

## Pet Chain Faces Lawsuit Over 2005 Hamster-Linked Death

**A hamster infected with the LCM virus is cited in a lawsuit as being the cause of an organ transplant recipient's death.**

*By SmallAnimalChannel.com News Division*

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Nancy Magee, a Massachusetts widow, filed suit in March against Petsmart Inc., claiming that by selling a virus-infected hamster the pet store chain was responsible for the death of her husband.

Petsmart is not commenting directly on the pending litigation.

"We are confident that when the facts come out, this will be decided in favor of Petsmart," said chain spokesperson Bruce Richardson, adding that corporate policy prevented him from commenting substantially on the litigation.

Thomas Magee died about one month after receiving a liver transplant, according to the lawsuit. The U.S. Centers for Disease Control and Prevention had reported that three of four organ recipients of a common organ donor had died in May 2005 from lymphocytic choriomeningitis virus (LCMV) infection, which was traced back to a hamster bought at a Rhode Island pet store. At the store, health officials identified two other infected hamsters and an infected guinea pig, all supplied by a single, Ohio-based distributor, according to the CDC.

In the Magee case, the liver's donor had bought a hamster from the Warwick, R.I. Petsmart in March 2005, then died of a stroke in early April, the lawsuit claims, noting that "the amount of the LCMV virus in her system was so low that it was not in blood samples and she had no symptoms of LCMV.

"By placing the contaminated hamster in the channels of trade, Petsmart impliedly warranted that the hamster was safe, merchantable and fit for its intended use," the lawsuit reads. "Petsmart breached its implied warranty because the product was unsafe, not of merchantable quality and unfit for its intended use. Thomas Magee relied on Petsmart's implied warranty and was caused to suffer great bodily injury and death as a direct and proximate result of Petsmart's breach of implied warranty."

The CDC, in its publication "Information for Pet Owners: Reducing the Risk of Becoming Infected with LCMV from Pet Rodents," reports that although pet rodents can become infected, LCMV is "not normally found in pet rodents, such as hamsters, gerbils and guinea pigs."

Moreover, the CDC does not recommend testing individual pet rodents for the disease because testing on live rodents can be inaccurate and misleading. The CDC also says that infected hamsters may not show sign of the disease at all or only several months after becoming infected.

"As the self-proclaimed largest specialty retailer of pet products and services and provider of pet-care information...Petsmart knew or had reason to know of these inherent dangers and adverse health risks associated with hamsters in particular," the lawsuit states. "Petsmart, as a seller, had a duty to warn that hamsters could carry LCMV and that individuals with immune deficiencies were particularly susceptible to LCMV and could die or were likely to die from the virus."

The CDC reports it is working with breeders and retailers to minimize the risk of infection and to educate pet owners about LCMV infection.

Petsmart has animal buyers sign documents that generally describe practices that minimize risk of illness from handling or caring for animals.

Petsmart in April successfully petitioned to move the lawsuit from a superior court in Plymouth County, Mass., to the U.S. District Court in Boston. The company has not seen a decline in hamster sales since the mainstream media began covering the lawsuit in mid-April.

Magee, on behalf of herself and their minor children, is seeking damages "in excess of \$75,000" for emotional distress and the loss of economic support.