

Las Vegas Sun

Cupcakery owner hoping for an end to trademark disputes

By **Steve Green (contact)**

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Pamela Jenkins, owner of the three Cupcakery shops in the Las Vegas area, says she's tired of lawsuits and just wants to create and sell cupcakes.

Jenkins, who has been sued twice by her uncle in Texas over their Cupcakery business dealings, issued a statement Wednesday denying the allegations in his latest suit.

Jenkins also indicated she won't be involved in any more trademark litigation and her statement would seem to undermine efforts by her uncle, Ricky Perritt, to obtain trademarks for The Cupcakery name and logo.

"Through research, I've found that the word 'cupcakery' existed before I opened The Cupcakery. I believe the use of 'cupcakery' as a noun can only maximize the exposure for myself and others who believe in the delicious spirit of cupcakes and cupcakeries. It is not, and never has been, my intent to limit the use of the word 'cupcakery' or purport to own the word, as my former partner is attempting to do. As I have received numerous requests nationwide regarding the phenomenon of cupcakes, the word 'cupcakery' and other cupcake-related questions of late, I felt it was the right time to share the glory of The Cupcakery and all cupcakeries freely," Jenkins said in her statement.

As related in the new suit filed by Perritt, of Denton, Texas, Jenkins and two partners co-founded The Cupcakery in Southern Nevada in 2005, with Perritt loaning Jenkins \$95,000 for her share.

Perritt says in his suit that after disputes broke out among Jenkins and her partners, he bought out the two partners for about \$225,000.

Later, when disputes emerged between Perritt and Jenkins, he said the company was split with him owning stores in Texas and she owning the Nevada stores.

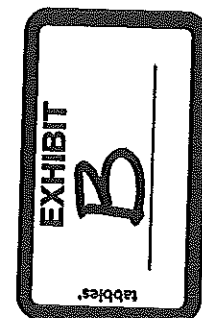
Perritt says he and his niece were supposed to jointly own the trademarks and other intellectual property including The Cupcakery website; but he says Jenkins is now threatening to take down The Cupcakery website because of their business disputes and that such an action would harm his business.

Perritt also charged that Jenkins refuses to pay nearly \$8,000 he says is her share of legal fees that Perritt advanced to protect the intellectual property and tradename of The Cupcakery.

Those efforts apparently included a lawsuit that was filed in 2009 against former Cupcakery employee Andrea Ballus, who left and opened cupcake shops in California called Sift: A Cupcakery.

That suit was settled last year and Ballus' company is now called Sift Cupcake & Dessert Bar.

"In recent months Pamela Jenkins has reneged on our agreement to protect the intellectual property of the company. She has refused to pay her share of attorneys fees and expenses to defend the trademark



and tradename from those who attempt to use it. She has refused to pay her share of the attorneys fees and expenses to have the mark properly registered. She has stated that she will give the right to use the trademark and tradename to third parties without payment of any licensing fee or other consideration, which is in direct breach of our agreement," Perritt said in a court declaration last week.

Jenkins, in an interview Wednesday, said her uncle's lawsuits have caused considerable problems for her family and that now she wants to focus not on lawsuits but on growth opportunities in Las Vegas and Reno.

The Cupcakery shops in Las Vegas and Henderson, which employ about 25 people, have seen business bounce back from declines seen during the recession, she said.

"Business is great. We're right back to where we need to be," Jenkins said.

"It's outrageous," she said of the latest lawsuit filed by her uncle, whom she said is an attorney and finds it easy to file lawsuits.

She denied assertions by her uncle that by threatening to take down the website -- which remained operational Thursday -- she has violated a settlement provision in a 2009 lawsuit he filed against her.

"I'm really trying to split up the website. He won't cooperate. I don't want to be associated with his business any more," Jenkins said.

"Nothing would please me more than to have my uncle create his own website domain so that we can both move on in our businesses in ways which work for each of us. We only share the name The Cupcakery and have unfortunately found that our business practices have nothing in common," Jenkins said in her statement

Denton, Texas, attorney Michael Whitten, who represents Perritt in the lawsuit, said he was unable to comment on the litigation.

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