

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

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

Case No. 1:07-CV-00029

DEFENDANTS MIA CALCAGNI, RALPH CALCAGNI,
AND MAUREEN CALCAGNI'S ANSWER TO PLAINTIFF'S
SECOND AMENDED COMPLAINT

The Calcagni Defendants respond to Plaintiff's second amended complaint as follows:

AFFIRMATIVE DEFENSES

1. Each count of Plaintiff's complaint fails to state a claim upon which relief can be granted.
2. Plaintiff may have failed to mitigate her damages.
3. Any statement made by any of the Calcagni Defendants was true.
4. Any statement made by any of the Calcagni Defendants was privileged.
5. Any statement made by any of the Calcagni Defendants was an opinion.
6. Any statement made by any of the Calcagni Defendants was a fair comment on a matter of public interest.
7. Plaintiff's complaint against the Calcagni Defendants is barred by provisions of the constitutions of the United States of the State of Maine.
8. Plaintiff was comparatively negligent.

9. Plaintiff's claims against the Calcagni Defendants are barred by conduct constituting waiver, laches, estoppel, or other act or failure to act on her part that is legally preclusive of the relief she seeks.

10. Plaintiff's claims against the Calcagni Defendants are barred by applicable statutes of limitations.

11. Plaintiff's claims against the Calcagni Defendants were caused by the intervening and/or supervening conduct of persons or entities other than the Calcagni Defendants.

WHEREFORE, the Calcagni Defendants request entry of judgment on their behalf, with an award of costs.

ANSWER

1. The Calcagni Defendants admit the allegations in Paragraph 1 of Plaintiff's second amended complaint.

2. The Calcagni Defendants deny the allegations in Paragraph 2 of Plaintiff's second amended complaint.

3. The Calcagni Defendants admit the allegations in Paragraph 3 of Plaintiff's second amended complaint.

4. The Calcagni Defendants admit the allegations in Paragraph 4 of Plaintiff's second amended complaint.

5. The Calcagni Defendants admit the allegations in Paragraph 5 of Plaintiff's second amended complaint.

6. Paragraph 6 of Plaintiff's complaint states a legal conclusion to which no response is required from the Calcagni Defendants. To the extent a response is required, the Calcagni Defendants do not challenge jurisdiction.

7. Paragraph 7 of Plaintiff's complaint states a legal conclusion to which no response is required from the Calcagni Defendants. To the extent a response is required, the Calcagni Defendants do not challenge venue.

8. Paragraph 8 states an intention to which no response is required by the Calcagni Defendants.

9. The Calcagni Defendants deny the allegations in Paragraph 9 of Plaintiff's second amended complaint.

10. The Calcagni Defendants admit Mia Calcagni was convicted of a juvenile offense arising out of vandalism to street signs. The Calcagni Defendants otherwise deny every allegation in Paragraph 10 of Plaintiff's second amended complaint.

11. The Calcagni Defendants acknowledge that the Attorney General of the State of Maine brought an action on behalf of the State of Maine that resulted in a Consent Decree. The Calcagni Defendants deny any further or inconsistent allegation in Paragraph 11 of Plaintiff's second amended complaint.

12. The Calcagni Defendants deny the allegations in Paragraph 12 of Plaintiff's second amended complaint.

13. The Calcagni Defendants deny the allegations in Paragraph 13 of Plaintiff's second amended complaint.

14. The Calcagni Defendants deny the allegations in Paragraph 14 of Plaintiff's second amended complaint.

COUNT I

Intentional Infliction of Emotional Distress – Defendant Mia Calcagni

15. The Calcagni Defendants repeat their responses to Paragraphs 1 through 14 above.

16. The Calcagni Defendants deny the allegations in Paragraph 16 of Plaintiff's second amended complaint.

17. The Calcagni Defendants deny the allegations in Paragraph 17 of Plaintiff's second amended complaint.

18. The Calcagni Defendants deny the allegations in Paragraph 18 of Plaintiff's second amended complaint.

WHEREFORE, the Calcagni Defendants request entry of judgment on their behalf, with an award of costs.

COUNT II

Libel – All Defendants

19. The Calcagni Defendants repeat their responses to Paragraphs 1 through 18 above.

20. The Calcagni Defendants deny the allegations in Paragraph 20 of Plaintiff's second complaint.

21. The Calcagni Defendants deny the allegations in Paragraph 21 of Plaintiff's second amended complaint.

22. The Calcagni Defendants deny the allegations in Paragraph 22 of Plaintiff's second amended complaint.

23. The Calcagni Defendants deny the allegations in Paragraph 23 of Plaintiff's second amended complaint.

WHEREFORE, the Calcagni Defendants request entry of judgment on their behalf, with an award of costs.

COUNT III
Libel Per Se – All Defendants

24. The Calcagni Defendants repeat their responses to Paragraphs 1 through 23 above.

25. The Calcagni Defendants deny the allegations in Paragraph 25 of Plaintiff's second amended complaint.

26. The Calcagni Defendants deny the allegations in Paragraph 26 of Plaintiff's second amended complaint.

WHEREFORE, the Calcagni Defendants request entry of judgment on their behalf, with an award of costs.

COUNT IV
False Light – All Defendants

27. The Calcagni Defendants repeat their responses to Paragraphs 1 through 26 above.

28. The Calcagni Defendants deny the allegations in Paragraph 28 of Plaintiff's second amended complaint.

29. The Calcagni Defendants deny the allegations in Paragraph 29 of Plaintiff's second amended complaint.

30. The Calcagni Defendants deny the allegations in Paragraph 30 of Plaintiff's second amended complaint.

WHEREFORE, the Calcagni Defendants request entry of judgment on their behalf, with an award of costs.

COUNT V
Private Facts – All Defendants

31. The Calcagni Defendants repeat their responses to Paragraphs 1 through 30 above.

32. The Calcagni Defendants deny the allegations in Paragraph 32 of Plaintiff's second amended complaint.

33. The Calcagni Defendants deny the allegations in Paragraph 33 of Plaintiff's second amended complaint.

34. The Calcagni Defendants deny the allegations in Paragraph 34 of Plaintiff's second amended complaint.

WHEREFORE, the Calcagni Defendants request entry of judgment on their behalf, with an award of costs.

COUNT VI
Punitive Damages – All Defendants

35. The Calcagni Defendants repeat their responses to Paragraphs 1 through 34 above.

36. The Calcagni Defendants deny the allegations in Paragraph 36 of Plaintiff's second amended complaint.

37. The Calcagni Defendants deny the allegations in Paragraph 36 of Plaintiff's second amended complaint.

WHEREFORE, the Calcagni Defendants request entry of judgment on their behalf, with an award of costs.

Dated: October 26, 2007

/s/ Bruce C. Mallonee, Esq.

Bruce C. Mallonee, Esq.

RUDMAN & WINCHELL

Attorney for Defendants Mia Calcagni,

Ralph Calcagni, and Maureen Calcagni

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CERTIFICATE OF SERVICE

I, Bruce C. Mallonee, hereby certify that on October 26, 2007, I filed the foregoing Responsive Pleading to Second Amended Complaint with the Clerk of the United States District Court using the CM/ECF system , which will send notification electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Bruce C. Mallonee

Bruce C. Mallonee, Esq.

RUDMAN & WINCHELL

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