

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

SHANA SANDLER,	)	
	)	
<i>Plaintiff</i>	)	
	)	
v.	)	
	)	Case No. 1:07-cv-00029
MIA CALCAGNI <i>et al.</i> ,	)	
	)	
<i>Defendants</i>	)	

**PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO MOTION  
FOR DEFAULT AGAINST DEFENDANT MIA CALCAGNI**

Plaintiff Shana Sandler submits the following reply to Defendants' opposition to the Motion for Default against Mia Calcagni.

Defendant Mia Calcagni is a fugitive from justice. On September 9, 2004 Defendant Mia Calcagni was convicted of the Class D crime of criminal mischief as a result of painting swastikas on street signs on and about Route 41 in Winthrop, Maine in the vicinity of Plaintiff's home.

On April 28, 2005, the Maine District Court (Docket No. AUG-JV-04-006) sentenced Defendant Mia Calcagni to one-year probation, restitution and thirty days in jail with all but seven days suspended as a result of her conviction for the activities described above.

Defendant Mia Calcagni has fled the State of Maine to avoid serving the term of her seven-day jail sentence and, as a result, is now a fugitive from justice.

Since leaving the State of Maine, Defendant Mia Calcagni has lived in various places in and outside of the United States. Her parents testified at their depositions that she purposefully moves from place to place and, by agreement with them, avoids telling them where she is in order to avoid being apprehended and returned to Maine to serve her sentence.

Defendant Mia Calcagni was noticed for her deposition for November 6, 2007 and indicated, through her counsel, of her intent not to appear. In fact, she failed to appear at that deposition in spite of this Court's November 2, 2007 Order.

An entry of default against Mia Calcagni for willingly not appearing at her noticed deposition is an appropriate sanction pursuant to Fed. R. Civ. P. 37(d) and the Court's November 2, 2007 Order.

Counsel for the Defendants now oppose the entry of a default and, as a last ditch effort to avoid consequences of her deliberate violation of this Court's Order, Defendant Mia Calcagni now offers to appear for a deposition in other jurisdictions, including South Carolina and Massachusetts.

Defendant Booksurge has joined in Defendants Mia Calcagni, Ralph Calcagni and Maureen Calcagni's opposition to the Motion for Default and argues that its interest in the present litigation will be harmed by granting of the relief requested in Plaintiff's Motion. However, as the Court has already made clear, it can grant Plaintiff's request for a default against Defendant Mia Calcagni without prejudice to Booksurge. It should be noted that Booksurge has filed a Counterclaim against Ralph Calcagni, but has not filed any such claim against Mia Calcagni.

Plaintiff had the right to notice Defendant Mia Calcagni's deposition in Maine. In fact, there was no objection or motion filed in response to the deposition notice. A few days before the scheduled deposition, Mia Calcagni indicated she would not appear and was prepared to suffer the consequences. The Court ruled that Mia Calcagni's failure to appear would subject her to a default.



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*/s/ Bernard J. Kubetz*

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