

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE AT BANGOR

\_\_\_\_\_  
 SHANA SANDLER, )  
 )  
 Plaintiff )  
 )  
 v. )  
 )  
 MIA CALCAGNI, )  
 RALPH CALCAGNI, )  
 MAUREEN CALCAGNI, )  
 PETER MARS, )  
 and )  
 BOOKSURGE, LLC, )  
 )  
 Defendants. )  
 \_\_\_\_\_)

Case No. 07-CV-00029-DBH

**ANSWER TO AMENDED COMPLAINT**  
**BY DEFENDANT BOOKSURGE, LLC**

Defendant BOOKSURGE, LLC (“BookSurge”), through its attorneys, Kirkpatrick & Lockhart Preston Gates Ellis, LLP, answers the Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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 Amended 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**  
**FALSE LIGHT – 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 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 27 of the Amended Complaint, which shall have the effect of a denial.

28. Answering Paragraph 28, BookSurge denies the same.

29. Answering Paragraph 29, BookSurge denies the same.

**COUNT V**  
**PRIVATE FACTS – ALL DEFENDANTS**

30. Answering Paragraph 30, BookSurge reincorporates its admissions and denials as set forth in paragraphs 1 through 29.

31. Answering Paragraph 31, 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 31 of the Amended Complaint, which shall have the effect of a denial.

32. Answering Paragraph 32, BookSurge denies the same.

33. Answering Paragraph 33, BookSurge denies the same.

**COUNT VI**  
**PUNITIVE DAMAGES – ALL DEFENDANTS**

34. Answering Paragraph 34, BookSurge reincorporates its admissions and denials as set forth in paragraphs 1 through 33.

35. Answering Paragraph 35, BookSurge is without sufficient knowledge to answer the allegations contained in Paragraph 35 of the Amended Complaint regarding the actions or motivations of Mia Calcagni and the other Defendants, which shall have the effect of a denial; BookSurge denies all other allegations contained therein.

36. Answering Paragraph 36, 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.

13. Protected Opinion. Sandler's claims are barred to the extent that the allegedly defamatory statements are protected statements of opinion.

**REQUEST FOR RELIEF**

WHEREFORE, BookSurge prays for the following relief:

1. Sandler's Amended 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)

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July 18, 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 July 18, 2007.

/s/ Steven P. Wright  
Steven P. Wright