

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE AT BANGOR

 SHANA SANDLER,)
)
 Plaintiff)
)
 v.)
)
 MIA CALCAGNI, EMET GABAR,)
 JOHN DOE, and/or)
 JANE DOE, and)
 BOOKSURGE, LLC,)
)
 Defendants.)
 _____)

Case No. 07-CV-00029-DBH

ANSWER TO COMPLAINT
BY DEFENDANT BOOKSURGE, LLC

Defendant BOOKSURGE, LLC (“BookSurge”), through its attorneys, Kirkpatrick & Lockhart Preston Gates Ellis, LLP, answers the Complaint of Plaintiff SHANA SANDLER (“Sandler”) as follows:

1. Answering Paragraph 1, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 1 of the Complaint, which shall have the effect of a denial.
2. Answering Paragraph 2, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 2 of the Complaint, which shall have the effect of a denial.
3. Answering Paragraph 3, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 3 of the Complaint, which shall have the effect of a denial.
4. Answering Paragraph 4, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 4 of the Complaint, which shall have the effect of a denial.
5. Answering Paragraph 5, BookSurge denies the allegations contained therein.
6. Answering Paragraph 6, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 6 of the Complaint, which shall have the effect of a denial.

7. Answering Paragraph 7, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 7 of the Complaint, which shall have the effect of a denial.

8. Answering Paragraph 8, this paragraph contains no factual allegations requiring a responsive pleading.

9. Answering Paragraph 9, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 9 of the Complaint, which shall have the effect of a denial.

10. Answering Paragraph 10, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 10 of the Complaint, which shall have the effect of a denial.

11. Answering Paragraph 11, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 11 of the Complaint, which shall have the effect of a denial.

12. Answering Paragraph 12, BookSurge admits that it assisted in printing the book *Help Us Get Mia*; BookSurge denies all other allegations contained therein.

13. Answering Paragraph 13, BookSurge denies the same.

14. Answering Paragraph 14, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 14 of the Complaint, which shall have the effect of a denial.

COUNT I
INTENTIONAL INFLICTION OF EMOTIONAL
DISTRESS -- DEFENDANT MIA CALCAGNI

15. Answering Paragraph 15, BookSurge reincorporates its admissions and denials as set forth in paragraphs 1 through 14.

16. Answering Paragraph 16, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 16 of the Complaint, which shall have the effect of a denial.

17. Answering Paragraph 17, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 17 of the Complaint, which shall have the effect of a denial.

18. Answering Paragraph 18, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 18 of the Complaint, which shall have the effect of a denial.

COUNT II
LIBEL – ALL DEFENDANTS

19. Answering Paragraph 19, BookSurge reincorporates its admissions and denials as set forth in paragraphs 1 through 18.

20. Answering Paragraph 20, BookSurge admits that it assisted in printing the book *Help Us Get Mia*, but is without sufficient knowledge to answer the other allegations contained in Paragraph 20 of the Complaint, which shall have the effect of a denial.

21. Answering Paragraph 21, BookSurge denies the same.

22. Answering Paragraph 22, BookSurge denies the same.

23. Answering Paragraph 23, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 23 of the Complaint, which shall have the effect of a denial.

COUNT III
LIBEL PER SE – ALL DEFENDANTS

24. Answering Paragraph 24, BookSurge reincorporates its admissions and denials as set forth in paragraphs 1 through 23.

25. Answering Paragraph 25, BookSurge denies the same.

COUNT IV
PUNITIVE DAMAGES – ALL DEFENDANTS

26. Answering Paragraph 26, BookSurge reincorporates its admissions and denials as set forth in paragraphs 1 through 25.

27. Answering Paragraph 27, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 27 of the Complaint regarding the actions or motivations of Mia Calcagni, which shall have the effect of a denial; BookSurge denies all other allegations contained therein.

28. Answering Paragraph 28, BookSurge denies the same.

AFFIRMATIVE DEFENSES

Without assuming the burden of proof as to any affirmative defense, which burden BookSurge expressly disclaims, BookSurge states as affirmative defenses the following:

1. Failure to State a Claim. Sandler has failed to state a claim for which relief can be granted.
2. Insufficiency of Service of Process. Sandler's claims are barred by the insufficiency of service of process.
3. Privileges and Immunities. Sandler's claims are barred by one or more privileges.
4. Truth. Sandler's claims are barred to the extent that the allegedly defamatory statements are true.
5. Constitutional Bar. Sandler's claims are barred by the provisions of the Constitutions of the United States and the State of Maine.
6. Failure to Mitigate Damages. Sandler's damages, if any, are reduced or barred by her failure to mitigate damages.
7. Comparative Fault/Negligence. To the extent that Sandler's claims are or may be recognized under negligence principles, they are reduced by her own comparative fault or negligence.
8. Conduct of Third Parties. Sandler's claims were caused by the conduct of one or more third parties not under the control of BookSurge.
9. Waiver, Laches and Estoppel. Sandler's claims are barred by her own conduct, including acts constituting waiver, laches and/or estoppel.
10. Failure to Plead with Particularity. Sandler's claims are barred by her failure to identify any allegedly libelous statements.
11. Statute of Limitations. Sandler's claims are barred by applicable statutes of limitations.

12. Fault. Sandler's claims for actual, presumed and/or punitive damages are reduced or barred by the lack of requisite fault of BookSurge.

REQUEST FOR RELIEF

WHEREFORE, BookSurge prays for the following relief:

1. Sandler's Complaint be dismissed with prejudice;
2. BookSurge be awarded its costs and reasonable attorneys' fees under all applicable statutes, court rules and recognized grounds of equity;
3. BookSurge be awarded such other and further relief as the Court may deem just and equitable.

BOOKSURGE, LLC

By its attorney,

/s/ Steven P. Wright

Steven P. Wright (ME BBO# 009473)

Kirkpatrick & Lockhart Preston

Gates Ellis LLP

State Street Financial Center

One Lincoln Street

Boston, MA 02111-2950

May 1, 2007

CERTIFICATE OF SERVICE

I, Steven P. Wright, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on May 1, 2007.

/s/ Steven P. Wright
Steven P. Wright