I was not present at the time of the adoption of Chop  
3           at Petsmart.

4           **INTERROGATORY NO. 15:**

5           With reference to your response to the previous interrogatory, please  
6           state the name of the company or entity that such person worked for or  
7           represented.

8           **RESPONSE TO INTERROGATORY NO. 15:**

9           Objection, vague and calls for legal conclusion. Without waiving said  
10          objection Plaintiffs respond: A Home 4 Spot.

11          **INTERROGATORY NO. 16:**

12          Please identify each and every healthcare provider you saw as a result  
13          of your injuries, and what treatment was provided.

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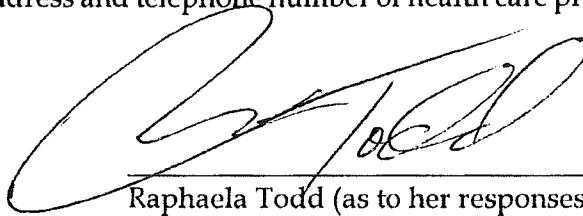
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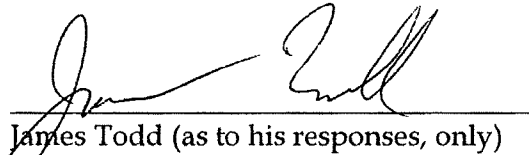
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1       **RESPONSE TO INTERROGATORY NO. 16:**

2           See Plaintiffs' NRCP 16.1 Disclosures for opinions relative to injuries,  
3 ailments, and symptoms. Without waiving said objection, Plaintiff  
4 responds to best of her recollection: See response to Interrogatory Number  
5 8 for the name, address and telephone number of health care providers seen  
6 for treatment.

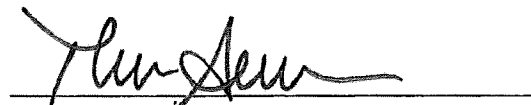
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8 \_\_\_\_\_  
9 Raphaela Todd (as to her responses, only)

10   
11 \_\_\_\_\_  
12 James Todd (as to his responses, only)

13 Objections submitted by:

14       DATED this 30<sup>th</sup> day of September, 2019.

15                               ASKEROTH LAW GROUP

16   
17 \_\_\_\_\_  
18 Thomas W. Askeroth, Esq. (SBN 11513)  
19 1980 Festival Plaza Drive #300  
20 Las Vegas, NV 89135  
21 *Attorney for Plaintiffs*

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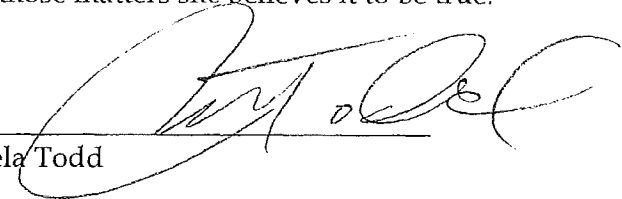
VERIFICATION OF RAPHAELA TODD

STATE OF NEVADA, )

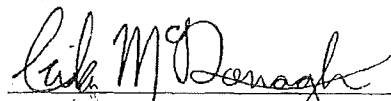
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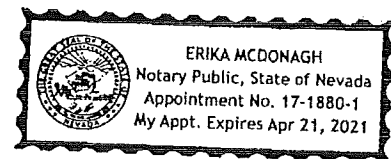
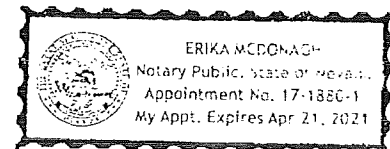
COUNTY OF CLARK. )

Raphaela Todd, being first duly sworn, deposes and says: That she is the Plaintiff in the above-referenced case; that she has read the PLAINTIFFS' RESPONSE TO DEFENDANT PETSMART, INC.'S INTERROGATORIES and knows the contents thereof, and that the same is true of her own knowledge except for those matters therein stated on information and belief, and as for those matters she believes it to be true.

  
Raphaela Todd

SUBSCRIBED and SWORN to before me  
this 27<sup>th</sup> day of September, 2019.

  
NOTARY PUBLIC in and for said  
County and State



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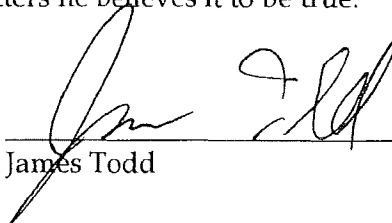
VERIFICATION OF JAMES TODD

STATE OF NEVADA, )

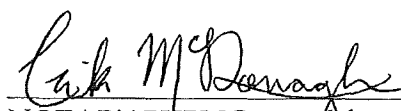
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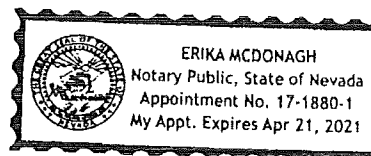
COUNTY OF CLARK. )

James Todd, being first duly sworn, deposes and says: That he is the Plaintiff in the above-referenced case; that he has read the PLAINTIFFS' RESPONSE TO DEFENDANT PETSMART, INC.'S INTERROGATORIES and knows the contents thereof, and that the same is true of his own knowledge except for those matters therein stated on information and belief, and as for those matters he believes it to be true.

  
James Todd

SUBSCRIBED and SWORN to before me  
this 27<sup>th</sup> day of September, 2019.

  
NOTARY PUBLIC in and for said  
County and State



///







# EXHIBIT “6”

DISTRICT COURT  
CLARK COUNTY, NEVADA

JAMES E. TODD, individually; )  
RAPHAELA TODD, individually )  
 )  
Plaintiffs, ) Case No.  
 ) A-19-788762-C  
vs. )  
 )  
A HOME 4 SPOT ANIMAL RESCUE, a )  
Nevada Domestic Non-Profit )  
corporation; JANE DOE )  
EMPLOYEE, PETSMART, INC., DOES )  
I through X; and ROE )  
CORPORATIONS I through X, )  
inclusive jointly and )  
severally, )  
 )  
Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF CHRISTINA DETISCH  
Taken on Thursday, October 17, 2019  
At 2:08 o'clock p.m.  
At 400 South Fourth Street, Suite 500  
Las Vegas, Nevada

Reported by: Helen M. Zamba, CCR #439

1 that offers like software and hardware for people that  
2 have sight impairments?

3 A. Reading glasses, computer glasses, yes.

4 Q. Okay. All right. So it's not like a  
5 computer software or hardware, it's just for people  
6 that need glasses, like --

7 A. We sell them. Yeah, we sell them on Amazon  
8 and different platforms. Wal-Mart.

9 Q. All right. When did you work for A Home 4  
10 Spot?

11 A. I -- um, geez. I started volunteering  
12 initially back I believe 2015.

13 And then became em -- Diana paid me like \$300  
14 a month, basically, just because I lived at the  
15 building, to accommodate me for gas and -- and time.

16 Um, back in 2016, and I can't tell you  
17 what -- what date exactly.

18 Q. All right. So when you started as a  
19 volunteer for A Home 4 Spot in around 2015, did you  
20 have kind of an average number of hours that you would  
21 work?

22 A. Um, I would say I volunteered at least 30  
23 hours -- 30 or more hours a week.

24 Q. At that time that you volunteered 30 or more  
25 hours a week, were you working at another job that --

1 Q. -- AH4S, representative, and it's a name --

2 A. That's my --

3 Q. -- Christina. Is that --

4 A. -- signature.

5 Q. Is that your signature?

6 A. Yes.

7 Q. So were you the one that processed the  
8 paperwork?

9 A. I did.

10 Q. And was this at the PetSmart location?

11 A. Yes.

12 Q. Were you guys outside the store as opposed to  
13 inside the store, in terms of the adoption weekend?

14 A. No. We were in the back room.

15 Q. In the what kind of back room?

16 A. The back of the warehouse.

17 Q. So in other words, the -- there's a front of  
18 the store, PetSmart, and then there's a back of the  
19 store, where like you get shipments and stuff; right?

20 A. Correct.

21 Q. So the adoption event was in the back of --  
22 back of the store, where they deliver things; right?

23 A. Correct.

24 Q. As opposed to the front of the store.

25 A. Correct.

1           Q.    Is that where you typically did your  
2   adoption days on -- when it was -- the weather was  
3   nice?

4           A.    When it wasn't nice, correct.

5           Q.    When it was hot, you'd go somewhere  
6   different?

7           A.    Well, if it was too hot to be out front, we  
8   went in the back, yeah.

9           Q.    Okay. All right. So this particular day,  
10   you were in the back.

11          A.    Correct.

12          Q.    And how many dogs were there as part of this  
13   adoption program, approximately?

14          A.    Oh, geez. Maybe 15.

15          Q.    And then how many people were there working  
16   for A Home 4 Spot, either paid or volunteer?

17          A.    Multiple.

18          Q.    All right.

19          A.    I --

20          Q.    So when it came to Mrs. Todd, had she seen  
21   the dog on the website and reached out and said I want  
22   to see it?

23                   Or did she just show up blindly to the event,  
24   if you know?

25          A.    I don't know what brought her there.

1           Q.   All right. And then were you the one that  
2 interacted with her through the whole process?

3           A.   No.

4           Q.   Who else interacted with Ms. Todd about this  
5 dog?

6           A.   I'm not sure of any other volunteers, other  
7 than Desirea did interact with her. Desirea is the one  
8 what brought her to me.

9           Q.   And then when Desirea brought Mrs. Todd to  
10 you, did she say that Mrs. Todd was interested in  
11 adopting the dog?

12          A.   First Desirea came to me privately and said I  
13 think that you should talk to this lady, that she's --  
14 look -- seems to be a good candidate for Chip.

15          Q.   Okay. And then you approached Mrs. Todd,  
16 introduced yourself?

17          A.   Correct.

18          Q.   And then did Mrs. Todd ask any questions  
19 about the dog's history?

20          A.   Um, we -- we talked about Chip. We went over  
21 his history. Um, I explained to her about the prior  
22 "incidences," both with the food possession, as well as  
23 the bite.

24                   I explained both situations, to the best of  
25 my knowledge.

1           THE WITNESS: So the -- yes, the entire  
2   Animal Foundation packet.

3           Q.    (BY MR. AMARO) All right. And then did she  
4   have any questions after reading the Animal Foundation  
5   packet?

6           A.    She did not, because we had gone over them  
7   pretty thoroughly.

8           Q.    All right. And then in connection with this  
9   Exhibit 4, did you just hand this to her and say read  
10   it and initial it, or did you go over each little  
11   paragraph, paragraph by paragraph, and explain it to  
12   her?

13          A.    So Exhibit 4, she would have taken this  
14   packet.

15                She would -- again, she went and sat down,  
16   and she was read -- she was instructed to read it and  
17   initial it after she had read it.

18                Once she did so, and she brought it back to  
19   me, we went over what she signed off on. And I made  
20   sure --

21          Q.    All right.

22          A.    -- that she understood what she was signing  
23   off on, yes.

24          Q.    Did you explain any of the items on the --  
25   this document that she signed for the adoption?

1           A.    Oh, yeah.  We went -- I -- we sum -- so she  
2   went -- brought it back.

3                    She claimed to have read it.  And then we  
4   went over what -- and she under -- she -- she said yes,  
5   I understand, to each one.

6           Q.    Okay.

7           A.    An adoption takes a couple hours.  It -- we  
8   go over every line.

9           Q.    The section on page 2 -- and it's actually  
10   one page, but page 2 of this exhibit --

11          A.    Uh-huh.

12          Q.    -- where it says -- it's like the fourth item  
13   from the bottom.

14                   It says I agree that this dog is a rescue  
15   animal and understands that A Home 4 Spot cannot make  
16   any representations or warranties as to the dog's  
17   health, comma, physical condition, comma, prior medical  
18   history, comma, preexisting conditions or age.

19                   Did you explain that to her or just have her  
20   read it?

21          A.    I explained each one.  We went over each one.  
22   I read them back to --

23          Q.    All right.

24          A.    -- her.

25          Q.    And then the second item from the bottom, it



1 says I hereby release A Home 4 Spot from all liability,  
2 legal fees, veterinary care expenses, or any other  
3 expense or liability incurred as a result of this  
4 adoption.

5 A. Yes.

6 Q. What did you explain to her about that  
7 provision?

8 A. I read it to her.

9 Q. And did --

10 A. And asked her if she understood it.

11 Q. And what did she say?

12 A. Yes. Or she wouldn't have been able to adopt  
13 the dog.

14 Q. Okay. So you specifically remember asking  
15 Mrs. Todd, after reading this section, do you  
16 understand this provision?

17 A. Yes.

18 Q. And then she said she understood it?

19 A. Yes. I would --

20 Q. That's --

21 A. -- not have -- I don't remember -- I remember  
22 going over them and reading them to her. And if -- if  
23 she didn't understand it, I would not have released the  
24 dog to her.

25 Q. All right.

1           A.    She made very clear that she was -- she  
2 understood and was qualified.

3           Q.    Okay. And then the next page of this  
4 Exhibit 4 is this adoption release form?

5           A.    Yes.

6           Q.    Were you the one that had Mrs. Todd sign this  
7 document?

8           A.    Yes.

9           Q.    And again, this -- like the previous form,  
10 this required Mrs. Todd to make certain initials?

11          A.    Correct.

12          Q.    The first paragraph, it says adoption  
13 program. It says thank you for choosing to adopt a  
14 pet, period.

15                PetSmart and PetSmart Charities supports the  
16 adoption process by donating in-store space for use by  
17 qualified, comma, pre-approved animal welfare  
18 organizations, period.

19                These organizations are not affiliated with  
20 PetSmart or PetSmart Charities in any way. We cannot  
21 and do not guaranty the health of any of the pets  
22 available for adoption, unquote.

23                And then apparently, Mrs. Todd initialed  
24 this. In connection with that paragraph, did you  
25 explain anything to her in that regard?

1           A.    I did not.  I did go over each one, and I  
2   asked her if she understood what she was signing.

3           Q.    And did she say she understood that  
4   paragraph?

5           A.    She said she understood each paragraph.

6           Q.    And then at the -- at the bottom -- well,  
7   toward the bottom, it says I hereby release PetSmart,  
8   comma, Inc., comma, PetSmart Charities, comma, Inc.,  
9   comma, the adoption agency, comma, and their agents of  
10   any liabilities related to the adoption of this pet  
11   from the adoption program, period, unquote.

12                   And then she reportedly signed the document.

13          A.    She signed --

14          Q.    Did you --

15          A.    -- it in front of me.

16          Q.    Okay.  That was going to be my next question.  
17   Did she sign it in front of you?

18          A.    Yes.

19          Q.    And did you say to her, hey, by signing this  
20   document, you're giving up any certain legal rights  
21   against PetSmart or PetSmart Charities or the adoption  
22   agency?

23          A.    I did not.

24          Q.    All right.  But you did ask her to read it;  
25   right?

1           A.    I did.  And I asked her -- I pointed to each  
2 paragraph.  And I asked her if she understood what she  
3 was signing and initialing to.  And she confirmed,  
4 yes.

5                    So for me, the -- for Exhibit 4 and PetSmart  
6 Charities, both are very -- they -- very important to  
7 understand.

8           Q.    Because these are -- these documents impact  
9 someone's legal rights.

10          A.    Sure.  Yeah.

11          Q.    And did you tell Mrs. Todd that it's  
12 important to read them, because they could impact her  
13 legal rights?

14          A.    I -- I did not use that, no.  I wouldn't --

15          Q.    All right.  So then after signing the  
16 paperwork, Mrs. Todd leaves with her dog and Chip?

17          A.    Um, after that, that -- after we do  
18 paperwork, as I'm finishing up and putting it together,  
19 then she's walked through, and she has to buy a leash,  
20 a collar, a name tag, and everything needed in -- with  
21 the adoption.

22          Q.    All right.

23          A.    And she goes over to the hotel, and she takes  
24 her -- so she can get her coupon book.  She walks over  
25 there, gets her coupon book, and then she goes

1           Q.    So my -- that was my question.  These notes,  
2   was it kind of a synopsis or summary that you prepared  
3   after the incident?

4           A.    I -- I prepared this for our insurance  
5   company.  They asked me to.

6           Q.    When you say the -- our insurance company,  
7   you're talking about --

8           A.    A Home --

9           Q.    -- the insurance --

10          A.    -- 4 Spot.

11          Q.    -- the insurance company that ultimately  
12   denied coverage?

13          A.    Yeah.

14          Q.    Okay.  All right.  So this is something like  
15   prepared after the bite incident, as opposed to kind of  
16   a chronology, as you're going along?

17          A.    Correct.

18          Q.    I'll go through, and maybe I'm going to have  
19   a few questions about the content.

20                So on page 4, it says after spending  
21   approximately an hour, I felt Mrs. Todd had a good  
22   understanding and was allowed to proceed with  
23   adoption.

24                So did you -- did you spend about an hour  
25   with her, explaining the dog's history and other

1 information about Chip before deciding whether she  
2 could proceed to adopt him?

3 A. It was more than an hour. But yes.

4 Q. Okay. It was at least an hour.

5 A. Yes.

6 Q. And then in the material that you provided to  
7 her, you gave her your cell phone number. Did you give  
8 her like a contact information for Mr. Diaz?

9 A. Yes.

10 Q. And when it says here, on page 4, you gave --  
11 reached out -- you encouraged her to reach out to the  
12 behaviorist.

13 A. Yes.

14 Q. Is that Mr. Diaz?

15 A. Yes.

16 Q. Okay. So in the packet, she got Mr. Diaz' --

17 A. Business --

18 Q. -- contact --

19 A. -- card. Uh-huh.

20 Q. -- was supplied. Okay. Thank you. So in  
21 this paperwork, the bottom of page 4, top of page 5, it  
22 says that Mrs. Todd told you that the dog Chip had  
23 growled at her brother and her husband, but redirected  
24 Chip, and it was fine.

25 And then skip a sentence, it says Mrs. Todd

# EXHIBIT “7”

DISTRICT COURT  
CLARK COUNTY, NEVADA

JAMES E. TODD, individually;     )  
RAPHAELA TODD, individually,     )  
  )  
          Plaintiffs,                 )  
  )  
          v.                             ) NO. A-19-788762-C  
  )  
A HOME 4 SPOT ANIMAL RESCUE, a     )  
Nevada Domestic Non-Profit         )  
corporation; JANE DOE                )  
EMPLOYEE, PETSMART, INC., DOES     )  
1 through X; and ROE                 )  
CORPORATIONS 1 through X,           )  
inclusively, jointly and             )  
severally,                             )  
  )  
          Defendants.                   )  
\_\_\_\_\_

REMOTE DEPOSITION OF RAPHAELA TODD  
MONDAY, AUGUST 10, 2020

REPORTED REMOTELY BY:  
Shana K. Clifford  
CSR No. 10154, RPR



1           Q     Okay. That's fair.

2                     But basically when you encountered that  
3 person, did you form any belief as to who -- or what  
4 company that person was with?

5           A     I assumed it was A Home 4 Spot, but again, I  
6 didn't ask for any kind of ID badge. I was there to  
7 look at a dog.

8           Q     Okay. And how long did you interact with Chip  
9 at that point before you spoke with Christina Detisch?

10          A     I was there for at least an hour, because I  
11 wanted to get to know the dog. I wanted to see how my  
12 dog, Minnie, and he interacted, because -- especially a  
13 big dog. You don't want to take a big dog home unless  
14 they get along with the current dog, which was the whole  
15 reason I was there.

16          Q     Right.

17          A     So Minnie's stump was wagging. Chip's tail  
18 was wagging. He was nuzzling my leg. He was licking  
19 me. He was a real sweetheart. He seemed like a real  
20 sweetheart. And I just -- I just fell in love with him.  
21 I thought he was a sweet dog.

22          Q     And then at some point in time, did you talk  
23 with Christina Detisch?

24          A     Christina came over when I expressed an  
25 interest in adopting Chip. I was there, at this point,

1 to A Home 4 Spot, if you know?

2 A Yes. It was actually a debit card. So I did  
3 a hundred on the debit card and 150 cash.

4 Q All right. And then this other document here  
5 that's got an A -- Bates stamp AHFS8:001 --

6 A Uh-huh.

7 Q -- is this your handwriting at the top? The  
8 email address, the doctor's name?

9 A Yes.

10 Q So you filled this out as well?

11 A Yes.

12 Q Did you read this document?

13 A I guess. Quickly, I guess. I mean, it was a  
14 very busy room and lots going on around me. And so --

15 Q All right. So each of these paragraphs,  
16 almost all of the paragraphs you had to initial. Did  
17 you read each paragraph before you initialed them?

18 A I probably did at the time. Like I said, this  
19 is two and a half years ago.

20 Q All right. So Ms. Detisch, when we took her  
21 deposition --

22 A Mm-hmm.

23 Q -- she indicated that she went over this  
24 document with you kind of paragraph by paragraph.

25 A No. She just gave it to me and told me to

1 fill it out, which I was, and stopped filling it out  
2 once she mentioned the previous nip incident. So no,  
3 she didn't explain paragraph by paragraph. That's not  
4 true.

5 Q Ms. Detisch said that she provided you with  
6 the file from The Animal Foundation before beginning the  
7 adoption paperwork.

8 Did that happen?

9 A That is a lie. I was not provided with  
10 anything aside from the adoption starter kit, some  
11 coupons, this document I filled out. She emailed the  
12 shot records after I took him home. And like I said  
13 before, I didn't open the email, because it was just  
14 shot records, which I was going to share with my  
15 veterinarian. So no, she didn't give me any documents  
16 on his history while I was there.

17 Q All right. So -- and just for the record,  
18 Ms. Detisch testified that Exhibit 1 were the  
19 adoption -- Animal Foundation documents that she  
20 provided to you before you started filling out the  
21 adoption paperwork. And that's -- and based on your  
22 recollection, that did not happen; true?

23 A It's an outright lie. That did not happen.

24 Q And then Ms. Detisch also testified that she  
25 asked you if you had any questions about Chip's file

1 before presenting you with the adoption papers.

2 Did that happen?

3 A No, it didn't.

4 Q All right. And then Ms. Detisch indicated  
5 that she explained each section of the adoption  
6 agreement as you went over it. That's this part of it  
7 here where you had to initial it.

8 Did she go through each of these little  
9 sections before you had to initial the first two pages  
10 of Exhibit 4?

11 A No. She just gave me the paperwork and told  
12 me to read and initial.

13 Q Did Ms. Detisch tell that you Chip was a  
14 rescue dog and that A Home 4 Spot made no  
15 representations or warranties about the dog?

16 A No. I knew she was -- all their dogs are  
17 rescue dogs.

18 Q Right. But did she tell you that?

19 A No. It was a very hectic atmosphere. There  
20 was a lot going on. There was a lot of people looking  
21 at dogs. So she wasn't explaining things. She gave me  
22 the paper, told me to read it, sign, initial. So no.

23 Q I have her depo. I'm just kind of going  
24 through her testimony and seeing what testimony you have  
25 about these subjects.

1           A     Uh-huh.

2           Q     Ms. Detisch also said that she explained to  
3     you that you were signing a release and that A Home 4  
4     Spot had no liability for any legal, medical, or other  
5     expense incurred as a result of the adoption.

6                     Did she explain that to you?

7           A     Again, she gave me the paper, told me to read,  
8     initial, sign.

9           Q     All right. Did she say anything about signing  
10    a release?

11          A     No. Like I just said, she gave me the paper.  
12    "Read, initial, sign." And she kept saying about what a  
13    gentle giant he is. "He's a big mush. He's going to be  
14    so happy in your home. I can tell." She even gave me a  
15    hug when I left, with tears in her eyes, because she was  
16    so happy he found his forever home.

17          Q     Did Ms. Detisch use any term, in discussing  
18    this adoption process with you -- anything about A Home  
19    4 Spot would have no legal liability?

20          A     No. Our conversation was strictly focused on  
21    the dog and what a big gentle giant he was and a big  
22    mush.

23          Q     Right.

24          A     That was our conversation.

25          Q     Okay. And then this document, this part of

1 Exhibit 4 that's AHFS8:001 --

2 A Mm-hmm.

3 Q -- you filled this out; correct?

4 A Yes.

5 Q And then you initialed each little paragraph  
6 within the body of the document?

7 A Uh-huh. Yep.

8 Q And then at the very top, underneath your  
9 name -- where you fill in your name and address and  
10 phone number, it says, "Please read carefully and sign  
11 below."

12 Did you see that before you signed it?

13 A Probably. I can't remember. It's such a long  
14 time ago.

15 Q I mean, you're in the legal --

16 A Mm-hmm.

17 Q -- business. You work for a defense firm.

18 Have you encountered cases where people have  
19 signed waivers and releases before they participate in  
20 an event?

21 A Oh, probably.

22 Q Yeah. I know the firm Wood Henning, and they  
23 do kind of a lot of what we do.

24 A Mm-hmm.

25 Q So my question here on this form, part of

1 Exhibit 4, it says, "Adoption Program." And it says:

2 "Thank you for choosing to adopt a  
3 pet. PetSmart and PetSmart Charities  
4 supports the adoption process by donating  
5 in-store space for use by qualified,  
6 pre-approved animal welfare organizations.  
7 These organizations are not affiliated  
8 with PetSmart or PetSmart Charities in any  
9 way. We cannot, and do not, guarantee the  
10 health of any of the pets available for  
11 adoption."

12 And then it says, "Initial." Is that your  
13 initial there?

14 A From what I can see, it looks like it.

15 Q And then -- so you initialed it, indicating  
16 you read and understood that paragraph?

17 A I guess.

18 Q All right. So you knew that A Home 4 Spot was  
19 not affiliated with PetSmart or PetSmart Charities in  
20 any way; is that correct?

21 MR. ASKEROTH: I'm going to object to form to  
22 that question.

23 You can answer.

24 THE DEPONENT: You know, in all fairness, it  
25 was inside of a PetSmart. And I got this adoption

1 starter kit that says, "PetSmart Adoption Starter Kit."  
2 And so you just kind of assume that they go hand in  
3 hand, that they're one and the same, that they work  
4 together, that they're together.

5 And so, since PetSmart was one of my favorite  
6 places and I, you know -- I just -- I just assumed that  
7 you guys are kind of in the same boat with them, that  
8 you stand behind the pets that they let out. I mean,  
9 I -- I can't walk into a PetSmart right now without my  
10 skin crawling, because it brings back the memories.

11 Q No one wants you to assume. Any assumptions  
12 do not get admitted into evidence. And the old adage,  
13 you know how they spell "assume"; right?

14 A So I've heard.

15 Q So in connection with this document that we're  
16 talking about, it was a document that disclosed to you  
17 that A Home 4 Spot was not affiliated with PetSmart or  
18 PetSmart Charities prior to the adoption process;  
19 correct?

20 A Again, I guess that's what it says.

21 Q Under this other -- same document, there's a  
22 couple other places for signatures -- I'm sorry -- for  
23 initials and then, ultimately, a signature.

24 Are these your initials and signatures on this  
25 particular page?



1 A It looks like it, yes.

2 Q And then at the bottom it says:

3 "I hereby release PetSmart, Inc.,  
4 PetSmart Charities, and the adoption  
5 agency, and their agents of any  
6 liabilities related to the adoption of  
7 this pet from the adoption program."

8 Did you read that before signing it?

9 A Probably did. Like I said, it was -- it was a  
10 quick, you know, "Sign here, sign here, read here,  
11 initial here." So I probably did.

12 Q Okay. Was there anything in this particular  
13 document language-wise that you did not understand?

14 MR. ASKEROTH: Object to form.

15 THE DEPONENT: Should I answer?

16 MR. ASKEROTH: Yeah, you can answer that.

17 THE DEPONENT: Okay. I read it quickly, so --  
18 I'm sure, reading it -- I mean, I can understand it,  
19 reading it right now at this given moment. So I'm sure  
20 I read through it quickly.

21 Q BY MR. AMARO: All right. And at the time  
22 that you read through it, initialed it, and signed it,  
23 was there any language that you did not understand at  
24 the time?

25 A Again, I read through it quickly, and so I

1 don't know. I don't know how to answer that question.

2 Q All right. As you sit here today, can you  
3 think back about anything that was unclear in your mind  
4 or you were unsure of, you didn't understand the  
5 language?

6 A Well, I was there. I was excited to adopt a  
7 dog and save a dog from, you know -- from the kennels.  
8 I was happy to be contributing to a charity, bringing a  
9 family member home for Minnie. I was reading things  
10 quickly. I was initialing here, signing there so I can  
11 take home our new family member.

12 Q Right. No, I appreciate all that, but my  
13 question was really more kind of simple.

14 Is there anything that, as you think back at  
15 the time you read this, that there was some provision or  
16 some word that you didn't understand?

17 A No.

18 Q Okay. Did you have any questions of the Home  
19 4 Spot people about this particular document, AHFS8:001?

20 A I had no questions because they, apparently,  
21 were telling me this dog was so wonderful. So, you  
22 know, they probably would have lied to me anyway.

23 MR. AMARO: So let's take a few-minute break  
24 real quick. I'm going to drop this exhibit in, and  
25 we'll come back in maybe four or five minutes.

1 forgive me, do I take back a file and I drop it into the  
2 chat box? Is that how I -- sorry. All right.

3 So for the next exhibit in order, I'm going to  
4 drop the -- my copy of the adoption agreement that I  
5 referred to. I'm going to try. Sorry. I'm going to --  
6 okay.

7 So for the court reporter, here is the next --  
8 is the adoption agreement I referred to. And then here  
9 is the PetSmart adoption release form for the next  
10 exhibit in order that I referred to.

11 Okay. That's all I have. Thanks.

12

13 EXAMINATION

14 Q BY MR. ASKEROTH: I have just one question  
15 just to clarify something that you stated with  
16 Mr. Kenyon.

17 He showed you an adoption release form from  
18 PetSmart Charities. Do you recall an employee from  
19 PetSmart reviewing that document with you at any time  
20 when you were there at PetSmart?

21 A I don't know. I don't think so. It was  
22 largely Christina doing everything.

23 Q Okay. So you don't have a recollection of  
24 having any discussions with anyone from PetSmart at the  
25 time that you were reviewing the documents?

1           A     No, I don't.

2                   MR. ASKEROTH:  Okay.  No other questions.

3                   MR. AMARO:  Okay.  So Jay is still sharing his  
4     screen.  Mr. Kenyon shared a screen.  So what's up there  
5     now is the A Home 4 Spot Animal Rescue for Mrs. Todd.  
6     It's the same document as Exhibit 4, but a better copy.  
7     So we're marking this as Exhibit 9, a better copy.

8                   (Exhibit 9 subsequently marked.)

9                   MR. AMARO:  And then Exhibit 10 is the  
10    adoption release, which was also made part of Exhibit 4.  
11    So we're attaching that separately -- and it's a better  
12    copy -- as Exhibit 10.

13                  (Exhibit 10 subsequently marked.)

14                  MR. AMARO:  So, Jay, if you see on the bottom  
15    of your screen, "unshare screen."

16                  MR. KENYON:  Thank you.

17                  MR. AMARO:  There you go.  We're good to go  
18    there.

19                  MR. KENYON:  Who knows what could have popped  
20    up?

21                  MR. AMARO:  Yeah, we could've, like, saw all  
22    your secret notes.

23                  I don't have any further questions.  Anybody  
24    else?

25                  MR. ASKEROTH:  No questions from us.

# EXHIBIT “8”

1	DISTRICT COURT		
2	CLARK COUNTY, NEVADA		
3			
4	JAMES TODD, individually; RAPHAELA )		
	TODD, individually, )		
5		)	
	Plaintiffs, )		
6		) CASE NO: A-19-788762-C	
		)	
7	vs. )	DEPT NO: 16	
		)	
8	A HOME 4 SPOT ANIMAL RESCUE, a )		
	Nevada Domestic Non-Profit )		
9	Corporation; JANE DOES EMPLOYEE; )		
	PETSMART, INC.; DOES I through X; )		
10	and ROE CORPORATIONS I through X, )		
	Inclusive jointly and severally, )		
11		)	
	Defendants. )		
12		)	
	<u>AND RELATED CROSS ACTIONS.</u> )		
13	<u></u> )		
14			
15			
16	DEPOSITION BY ZOOM OF LINDSAY DEL CHIARO		
17	30(b)(6) for PETSMART, INC.		
18	LAS VEGAS, NEVADA		
19	THURSDAY, AUGUST 27, 2020		
20			
21			
22			
23			
24	REPORTED BY: VANESSA LOPEZ, CCR NO. 902		
25	LST JOB NO.: 656142		

1 subject adoption through a Petsmart adoption charity event?

2 A. No, I don't believe so. We don't get involved in  
3 those operative details of how the partner does the  
4 adoptions and we don't have knowledge of the history of the  
5 animals.

6 Q. And in regards to Topic No. 1 regarding contracts,  
7 writings, and agreements, as well as any addendum thereto  
8 between the defendants or any one of them concerning the  
9 agreement permitting A Home 4 Spot to perform adoptions on  
10 the premises of Petsmart, I think you've already kind of  
11 gone into this, but does Petsmart require charities to enter  
12 into an agreement or contract prior to performing adoptions  
13 through adoption day events?

14 A. Yes, so they must be an approved adoption partner  
15 which is really more of a partnership in mission to find  
16 homeless animals homes.

17 They actually serve as independent contractors  
18 which is outlined in that agreement, as well as any adoption  
19 release form, but upon the vetting of the organization and  
20 deciding that, yes, they are eligible to be an adoption  
21 partner, they are approved and they -- the organization, as  
22 well as a representative from Petsmart Charities signs an  
23 agreement saying that they are allowed to do adoptions in  
24 store.

25 Q. And what's the name?

1 A. Yes.

2 Q. All right. And this -- this one is signed on  
3 June 14, 2013. According to your knowledge, there's no  
4 other adoption or agreement to participate in the  
5 Petsmart/Petsmart Charities adoption program, other than the  
6 2013 agreement and the 2011 agreement. Correct?

7 A. That is correct.

8 Q. Okay. In paragraph 2, about, let's see -- one,  
9 two, three -- four lines down, it states, Having a presence  
10 in a Petsmart store also means that you, your employees, and  
11 volunteers, as well as the adoptable pets you display may be  
12 viewed by the public as representatives of Petsmart, even  
13 though you are not.

14 Why is that in the agreement?

15 A. Because as outlined before, these organizations  
16 are independent contractors with Petsmart Charities and  
17 Petsmart. Petsmart Charities does not take dictate how they  
18 run their business or how they run their adoption program,  
19 what they charge, how they vet their animals.

20 Q. Do you agree that, based on this statement and  
21 based on your understanding of the adoption process -- is it  
22 reasonable for store patrons to view agency partners as  
23 employees of Petsmart?

24 MR. AMARO: Objection. Overbroad as phrased. It  
25 also calls for a legal conclusion as to the term



1 or pets that have shown signs of aggression or illness  
2 outside of -- outside of Petsmart?

3 MR. KENYON: I object. Calls for a legal  
4 conclusion. The document speaks for itself.

5 Q. (By Mr. Askeroth) You can answer.

6 A. Yes, pets that have been shown to be aggressive  
7 may not be allowed back into the store.

8 Q. Whether that aggression is shown at a previous  
9 adoption day event or outside of the store. Is that  
10 correct?

11 MR. KENYON: Same objection.

12 THE WITNESS: We don't --

13 Q. (By Mr. Askeroth) Noted. I think he said "same  
14 objection."

15 A. We don't have knowledge of the behavior, nor could  
16 we have knowledge of the behavior of an animal outside of  
17 the store. So we ask that the organization use their best  
18 judgment that the animal is healthy and behaviorally sound.  
19 And if there's an issue at the store, they need to remove  
20 the animal and they may not be brought back.

21 Q. If a dog is adopted at a charity event and the  
22 adoption, for whatever reason, is unsuccessful and the dog  
23 is brought back because of behavior and aggression issues  
24 and then the dog is attempted to be adopted through  
25 Petsmart -- through the adoption program at Petsmart, the

1 suspension.

2 Q. And that communication was in the form of an  
3 e-mail?

4 A. Yes.

5 Q. And other than that communication between Gail and  
6 A Home 4 Spot, are you aware of any other documentation  
7 relating to that complaint?

8 A. No, I am not.

9 Q. And you referenced the adoption partner manual  
10 previously as part of the pre-qualification process.  
11 What -- just briefly, what is the adoption partner manual?

12 A. It is a manual that outlines how adoptions can  
13 take place in Petsmart stores and what we ask of our  
14 partners to ensure, overall, the health and safety of both  
15 the pets and the people while in Petsmart stores.

16 Q. And so it's a -- would you agree it's a set of  
17 guidelines to instruct the partner on how to properly  
18 perform an adoption at a Petsmart location?

19 MR. AMARO: Overbroad as phrased. Go ahead.

20 THE WITNESS: We do not -- we do not tell them how  
21 they must run their adoption, but there are other things  
22 there, such as policies and procedures, around cleaning the  
23 area and some of the pieces that you had already brought up  
24 in the contract. But we do not get into the operative  
25 details on how they run their adoptions or their business in

1 partners were not, in fact, employees or affiliated with  
2 Petsmart, what sort of documentation did Petsmart Charities  
3 ask the respective pet parents or adopting parents to fill  
4 out?

5 A. They do have to fill out or sign that adoption  
6 release form that does call out that the organization is  
7 separate from Petsmart and Petsmart Charities.  
8 Additionally, throughout the store, we do maintain signage  
9 with the name of the organization in an attempt to  
10 communicate to the -- to any customer that it is the  
11 organization -- the animal welfare organization that is  
12 there is a separate entity and they are the ones that are  
13 showing the animals, but the contract also calls out that we  
14 are separate.

15 Q. All right. And when we say "the contract," that's  
16 the document that Mr. Askeroth showed you that's Exhibit 2?  
17 That's that adoption release form?

18 A. That is correct.

19 MR. KENYON: All right. Those are the issues I  
20 wanted to clarify. Thank you for that clarification.  
21 That's all I have.

22 MR. ASKEROTH: All right. I don't think I have  
23 anything else. I just wanted to ask: Do you feel like  
24 you've been given a fair opportunity to answer all the  
25 questions today?

1 STATE OF NEVADA )  
2 COUNTY OF CLARK )

3

4 CERTIFICATE OF REPORTER

5 I, Vanessa Lopez, a duly commissioned and licensed  
6 court reporter, Clark County, State of Nevada, do hereby  
7 certify:

8 That I reported the taking of the deposition of  
9 LINDSAY DEL CHIARO, commencing on Thursday, August 27, 2020,  
10 at the hour of 9:34 a.m.;

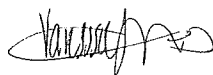
11 That the witness was, by me, duly sworn to testify  
12 to the truth and that I thereafter transcribed my said  
13 shorthand notes into typewriting, and that the typewritten  
14 transcript of said deposition is a complete, true, and  
15 accurate transcription of said shorthand notes;

16 I further certify that I am not a relative or  
17 employee of any of the parties involved in said action, nor  
18 a relative or employee of an attorney involved in nor a  
19 person financially interested in said action;

20 That the reading and signing of the transcript was  
21 requested.

22 IN WITNESS WHEREOF, I have hereunto set my hand in  
23 my office in the County of Clark, State of Nevada, this 14th  
24 day of September, 2020.

25

  
\_\_\_\_\_  
VANESSA LOPEZ, CCR NO. 902