

CIRCUIT COURT SUMMONS

NASHVILLE, TENNESSEE

STATE OF TENNESSEE
DAVIDSON COUNTY
20TH JUDICIAL DISTRICT

- First
- Alias
- Pluries

DS ONE, LLC, d/b/a THE DOG SPOT EAST NASHVILLE,

CIVIL ACTION DOCKET NO. 18C362

Plaintiff

Vs.

JAMIE BYER and BARI RACHEL MILEY HARDIN,

Defendant

Method of Service:

- Davidson County Sheriff
- Out of County Sheriff
- Secretary of State
- Certified Mail
- Personal Service
- Commissioner of Insurance

To the above named Defendant:

You are summoned to appear and defend a civil action filed against you in the Circuit Court, 1 Public Square, Room 302, P.O. Box 196303, Nashville, TN 37219-6303, and your defense must be made within thirty (30) days from the date this summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the Plaintiff's attorney at the address listed below.

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in the complaint.

ISSUED: 2-14-18

RICHARD R. ROOKER
Circuit Court Clerk
Davidson County, Tennessee

By: *E. Stone*
Deputy Clerk

ATTORNEY FOR PLAINTIFF

KARA L. EVERETT

or

PLAINTIFF'S ADDRESS

Address

206D MAIN STREET NORTH, CARTHAGE, TN 37030

TO THE SHERIFF:

Please execute this summons and make your return hereon as provided by law.

RICHARD R. ROOKER
Circuit Court Clerk

Received this summons for service this _____ day of _____, 20____.

SHERIFF



To request an ADA accommodation, please contact Dart Gore at (615) 880-3309.

RETURN ON PERSONAL SERVICE OF SUMMONS

I hereby certify and return that on the _____ day of _____, 20____, I:

_____ served this summons and complaint/petition on _____
_____ in the following manner:

_____ failed to serve this summons within 90 days after its issuance because _____

Sheriff/Process Server

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify and return, that on the _____ day of _____, 20____ I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in Docket No. _____ to the defendant, _____. On the _____ day of _____, 20____, I received the return receipt for said registered or certified mail, which had been signed by _____ on the _____ day of _____, 20____. Said return receipt is attached to this original summons and both documents are being sent herewith to the Circuit Court Clerk for filing.

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS
_____ DAY OF _____, 20____.

PLAINTIFF, PLAINTIFF'S ATTORNEY OR OTHER PERSON
AUTHORIZED BY STATUTE TO SERVE PROCESS

NOTARY PUBLIC or _____ DEPUTY CLERK
MY COMMISSION EXPIRES: _____

NOTICE

TO THE DEFENDANT(S):

Tennessee law provides a ten thousand dollar (\$10,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

ATTACH
RETURN
RECEIPT
HERE
(IF APPLICABLE)

STATE OF TENNESSEE
COUNTY OF DAVIDSON

I, Richard R. Rooker, Clerk of the Circuit Court in the State and County aforesaid, do hereby certify this to be a true and correct copy of the original summons issued in this case.

RICHARD R. ROOKER, CLERK

(To be completed only if copy certification required.)

By: _____ D.C.

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

DS ONE, LLC,
d/b/a The Dog Spot East Nashville,

Plaintiff,

vs.

JAMIE BAYER and
BARI RACHEL MILEY HARDIN,

Defendant.

FILED
2018 FEB 14 AM 9:53
RICHARD R. ROBERTSON, CLERK
Case No: 18C362
Jury Demand

COMPLAINT

Comes now the Plaintiff, DS One, LLC, d/b/a The Dog Spot East Nashville, by and through its attorney of record, and hereby files this civil action against the Defendant, Jamie Bayer. In support of this Complaint, Plaintiff TDS – East Nashville would state as follows:

I. PARTIES AND JURISDICTION

1. Plaintiff DS One, LLC, d/b/a The Dog Spot – East Nashville, (hereinafter “Plaintiff TDS – East Nashville”) is a domestic limited liability corporation registered in the State of Tennessee.
2. Plaintiff TDS – East Nashville, is a pet service store located at 1004 Gallatin Avenue, Nashville, Tennessee, and it is at that location wherein the dispute arose.
3. Defendant Jamie Bayer (hereinafter “Defendant Bayer”) is a resident of Nashville, Davidson County, Tennessee. Her address is 1200 Greenland Avenue, Nashville, Tennessee.

4. Defendant Bari Rachel Miley Hardin (hereinafter “Defendant Hardin”) is a resident of Nashville, Davidson County, Tennessee. Plaintiff’s best information and belief is that her residential address is 1113 Leland Avenue, Nashville, Tennessee 37216.

5. This is a civil action based on damages, both compensatory and punitive, resulting from actions committed by Defendant Bayer and Defendant Hardin, individually, vicariously, and in conspiracy with one another, against Plaintiff TDS – East Nashville.

6. The claims for relief of Plaintiff TDS – East Nashville arise from libel, false light publicity, misrepresentation (by concealment and negligence), fraud, and intentional interference with a business relationship. All of these actions occurred in, Davidson County, Tennessee.

7. Venue is proper and Defendant Bayer and Defendant Hardin are subject to the jurisdiction of this Court pursuant to the provision of Tenn. Code Ann. § 20-4-102.

8. Defendant Bayer and Defendant Hardin are vicariously liable for the actions of each other.

II. FACTS

9. Plaintiff TDS – East Nashville is a limited liability corporation that operates as a pet service store in the East Nashville which offers a variety of pet products for sale as well as the specific services of daycare, boarding, and grooming for dogs.

10. Plaintiff TDS – East Nashville has briefly conducted business with Defendant Bayer as she was a customer of Plaintiff’s business. Defendant Hardin has had no prior dealings with Plaintiff TDS – East Nashville to the best of its knowledge.

11. Defendant Bayer holds a Facebook account in her individual name.

12. Defendant Hardin holds a Facebook account in the name “Bari Rachel Miley.”

13. Defendants Bayer and Hardin each post to their individual Facebook accounts and are members of the East Nashville closed Facebook group (hereinafter "East Nashville FB").

14. East Nashville FB is a closed group which is purposed to create a forum of online posts about topics related to East Nashville as a subject or participant. The group is moderated by a group of individual administrators/members.

15. In order to gain access and become a member of the East Nashville FB group, one has to ask to join the page which is accepted by the administrators of the page.

16. At some point prior to January of 2018, both Defendants Bayer and Hardin became members of East Nashville FB group and regularly post and comment on posts which are published for all members of the East Nashville Facebook group to see.

17. Based on Plaintiff's best information and belief, the East Nashville FB group has 46,759 members which are persons who see the various posts and comments.

18. On or about January 31, 2018, Defendant Bayer began posting comments regarding Plaintiff TDS – East Nashville by, first, asking if anyone knows previous employees of The Dog Spot and, second, asking "Does anyone have an accurate count on how many dogs have died at The Dog Spot? I used to take my dogs there but stopped when I found out two dogs died there. Since then I've heard up to four, and recently even seven. Does anyone have an actual number? I know a lot of people go there and it seems none of them are aware of this.." These are false statements.

19. On or about February 7, 2018, a post was made to the East Nashville FB group page requesting a recommendation for a doggie daycare. Defendants Bayer and Hardin published multiple statements that are factually inaccurate with the intention of keeping present and future customers from patronizing The Dog Spot.

20. Defendant Hardin made the following false and malicious comments on February 7, 2018:

- a. "Lots of dogs have been killed there."
- b. When asked how many, Defendant Hardin posted "7".
- c. "People can't talk when they have been paid off."
- d. "Take your dog where you want, I have it from many reliable sources that the number is 7 and they were paid off, so cant Speak up no. I am a dog lover and if one person is saved the misery of losing a pet, I'm happy to spread the word."

21. Defendant Bayer made the following false and malicious comments on February 7, 2018:

- a. "There are too many confirmed things that have happened there to feel comfortable ever taking a dog there."
- b. "I didn't say 7 dogs died, I said there are too many confirmed incidents for me personally to feel comfortable. Who knows if there are more that have died there."

22. On or about February 13, 2018, Defendant Bayer and Defendant Hardin again responded on the East Nashville FB group page to an inquiry for recommendations for a professional dog groomer in East Nashville with multiple statements that are factually inaccurate with the intention of keeping present and future customers from patronizing The Dog Spot.

23. Defendant Bayer, as of the drafting of this Complaint, kept her comments to a minimum "nope" in reference to the recommendation request of February 13, 2018 and that they had "a very bad reputation, dog safety wise as well as customer care".

24. Defendant Hardin published the following comments on February 13, 2018 as of the drafting of this Complaint:

- a. “Natalie Creel seven dogs have been killed in their care.”
- b. I will absolutely mention what’s happened in the past every time someone brings up that business, if I can save one dog from being killed, I will. It would be irresponsible of me not to mention the facts.”
- c. When asked where she would go for grooming services, Defendant Hardin replied, “My dog has short hair and doesn’t need to be groomed, so I bathe him myself” and “...this isn’t something to just scroll past if you have information that could help someone not lose a pet, I don’t have to recommend another place.”

25. Plaintiff TDS – East Nashville avers these posts and comments are false, malicious and libelous written statements made intentionally by Defendant Bayer in an effort to illicit public hatred, contempt, ridicule and wrath.

26. Plaintiff TDS – East Nashville avers these posts and comments are false, malicious and libelous written statements made intentionally by Defendant Hardin in an effort to illicit public hatred, contempt, ridicule and wrath.

27. Defendant Bayer and Defendant Hardin misrepresented themselves by concealment when defaming Plaintiff TDS – East Nashville with false, malicious and libelous statements.

28. Defendant Bayer and Defendant Hardin perpetrated fraud against Plaintiff TDS – East Nashville with the false, malicious and libelous statements.

29. Defendants Bayer and Hardin gave publicity to Plaintiff TDS – East Nashville in a false light and are subject to liability for the invasion of privacy. The false, malicious and defamatory statements published by Defendants Bayer and Hardin place

Plaintiff TDS – East Nashville in a false light that would be highly offensive to a reasonable person. Defendants Bayer and Hardin had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

30. Defendants Bayer and Hardin are liable for intentional interference with business relationships in that Defendants acted to interfere with (1) Plaintiff TDS – East Nashville’s existing and or prospective relationships with customers in the East Nashville community; (2) that Defendants Bayer and Hardin acted with knowledge of Plaintiff TDS – East Nashville’s business relationship with members of the East Nashville community; (3) that Defendants Bayer and Hardin acted to cause a breach or termination of Plaintiff’s business relationships; and (4) Defendants Bayer and Hardin acted with improper motive and means to cause injury to Plaintiff TDS – East Nashville.

31. Defendant Bayer and Defendant Hardin are vicariously liable for each other’s actions and they acted in conspiracy with each other to receive a willful result.

32. Plaintiff TDS – East Nashville lost business revenue as a result of Defendant Bayer and Defendant Hardin’s maliciously intentional actions as Defendants’ false and maliciously published statements were seen by untold numbers of persons on Facebook.

33. Defendant Bayer and Hardin acted intentionally and recklessly to ruin the reputation and falsely attack Plaintiff TDS – East Nashville.

34. Defendant Bayer and Defendant Hardin acted with such malice and with a degree of moral turpitude and atrocity that both Defendants should be assessed punitive damages.

35. Plaintiff TDS – East Nashville avers Defendant Bayer is conspiring with Defendant Hardin to promote the publication of the false, malicious and libelous written

statements made intentionally by Defendant Bayer in an effort to illicit public hatred, contempt, ridicule and wrath and interfere with Plaintiff's business relationships.

III. CAUSES OF ACTION

Libel by Defendant Bayer and Defendant Hardin

36. Plaintiff TDS – East Nashville incorporates the allegations in Paragraphs 1-35 of the Complaint.

37. Defendant Bayer intentionally or with knowing disregard published written statements that are false with the intention of vexing, harassing, annoying, or injuring Plaintiff TDS – East Nashville.

38. Defendant Bayer intentionally or with knowing disregard published a written statement known to be false with the intent to illicit public hatred, wrath, contempt and ridicule of the public.

39. Defendant Bayer intentionally or with knowing disregard published a written statement known to be false with the intent to ruin the reputations of Plaintiff TDS – East Nashville and place it in a false light.

40. As a result of Defendant Bayer's libel, Plaintiff TDS – East Nashville was caused to suffer damages, loss of business and business revenue, future damages, return business and additional costs and expenses incurred.

41. As a result of the Defendant Bayer's libel and knowing disregard for publishing a written statement that was false with the intention of vexing, harassing, annoying, or injuring Plaintiff, Plaintiff TDS – East Nashville was caused to suffer damage and is entitled to punitive damages due to the egregious nature of Defendant Bayer's conduct.

42. Defendant Hardin intentionally or with knowing disregard published written statements that are false with the intention of vexing, harassing, annoying, or injuring Plaintiff TDS – East Nashville.

43. Defendant Hardin intentionally or with knowing disregard published a written statement known to be false with the intent to illicit public hatred, wrath, contempt and ridicule of the public.

44. Defendant Hardin intentionally or with knowing disregard published a written statement known to be false with the intent to ruin the reputations of Plaintiff TDS – East Nashville and place it in a false light.

45. As a result of Defendant Hardin’s libel, Plaintiff TDS – East Nashville was caused to suffer damages, loss of business and business revenue, future damages, return business and additional costs and expenses incurred.

46. As a result of the Defendant Hardin’s libel and knowing disregard for publishing a written statement that was false with the intention of vexing, harassing, annoying, or injuring Plaintiff, Plaintiff TDS – East Nashville was caused to suffer damage and is entitled to punitive damages due to the egregious nature of Defendant Hardin’s conduct.

Misrepresentation by Concealment by Defendant Bayer and Defendant Hardin

47. Plaintiff TDS – East Nashville incorporates the allegations in Paragraphs 1-46 of the Complaint.

48. Defendant Bayer made intentional and knowing misrepresentation by concealment of material facts regarding Plaintiff TDS – East Nashville in written and published statements with intention of ruining the reputation of Plaintiff and place Plaintiff TDS – East Nashville in a false light before the public.

49. Defendant Hardin made intentional and knowing misrepresentation by concealment of material facts regarding Plaintiff TDS – East Nashville in written and published statements with intention of ruining the reputation of Plaintiff and place Plaintiff TDS – East Nashville in a false light before the public.

50. Defendant Bayer and Defendant Hardin acted together to conceal or misrepresent a material fact to Plaintiff TDS – East Nashville by causing Plaintiffs to begin an internal investigation into their business regarding the statements published by both Defendants.

51. Defendant Bayer and Defendant Hardin were under a duty to disclose the fact to Plaintiff TDS – East Nashville. By publishing the intentional and knowing misrepresentations, Plaintiff TDS – East Nashville acted in an appropriate manner by beginning an investigation into the misrepresentations made by Defendants and Bayer and Hardin in their online publications. Alternately, Defendants Bayer and Hardin owe a duty of truthfulness to the consumers and group members of the East Nashville FB group page who seek truthful recommendations and, in turn, so do the businesses whose vitality is reliant upon customer satisfaction.

52. Defendant Bayer and Defendant Hardin caused Plaintiff TDS – East Nashville damage by causing a course of action, investigation, business expenses, man hours, legal fees, and the like due to the concealed or suppressed or misrepresented facts.

53. As a direct and proximate result of Defendant Bayer and Defendant Hardin's misrepresentation by concealment, Plaintiff TDS – East Nashville suffered damages, loss of business and business revenue, legal fees, future damages and return business, and additional costs and expenses incurred.

Fraud by Defendant Bayer and Defendant Hardin

54. Plaintiff TDS – East Nashville incorporates the allegations in Paragraphs 1-53 of the Complaint.

55. Based on Defendant Bayer and Defendant Hardin’s actions as set forth herein, Defendant Bayer and Defendant Hardin willfully committed fraud by in the publication of false and malicious statements about Plaintiff TDS – East Nashville.

56. Defendant Bayer and Defendant Hardin knew or should have known that the fraudulent misrepresentations and fraudulent written statements published against Plaintiff TDS – East Nashville were false at the time they were made.

57. Defendant Hardin and Defendant Bayer acted in concert with each other to achieve the fraudulent results in their conspiracy to intentionally and recklessly cause Plaintiff TDS – East Nashville harm.

58. Defendant Bayer and Defendant Hardin’s actions were intended to confuse, deceive, or unfairly harm Plaintiff TDS – East Nashville in their representations and to perpetuate the fraud in an ongoing manner and conspiracy.

59. Defendant Bayer and Defendant Hardin intentionally misrepresented material facts or produced a false impression in order to mislead consumers and Plaintiff TDS – East Nashville and/or to obtain an undue advantage over Plaintiff.

60. The fraud was perpetrated by Defendant Bayer and Defendant Hardin knowing it was false and with intent to be fraudulent.

61. The representations made by Defendant Bayer and Defendant Hardin were of an existing fact that was material and Plaintiff TDS – East Nashville reasonably relied on that misrepresentation which caused injury and damage and caused injury to the present and/or prospective customers of its business.

62. As a result of the fraudulent conduct of both Defendant Bayer and Defendant Hardin, wherein both intentionally misrepresented an existing and material fact producing a false impression, Plaintiff TDS – East Nashville was injured due to reasonable reliance on that misrepresentation and seeks damages and punitive damages pursuant to *Hodges v. S.C. Toof & Co.*, 833 S.W.2d 896 (1992).

Negligent Misrepresentation by Defendant Bayer and Defendant Hardin

63. Plaintiff TDS – East Nashville incorporates the allegations in Paragraphs 1-62 of the Complaint.

64. Defendant Bayer and Defendant Hardin have a duty to make truthful representations.

65. Defendant Bayer and Defendant Hardin were negligent in their fraudulent misrepresentations and Plaintiff relied on those misrepresentations.

66. As a direct and proximate result of the Defendant Bayer and Defendant Hardin's negligent misrepresentation as set forth herein, Plaintiff TDS – East Nashville suffered damages, loss of business and business revenue, future damages and return business, and additional costs and expenses incurred.

False Light Invasion of Privacy

67. Plaintiff TDS – East Nashville incorporates the allegations in Paragraphs 1-66 of the Complaint.

68. Defendant Bayer and Defendant Hardin, in their publications of false, malicious and defamatory statements, placed Plaintiff TDS – East Nashville in a false light before the public and are subject to liability for invasion of privacy.

69. Defendant Bayer and Defendant Hardin, in their publications of false, malicious and defamatory statements, placed Plaintiff TDS – East Nashville in a false light which would be highly offensive to a reasonable person.

70. Defendant Bayer and Defendant Hardin had knowledge of the falsity of their published statements and/or acted in a reckless disregard as to the falsity of this publicized and published matter that shows a wanton disregard for truth and accuracy and Plaintiff was damaged due to this malicious conduct.

Intentional Interference of a Business Relationship

71. Plaintiff TDS – East Nashville incorporates the allegations in Paragraphs 1-70 of the Amended Complaint.

72. Defendant Bayer and Defendant Hardin, by and through their publications of false, malicious and defamatory statements, are liable to Plaintiff TDS – East Nashville for intentional interference with a business relationship.

73. Defendant Bayer and Defendant Hardin, by and through their publications of false, malicious and defamatory statements, acted to interfere with Plaintiff TDS – East Nashville’s existing and or prospective business relationships with customers in the East Nashville community.

74. Defendant Bayer and Defendant Hardin, by and through their publications of false, malicious and defamatory statements, acted with knowledge of Plaintiff TDS – East Nashville’s existing and or prospective business relationships with customers in the East Nashville community.

75. Defendant Bayer and Defendant Hardin, by and through their publications of false, malicious and defamatory statements, acted to cause a breach or termination of Plaintiff’s business relationships.

76. Defendants Bayer and Hardin, by and through their publications of false, malicious and defamatory statements, acted with improper motive and means to cause injury to Plaintiff TDS – East Nashville.

77. As a direct and proximate result of the Defendant Bayer and Defendant Hardin's intentional interference with a business relationship as set forth herein, Plaintiff TDS – East Nashville suffered damages, loss of business and business revenue, future damages and return business, and additional costs and expenses incurred.

Vicarious Liability and Civil Conspiracy of Defendant Bayer and Defendant Hardin

78. Plaintiff TDS – East Nashville incorporate the allegations in Paragraphs 1-77 of the Amended Complaint.

79. Defendant Hardin acted as an agent of Defendant Bayer.

80. Defendant Bayer acted as an agent of Defendant Hardin.

81. Defendant Bayer is vicariously liable as principal for all alleged causes of action of her agent, Defendant Hardin.

82. Defendant Hardin is vicariously liable as principal for all alleged causes of action of his agent, Defendant Bayer.

83. Defendant Bayer and Defendant Hardin acted in a civil conspiracy to accomplish all acts as outlined in this Complaint.

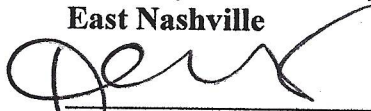
WHEREFORE, Plaintiff TDS – East Nashville respectfully demands the following:

1. That proper process issue and be served upon the Defendant Bayer and Defendant Hardin and that both Defendants be required to appear and answer the Complaint within the time required by law.

2. That the Plaintiff TDS – East Nashville be awarded a judgment against Defendant Bayer and Defendant Hardin, jointly and severally, in the amount not less than \$500,000.00.

3. That the Plaintiff TDS – East Nashville be awarded a judgment for punitive damages against Defendant Bayer and Defendant Hardin in the amount of \$1,500,000.00, jointly and severally.
4. That the Plaintiff TDS – East Nashville be awarded an injunction restraining Defendant Bayer and Defendant Hardin from publishing any written statement regarding Plaintiff TDS – East Nashville in any media format, including but not limited to the social media format of Facebook.
5. That the costs of this action be awarded to Plaintiff TDS – East Nashville.
6. That attorney's fees and expenses be awarded to Plaintiff TDS – East Nashville.
7. That the reasonable costs and expenses necessary to prosecute and litigate this matter, including any mediation fees, be awarded to Plaintiff TDS – East Nashville.
8. That a jury of twelve (12) persons be impaneled to try this cause.
9. Such further and other general relief to which Plaintiff TDS – East Nashville may be entitled.

Respectfully submitted,
KARA L. EVERETT,
Attorney for DS One, LLC, d/b/a The Dog Spot
East Nashville



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I AM SURETY FOR ALL THE COSTS OF THIS CAUSE



KARA L. EVERETT