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June 13, 2017

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**Re: Defamation and Unfair Competition**

Dear Ms. McFall and Mr. Bernstein and Dr. Anthea Schick:

This office represents Hemopet which offers a patented veterinary diagnostic service identified as Nutriscan.

This office has viewed the May 21, 2017 online "veterinary medicine.dvm360.com/veterinary-dermatologist-claps-back-shady-allergy-tests," of which printed pages I enclose.

The site posting includes both printed material and a video (1:48) with statements by Dr. Anthea Schick.

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The site posting and video including the following:

1. "Veterinary dermatologists claps back at shady allergy tests."
2. Dr. Anthea Schick (the 1:48) audio visual states:
  - (a) "We took ten samples of hair and five samples of fake hair, and saliva tests (ran them under water), and sent the samples off for testing."
  - (b) "There are four (4) testing protocols: (a) Glacier Peak; (b) Holistic; (c) Nutriscan; and (d) Immune IQ."
  - (c) "The results came back all over the place."
  - (d) "A similar study with regard to Nutriscan was done at Tufts... can't trust these studies at all... save your money for something that really works..."
3. The written elements use the terms:
  - (a) "Shady allergy tests"
  - (b) "Potentially sketchy hair and saliva allergy tests fooling pet owners..."
4. The website is dated May 21, 2017, by "dvm360.comstaff" (indicating it is "vetted").

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5. The website also identifies:
  - (a) "Here are 20 dermatological tips to boost your practice."
  - (b) "And we'll always have options for live learning and dermatological continuing education at CVC. Check out the Clinical Program at our next event and learn from experts like this."

#### **Preliminary Search**

A brief search of Nutriscan and "reviews" identified only positive reviews.

A search of "Tufts" and "Nutriscan" identified no matches relating to Tufts University's testing of Nutriscan.

#### **Defamation and Unfair Competition**

1. Nutriscan is a nationally and internationally patented diagnostic test provided by Hemopet ([www.hemopet.org](http://www.hemopet.org)), which has been tested in double-blind and clinical use studies since at least 2011, and has proven very reliable. To date, over 17,000 canine and over 750 feline tests have been performed.

2. The May 21, 2017 online "veterinary medicine.dvm360.com/veterinary-dermatologist-claps-back-shady-allergy-tests" clearly appears to be defamatory and makes statements which are libel *per se*.

3. The website posting includes untruthful statements that constitute "defamation," *per se*, of Nutriscan and Hemopet.

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4. The untruthful statements include:

(a) criticism of Nutriscan with statements that imputes fraud, dishonesty or questionable business methods in connection with the goods or services; and

(b) statements asserting "...dishonesty or questionable business practices..."

5. The untruthful statements include but are not limited to:

(a) "A similar study with regard to Nutriscan (mentions only Nutriscan) was done at Tufts... can't trust these studies at all... save your money for something that really works..."

(b) "Shady allergy tests"

(c) "Potentially sketchy hair and saliva allergy tests fooling pet owners..."

(d) "Veterinary dermatologists claps back at shady allergy tests."

The implication of the statements made by the website and Dr. Anthea Schick implies "...dishonesty..." "...questionable business practices..." "...products which promise but do not deliver..." and "...(products) that are deceptive..."

Not only are the statements liable, but they are actionable under the Lanham Act as amended, 1988 15 U.S.C., 1051, Section 43(a):

"Any person who, or in connection with any goods or services... uses

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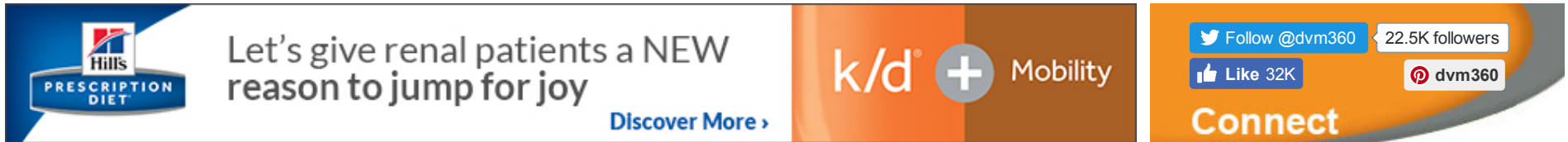
in commerce any word... or any combination thereof... or false or misleading description of fact or false or misleading representation of fact which... misrepresents the nature, characteristics, qualities... shall be liable in a civil action by any person who believes that he or she is likely to be damaged by such act...."

On behalf of Hemopet, I direct your site to issue a corrective statement and retraction immediately, and cease the unlawful and false statements, stated and implied, with regard to Hemopet's product Nutriscan.

Very truly yours,

A handwritten signature in black ink, appearing to read "Allen Hyman", with a long horizontal line extending to the right.

Allen Hyman



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## Veterinary dermatologist claps back at shady allergy tests

Dr. Anthea Schick and her team weren't impressed with potentially sketchy hair and saliva allergy tests fooling pet owners. So they decided to do something about it.

May 21, 2017  
By dvm360.com staff  
VETTED



Anthea Schick, DVM, DACVD, and her team at Dermatology for Animals in Tempe, Arizona are running their very own "Mythbusters." After hearing some chatter about at-home saliva and hair tests for allergies in pets, her team decided to put some to the test—and they got some interesting results. Watch this video and be prepared the next time a client is convinced her pet is allergic after being "tested" by one of these kits.

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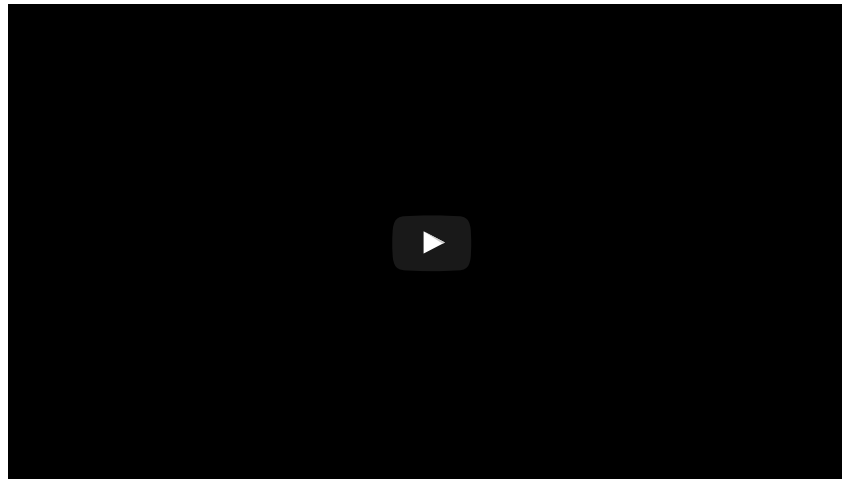
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Want more resources?

Here are [20 dermatology tips](#) to boost your practice.

Here's the [latest clinical information](#) on dermatology.

And we'll always have options for live learning and dermatology continuing education at CVC. Check out [the Clinical Program at our next event](#) and learn from experts like this.

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