

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

SHELLY LANDRY-BELL

CIVIL ACTION NO. CV05-1526 S

VERSUS

JUDGE STAGG

VARIOUS INC. and ZACH WILHELM

MAGISTRATE JUDGE HORNSBY

ANSWER OF DEFENDANT ZACHARY S. WILHELM

NOW INTO COURT, through undersigned counsel, comes ZACHARY S. WILHELM, made Defendant herein, who for answer to the Complaint filed herein denies each and every allegation contained therein except as may be specifically admitted and, with respect, shows:

1.

The allegations in paragraph 1 of the Complaint are denied. Defendant Wilhelm denies that he made any false web site postings regarding the Plaintiff.

2.

Defendant Wilhelm cannot reply to the allegations in paragraph 2(a) of the Complaint as those allegations do not involve him or relate to him in any manner. To the extent a response is necessary, Defendant Wilhelm denies the allegations in paragraph 2(a) of the Complaint. With regard to the allegations in paragraph 2(b) of the Complaint, Defendant Wilhelm shows that he is a resident of the State of Florida, currently serving on active duty with the United States Air Force stationed at Eglin Air Force Base, Florida. As an active duty member of the United States Air Force, Defendant Wilhelm asserts any defenses or rights he may have now or in the future during these proceedings under the Servicemembers Civil Relief Act, 50 U.S.C. App. §§501-597.

3.

The allegations of paragraph 3 of the Complaint are denied by Defendant Wilhelm.

4.

Paragraph 4 of the Complaint contains no allegations which require a response from Defendant Wilhelm.

5.

Defendant Wilhelm denies that Plaintiff has been damaged or that any damages of any kind are due to her by Defendant Wilhelm.

6.

The allegations contained in paragraph 6 of the Complaint are denied and Defendant Wilhelm shows that there is no legal basis for any award of litigation expenses or attorneys fees under applicable law.

7.

The allegations contained in paragraph 7 of the Complaint are denied as written.

8.

The allegations contained in paragraph 8 of the Complaint are denied as written.

9.

The allegations contained in paragraph 9 of the Complaint are denied.

10.

The allegations contained in paragraph 10 of the Complaint are denied for lack of sufficient information to justify a belief therein.

11.

The allegations contained in paragraph 11 of the Complaint are denied for lack of

sufficient information to justify a belief therein.

12.

The allegations contained in paragraph 12 of the Complaint are denied for lack of sufficient information to justify a belief therein.

13.

The allegations contained in paragraph 13 of the Complaint are denied for lack of sufficient information to justify a belief therein. Further answering, Defendant Wilhelm denies that he ever made any web postings concerning Plaintiff.

14.

The allegations contained in paragraph 14 of the Complaint are denied.

15.

The allegations contained in paragraph 15 of the Complaint are denied.

16.

The allegations contained in paragraph 16 of the Complaint are denied for lack of sufficient information to justify a belief therein.

17.

The allegations contained in paragraph 17 of the Complaint are denied.

18.

The allegations contained in paragraph 18 of the Complaint are denied.

19.

The allegations contained in paragraph 19 of the Complaint are denied for lack of sufficient information to justify a belief therein.

20.

The allegations contained in paragraph 20 of the Complaint are denied.

21.

The allegations contained in paragraph 21 of the Complaint are denied for lack of sufficient information to justify a belief therein.

22.

The allegations contained in paragraph 22 of the Complaint are denied for lack of sufficient information to justify a belief therein.

23.

The allegations contained in paragraph 23 of the Complaint are denied for lack of sufficient information to justify a belief therein.

24.

The allegations contained in paragraph 24 of the Complaint are denied for lack of sufficient information to justify a belief therein.

25.

The allegations contained in paragraph 25 of the Complaint are denied.

26.

The allegations contained in paragraph 26 of the Complaint are denied for lack of sufficient information to justify a belief therein.

27.

The allegations contained in paragraph 27 of the Complaint are denied for lack of sufficient information to justify a belief therein.

28.

The allegations contained in paragraph 28 of the Complaint are denied.

AFFIRMATIVE DEFENSES

Defendant Zachary S. Wilhelm asserts herein the following affirmative defenses against all causes of action in the Complaint:

- A. The allegations of the Complaint fail to state facts sufficient to constitute a cause of action.
- B. Plaintiff's claims are barred by prescription.
- C. Plaintiff's claims are barred by the doctrine of laches.
- D. Plaintiff's claims are barred by the doctrine of estoppel.
- E. Plaintiff's claims are barred because Plaintiff has not suffered any damages as a result of any actions of Defendant Wilhelm.
- F. If Plaintiff suffered any injury or damages, same was not caused by Defendant Wilhelm.
- G. If Plaintiff suffered any injury or damages, same was caused by Plaintiff's own actions, including her negligence or other wrongdoing.
- H. Plaintiff's claims for damages are purely speculative.
- I. Plaintiff has failed to mitigate her damages.
- J. Plaintiff's claims sound in tort and, pursuant to applicable Louisiana law, she has no valid claim for exemplary damages, litigation costs or attorneys fees.

WHEREFORE, Defendant Zachary S. Wilhelm prays that this his Answer be filed and deemed good and sufficient and, after due proceedings had, there be judgment herein in his favor rejecting the demands of Plaintiff at her costs.

Respectfully submitted,

JONES, ODOM, DAVIS & POLITZ, L.L.P.

BY: _____/s/_____
John S. Odom, Jr., La. Bar No. 10163
Attorneys for Zachary S. Wilhelm

2124 Fairfield Avenue
Shreveport, Louisiana 71104
Telephone 318-221-1600
Fax 318-425-1256
E-mail: john.odom@jodplaw.com

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2007, a copy of the foregoing DEFENDANT, ZACHARY S. WILHELM's Answer to Plaintiff's Complaint was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to Ira P. Rothken, Bennett L. Politz and David A. Szwak by operation of the court's electronic filing system.

Dated: July 6, 2007

_____/s/_____
John S. Odom, Jr. (La. Bar # 10163)
JONES, ODOM, DAVIS & POLITZ, LLP
2124 Fairfield Avenue
Shreveport, Louisiana 71104
Tele: (318) 221-1600
Fax: (318) 425-1256
E-mail: john.odom@jodplaw.com