

COPY

1 **LAW OFFICES OF F. EDIE MERMELSTEIN**
2 F. Edie Mermelstein, State Bar No. 248941
3 18811 Huntington Street, Suite 240
4 Huntington Beach, CA 92648
5 Tel: (714) 596-0137
6 Fax: (714) 841-8810

CONFIRMED COPY
ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MAY 10 2013

John A. Clarke, Executive Officer/Clerk
BY J. Chambers Deputy
Inaylia Chambers

7 Attorneys for Plaintiff/Cross-Defendant,
8 Alyssa Backlund

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES - STANLEY MOSK COURTHOUSE**

11 **ALYSSA BACKLUND, an individual;**

CASE NO. BC449910

12 Plaintiff,

**PLAINTIFF ALYSSA BACKLUND'S
NOTICE OF MOTION AND MOTION
STRIKING ANSWERS OF DEFENDANTS
CHRISTOPHER STONE AND ELITE
IMAGING CONCEPTS, LLC;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

13 vs.

14 **CHRISTOPHER STONE, an individual;**
15 **ELITE IMAGING CONCEPTS, LLC, a New**
16 **York Limited Liability Company, and**
17 **Does 1 through 50,**

Assigned for All Purposes To:
Honorable Abraham Khan

18 Defendants.

19 **CHRISTOPHER STONE, an individual;**

Date: June 6, 2013
Time: 9:00 A.M.
Dept.: 51

20 Cross-Complainant,

21 vs.

22 **ALYSSA BACKLUND, an individual;**

23 Cross-Defendant.

24
25
26 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

27 **PLEASE TAKE NOTICE** that on June 6, 2013, at 9:00 A.M. or as soon thereafter as
28

**NOTICE OF MOTION AND MOTION STRIKING ANSWERS OF DEFENDANTS;
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**

LAW OFFICES OF F. EDIE MERMELSTEIN
18811 Huntington Street, Suite 240
Huntington Beach, CA 92648

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

counsel may be heard in Department 51 of this Court, located at 111 North Hill Street, Los Angeles, CA 90013, Plaintiff Alyssa Backlund (“Backlund”) shall and hereby does move for an order striking answers of Defendants Christopher Stone (“Stone”) and Elite Imaging Concepts, LLC (“Elite”) (collectively “Defendants.”)

This motion is based upon this Notice of Motion and the supporting Memorandum of Points and Authorities.

DATED: May 10, 2013

Respectfully submitted,

THE LAW OFFICES OF F. EDIE MERMELSTEIN

By: 
F. EDIE MERMELSTEIN
Attorneys for Plaintiff Alyssa Backlund

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION
STRIKING ANSWERS OF DEFENDANTS**

Plaintiff Alyssa Backlund hereby files this Memorandum of Points and Authorities in support of her Motion to Strike the Answers of Defendants Christopher Stone and Elite Imaging Concepts, LLC. The basis for this Motion is that Defendants both filed an unverified general denial answers to Plaintiff’s verified Complaint. Under the California Code of Civil Procedure (“C.C.P.”), if a complaint is verified, the defendant must verify his answer, C.C.P. § 435. Further, a general denial is not permitted if a complaint is verified, C.C.P. § 431.30. Both Defendants answers are deficient in these regards and must be stricken.

ISSUES OF LAW

A motion to strike can be used to reach defects or objections to pleadings that are not changeable by demurrer. Complaints, cross complaints, answers and demurrers are all subject to a motion to strike. C.C.P. § 435(a)(2). Moreover, a motion to strike can be used to attack the entire pleading, or any part thereof- i.e. even single words or phrases. *Warren v. Atchison* (1981) 19 Cal. App. 3d 24, 30.

Courts are specifically authorized to strike a pleading upon a motion, or at any time in its discretion. C.C.P. § 436.

A. Grounds to Strike Answers

If a complaint is verified, a defendant must verify the answer, i.e., attach a statement under oath or penalty of perjury “that the same is true of his (or her) own knowledge, except as to those matters stated therein on information and belief, and as to those matters that he (or she) believes it to be true.” C.C.P. § 446.

Attached as Exhibit A is the verified Complaint in this matter. Attached as Exhibit B are the Answers of Defendants Stone and Elite. Neither Answer is verified, and neither defendant attached a statement under oath or penalty of perjury consistent with the requirements of C.C.P. § 446.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

With limited exceptions (not applicable here) under C.C.P. § 431.30, a general denial is not sufficient to controvert a verified complaint. A verified complaint must be denied positively or according to information and belief. C.C.P. § 431.30(d).

B. Argument and Conclusion

The law and statutory basis in this matter is clear. Defendants are obligated to answer a verified complaint with a verified answer specifically responding to Plaintiff's allegations. Defendants have failed to do so in this instance. Instead, they filed a form, general denial which does not apprise Plaintiff of the defenses or positions of Defendants to the specific verified information in the complaint. Plaintiff is entitled to know the defenses and specific positions that Defendants intend to offer to the allegations contained in the verified Complaint. By filing an unverified general denial, Defendants have deprived Plaintiff of this information.

Wherefore, Plaintiff prays that Defendants answers be stricken from the record in this matter.

DATED: May 10, 2013

Respectfully submitted,

THE LAW OFFICES OF F. EDIE MERMELSTEIN

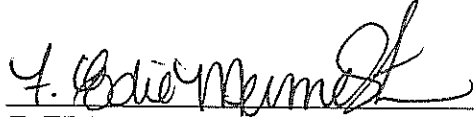
By: 
F. EDIE MERMELSTEIN
Attorneys for Plaintiff Alyssa Backlund

EXHIBIT 1

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

NOV 19 2010

John A. Clarke, Executive Officer/Clerk
By DAFNETTA SMITH, Deputy

DEPT 51

1 LAW OFFICES OF F. EDIE MERMELSTEIN
2 F. EDIE MERMELSTEIN, State Bar No. 248941
3 17011 Beach Boulevard, Suite 900
4 Huntington Beach, California 92647
5 Telephone: (714) 596-0137
6 Facsimile: (714) 842-1979

Attorneys for Plaintiff, ALYSSA BACKLUND, an Individual

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 ALYSSA BACKLUND, an individual,

11 Plaintiff,

12 vs.

13 Christopher Stone, an individual; Stickydrama,
14 an unknown entity; and Does 1-50

15 Defendants.

CASE NO.:

BC 448910

COMPLAINT

- 1. DEFAMATION
- 2. FALSE LIGHT
- 3. PUBLIC DISCLOSURE OF PRIVATE FACTS
- 4. ABUSE OF PROCESS
- 5. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- 6. VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200 et seq.

JURY TRIAL DEMANDED

26 Plaintiff Alyssa Backlund ("PLAINTIFF"), individually brings this Complaint against
27 Christopher Stone ("STONE"), Stickydrama ("STICKYDRAMA"), and DOES 1-50 (collectively
28 "DEFENDANTS") and alleges as follows:

Law Offices of F. Edie Mermelstein
17011 Beach Blvd., Suite 900
Huntington Beach, CA 92647

JURISDICTION AND VENUE

1
2 1. PLAINTIFF files this Complaint. The Court has personal jurisdiction over the parties
3 because, PLAINTIFF submits to the jurisdiction of the Court; STONE is a citizen of California, and
4 resides at 460 S. Spring Street, Apartment #1105, Los Angeles, California in the county of Los
5 Angeles, 90013, and STONE was a resident of Los Angeles during all relevant times of this action.
6 STICKYDRAMA is owned and operated by STONE in the County of Los Angeles.

7 2. Venue is proper because DEFENDANTS reside in Los Angeles in the County of Los
8 Angeles.

THE PARTIES

9
10 3. PLAINTIFF is currently a resident of Orange County, California. PLAINTIFF is not
11 a public figure.

12 4. Defendant STONE is a resident of Los Angeles County, California.

13 5. Defendant STICKYDRAMA is an unknown entity, however PLAINTIFF believes
14 and hereto alleges STONE is the owner operator of STICKYDRAMA and operates from Los
15 Angeles, California.

16 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
17 of defendants DOES 1 through 50, inclusive, are unknown to PLAINTIFF. Therefore, PLAINTIFF
18 sues those defendants by such fictitious names pursuant to California Code of Civil Procedure §
19 474. PLAINTIFF further alleges that each fictitious defendant is in some manner responsible for the
20 acts and occurrences herein. PLAINTIFF will seek leave of this court to amend this Complaint to
21 state the real names and capacities of said fictitiously named defendants when the same have been
22 ascertained. PLAINTIFF is informed and believes, and based thereon alleges, that the fictitiously
23 named defendants caused her damages.

24 7. PLAINTIFF is informed and believes, and based thereon alleges, that the
25 DEFENDANTS named herein, including those defendants named as DOE Defendants, acted as the
26 agent, employee, representative, partner, joint venture, or co-conspirators of each of the other
27 defendants named herein in the commission of the acts and omissions to the acts alleged herein, and
28 acted within the course and scope of his, her, or its duty as such agent, employee, representative,

1 partner, joint venture, or co-conspirator. The acts of each such defendant were authorized and/or
2 ratified by each other defendant, and together constitute a single and continuing course of conduct.

3 NATURE OF THE ACTION

4 8. This Complaint arises out of false statements, imputations, disclosure of private facts
5 and other illegal actions taken by DEFENDANTS. These wrongful actions were taken by
6 DEFENDANTS when they began posting several false, misleading, and derogatory statements, and
7 images about PLAINTIFF over the internet, disclosed private facts about PLAINTIFF and made
8 several public threats to PLAINTIFF.

9 9. DEFENDANTS' postings falsely impute that PLAINTIFF is unchaste and a criminal.
10 DEFENDANTS' postings also included personal and private information which have been
11 disseminated via the Stickydrama.com website, twitter and twitpic.

12 10. DEFENDANTS' threats were followed by a malicious and baseless lawsuit against
13 PLAINTIFF in small claims court. Further, STONE instituted the small claims action against
14 PLAINTIFF with the specific intent of using the litigation to subpoena and harass an unconnected
15 and unaffiliated young woman. PLAINTIFF alleges DEFENDANT intends on pursuing litigation
16 against PLAINTIFF for an improper purpose.

17 11. DEFENDANTS' inexcusable conduct has caused PLAINTIFF's reputation to suffer,
18 and has caused PLAINTIFF to suffer severe emotional distress and financial hardship.

19 FIRST CAUSE OF ACTION

20 DEFAMATION (LIBEL PER SE)

21 (By PLAINTIFF Against DEFENDANTS)

22 12. PLAINTIFF hereby incorporates by reference the allegations contained in all
23 preceding paragraphs of this COMPLAINT.

24 13. Early in the morning, on or about November 20, 2009, DEFENDANT posted an
25 image on the Stickydrama website of an underage teenage female masturbating next to an infant
26 with a heading incorrectly and negligently identifying the female in the image as PLAINTIFF and
27 publishing all of PLAINTIFF'S contact information. The image was viewed by thousands of visitors
28 to the Stickydrama website. DEFENDANTS economically prosper from increased traffic on their

1 website. DEFENDANTS published a screen capture and wrote the following commentary; “Early
2 this morning Stickydrama was sent a[n] image that appears to depict Alyssa Marie [Backlund]
3 masturbating next to an infant. Such an act, in addition to being morally repugnant, probably
4 violates several statutes pertaining to exposing children to obscenity.”

5 14. Hundreds of website visitors read the commentary, viewed the image, posted
6 comments of outrage and disgust directed at PLAINTIFF and contacted PLAINTIFF via the linked
7 internet profile published by DEFENDANTS.

8 15. Viewers also expressed their reactions to the image by writing text in a section
9 designated for comments. The image was linked to PLAINTIFF’s profile page on Stickydrama to
10 indicate that she was the teenage female in the image. Consequently, those who viewed the image
11 believed PLAINTIFF to be unchaste. Following is a sample of comments directed at PLAINTIFF in
12 the posted comments section: “Worthless piece of [expletive] crack whore [expletive],”
13 “[expletive]ing nasty [expletive] [expletive],” “This is disgusting and [expletive]ed up. I hope that
14 baby gets taken away and she gets thrown in jail. What a nasty, skank[expletive] whore.” The
15 image and commentary exposed PLAINTIFF to hatred, contempt, ridicule and disgrace.

16 16. Because the image depicted the teenage female with an infant, a possible violation of
17 several state statutes pertaining to exposing children to obscenity, it was also published that
18 PLAINTIFF had most likely committed a crime by the acts depicted in the image wrongfully
19 attributed to her. DEFENDANTS failed to determine the truth of the image’s attribution to
20 PLAINTIFF, despite the image having another individual’s Skype name at the top of the image.

21 17. DEFENDANTS posted the image purportedly depicting and identifying PLAINTIFF
22 as the subject of the screen capture in question without first investigating the age and identity of the
23 subject.

24 18. PLAINTIFF was not the teenager depicted in the image and any attribution of the
25 image or act in the image to her is false as it pertains to PLAINTIFF.

26 19. The image is defamatory on its face because it charges PLAINTIFF with improper,
27 illegal, and immoral conduct; it subjects PLAINTIFF to hatred, contempt, ridicule, and obloquy; and
28 it injures PLAINTIFF’s reputation.

Law Offices of F. Edie Mermelstein
17011 Beach Blvd., Suite 900
Huntington Beach, CA 92647

1 20. As a proximate result of the above described publications, PLAINTIFF has suffered a
2 loss of reputation, shame, mortification, and hurt feelings all to her general damage.

3 21. The above-described publication was published by DEFENDANT and with malice,
4 in that they knew the misstatements of fact were false and they were made with the specific intent to
5 injure PLAINTIFF’s reputation. Such conduct justifies the award of punitive damages.

6 SECOND CAUSE OF ACTION

7 FALSE LIGHT

8 (By PLAINTIFF Against DEFENDANTS)

9 22. PLAINTIFF hereby incorporates by reference the allegations contained in all
10 preceding paragraphs of this Complaint.

11 23. The aforesaid conduct of DEFENDANT in publishing wrongfully attributed image
12 and false statements about PLAINTIFF was done with a reckless disregard for the truth. The
13 information publicized showed PLAINTIFF in a false light and DEFENDANT knew that the
14 publication would create a false impression about PLAINTIFF.

15 24. A reasonable person in PLAINTIFF’s position would consider the image and
16 statements to be highly offensive.

17 25. As a proximate result of the conduct complained of herein, PLAINTIFF suffered and
18 continues to suffer embarrassment, humiliation, emotional distress, and mental anguish, all to her
19 general damage in such amount as may be proven. Said amount is within the jurisdiction of the
20 Superior Court of the State of California.

21 26. DEFENDANT’s conduct was a substantial factor in causing PLAINTIFF’s harm
22 because DEFENDANT’s publication was made via the internet, and thus available to anyone with
23 access to the internet. This publication was to so many people that the image and statements were
24 substantially certain to become public knowledge.

25 //
26 //
27 //
28 //

THIRD CAUSE OF ACTION

PUBLIC DISCLOSURE OF PRIVATE FACTS

(By PLAINTIFF Against DEFENDANTS)

27. PLAINTIFF hereby incorporates by reference the allegations contained in all preceding paragraphs of this Complaint.

28. In or around February 2010, DEFENDANT unlawfully obtained and published a topless photograph of PLAINTIFF via Twitpic. STONE sent PLAINTIFF a publicly viewable message in the form of a tweet stating, "Message him again, and your floppy titties are spanned all over the place. Last warning." The facts disclosed in the above communication also included a reference to a medical condition. With this threat the nude topless photo, which PLAINTIFF had taken of herself and sent to a private party, was linked and accessible to the social media community and anyone with access to the Internet.

29. In July of 2010, STONE posted the name and address of PLAINTIFF on the Stickydrama website with a veiled threat of litigation. Included with the name and address was a map image showing the location of PLAINTIFF's residence. DEFENDANTS did not have PLAINTIFF's consent to publicly disclose such information.

30. A reasonable person in PLAINTIFF's position would consider the publicity to be highly offensive.

31. DEFENDANTS knew or acted in reckless disregard of the fact that a reasonable person in PLAINTIFF's position would consider the publicity to be highly offensive.

32. The disclosed facts are not newsworthy.

33. As a proximate result of the conduct complained of herein, PLAINTIFF suffered and continues to suffer embarrassment, humiliation, emotional distress, and mental anguish, all to her general damage in such amount as may be proven. Said amount is within the jurisdiction of the Superior Court of the State of California.

34. DEFENDANTS' conduct was a substantial factor in causing PLAINTIFF's harm.

//

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOURTH CAUSE OF ACTION

ABUSE OF PROCESS

(By PLAINTIFF Against DEFENDANTS)

35. PLAINTIFF hereby incorporates by reference the allegations contained in all preceding paragraphs of this Complaint.

36. On or about August 23, 2010, STONE filed a small claims action in Los Angeles County, Case No. LAM 10M08579 titled Stone, Christopher v. Backlund, Alyssa. The claim contains one cause of action for defamation per se, alleging Backlund "falsely alleged that [STONE] posted child pornography online via Twitpic." Although Backlund has never been served with this complaint, PLAINTIFF is now aware of the complaint after being alerted to a post by STONE requesting "[everyone contact CBS & tell them how great [appearing on Judge Judy] would be." A letter dated September 1, 2010, from a *Judge Judy* producer addressed to STONE was attached inviting STONE to participate in the television show for the small claims case against Backlund.

37. STONE willfully filed the small claims complaint under penalty of perjury. In the complaint STONE alleges that he asked Backlund to pay him \$1,499 prior to the commencement of the action.

38. STONE has subsequently used this legal process to subpoena unrelated information from a young female living out of state.

39. In the small claims complaint STONE references an article written by Adrian Chen for Gawker.com which exposed STONE as sextortionist, after STONE had appeared on FOX 11 news as an expert on how to protect your children from sextortionists online. PLAINTIFF has no control over anything published or posted on Gawker.com and this small claims suit is substantively without merit.

40. STONE improperly instigated the small claims action for an improper purpose of harassing PLAINTIFF. STONE publicly tweeted that it would be too costly to attempt to litigate the action against Gawker.com and Adrian Chen because they are located in New York. STONE opted to institute a legal action against PLAINTIFF even though it is not proper and lacks basis for the

1 improper purpose of circumventing the legal process to get to other individuals unrelated to
2 PLAINTIFF.

3 FIFTH CAUSE OF ACTION

4 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

5 (By PLAINTIFF Against DEFENDANTS)

6 41. PLAINTIFF hereby incorporates by reference the allegations contained in all
7 preceding paragraphs of this Complaint.

8 42. The aforesaid conduct of DEFENDANTS in publishing a wrongfully attributed
9 image and false statements about PLAINTIFF, as well as publishing her personal information,
10 threatening PLAINTIFF, and publicly disclosing private facts and instituting a legal action against
11 PLAINTIFF was malicious and done for the purpose of causing PLAINTIFF to suffer humiliation,
12 mental anguish, and emotional and physical distress. This conduct on the part of DEFENDANTS
13 was outrageous, in that it was so extreme that it goes beyond all possible bounds of decency, and a
14 reasonable person would regard it as intolerable in a civilized community.

15 43. DEFENDANTS intended to inflict emotional distress by publicly disclosing her
16 address, publicly humiliating her, publishing indecent photos that were not PLAINTIFF and
17 attaching her online profile, publishing an unlawfully obtained topless photo and publicly
18 threatening to circulate the photo to the public and threatening unwarranted legal action.

19 44. All conduct outlined above was directed at PLAINTIFF.

20 45. PLAINTIFF has suffered sleepless nights, loss of income, increased anxiety,
21 humiliation and a tarnished reputation.

22 46. As a proximate and direct result of the aforementioned acts, PLAINTIFF has suffered
23 humiliation, mental anguish, and emotional and physical distress, and has been severely injured
24 emotionally. Damages according to proof.

25 //

26 //

27 //

28 //

Law Offices of F. Edie Mermelstein
17011 Beach Blvd., Suite 900
Huntington Beach, CA 92647

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SIXTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, et seq.

(By PLAINTIFF Against DEFENDANT)

47. PLAINTIFF hereby incorporates by reference the allegations contained in all preceding paragraphs of this COMPLAINT.

48. This is an action for Unfair Business Practices. PLAINTIFF brings this claim pursuant to Bus. & Prof. Code § 17200, et seq.

49. Plaintiff has standing to bring this suit. Plaintiff has lost money or property as a result of DEFENDANTS unlawful, unfair and fraudulent business practices.

50. The conduct of DEFENDANT as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to PLAINTIFF by making threatening and defamatory posts towards and about PLAINTIFF.

51. PLAINTIFF is a "person" within the meaning of Bus. & Prof. Code § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief. PLAINTIFF has suffered injury and damage as a result of DEFENDANT's actions. PLAINTIFF lost money or property as a result of DEFENDANTS unfair business practice.

52. DEFENDANT has violated statutes and public policies. Through the conduct alleged in this Complaint, DEFENDANT has violated specific provisions of various statutes including Penal Code § 311.1, Penal Code § 311.2, and Penal Code § 518, depriving PLAINTIFF of rights and privileges guaranteed to all persons under the law.

53. Unless restrained by this Court, DEFENDANT will continue to engage in the unlawful, unfair and fraudulent conduct as alleged above.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANT as follows:

1. For compensatory damages according to proof at the time of trial;
2. For general damages according to proof;

- 1 3. For punitive damages in an amount sufficient to deter, punish, and make an example
- 2 of DEFENDANT;
- 3 4. For injunctive relief, prohibiting DEFENDANT from repeating statements judicially
- 4 determined to be defamatory;
- 5 5. For disgorgement of profits unlawfully gained;
- 6 6. For an order requiring DEFENDANT to make restitution of all revenue, earnings,
- 7 compensation and benefits obtained as a result of DEFENDANT's wrongful conduct;
- 8 7. For an award of costs and attorney fees as permitted by law; and
- 9 8. For such other and further relief as the Court deems just and proper
- 10

11 DATE: November 19, 2010

LAW OFFICES OF F. EDIE MERMELSTEIN


By: F. EDIE MERMELSTEIN

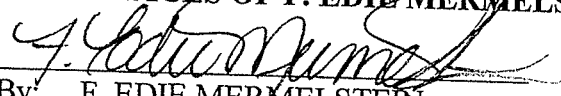
Attorney for Plaintiff, ALYSSA BACKLUND

DEMAND FOR JURY TRIAL

16 Plaintiffs hereby demand a trial by jury of all claims and causes of action existing in this
17 lawsuit.

19 DATE: November 19, 2010

LAW OFFICES OF F. EDIE MERMELSTEIN


By: F. EDIE MERMELSTEIN

Attorney for Plaintiff, ALYSSA BACKLUND

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

The undersigned, for herself declares:

I am the Plaintiff in the above-entitled action. I have read the forgoing complaint and know the contents thereof. With respect to the causes of action alleged by me, the same is true by my own knowledge, except as to those matters, which are therein stated on information and belief, and, as to those matters, I believe to be true.

I declare under penalty of perjury under the laws of California and the United States of America, that the forgoing is true and correct.

Date: November 19, 2010



ALYSSA BACKLUND

EXHIBIT 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Erik Syverson (SBN 221933)
PICK & BOYDSTON LLP
617 S. Olive Street, Suite 400
Los Angeles, CA 90014
Telephone: (213) 624-1996
Facsimile: (213) 624-9073

P
CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

MAY 18 2011

John A. Clarke, Executive Officer/Clerk
By Dorothy Swain, Deputy
DOROTHY SWAIN

Attorney for Defendants
CHRISTOPHER STONE and
ELITE IMAGING CONCEPTS, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

ALYSSA BACKLUND, an individual;
Plaintiff,
vs.
CHRISTOPHER STONE, an individual; ELITE
IMAGING CONCEPTS, LLC, a New York
limited liability company; and DOES 1-50,
Defendants.

) Case No.: BC449910
)
) [Assigned to: Hon. Abraham Khan, Dept. 51]
)
) [Unlimited Jurisdiction]
)
) **DEFENDANTS' ANSWER TO**
) **COMPLAINT**

RECEIVED
MAY 23 2011
BY: _____

1 Defendants Christopher Stone and Elite Imaging Concepts, LLC (collectively,
2 “Defendants”) as and for their Answer to Plaintiff Alyssa Backlund’s (“Plaintiff”) Complaint,
3 jointly responds as follows:

4 ANSWER

5 Under the provisions of Section 431.30(d) of the California Code of Civil Procedure,
6 Defendants generally and specifically deny each and every allegation in the Complaint, and the
7 whole thereof, including each and every purported cause of action contained therein, and deny that
8 Plaintiff sustained damages or will sustain damages in any sum or sums, or at all.

9 Further, in answering the Complaint, and the whole thereof, including each and every
10 purported cause of action contained therein, Defendants deny that Plaintiff sustained any injury,
11 damage, or loss, by reason of any act or omission of Defendants, or any of their respective agents,
12 representatives, or employees.

13 FIRST AFFIRMATIVE DEFENSE TO EACH AND EVERY

14 ALLEGED CAUSE OF ACTION

15 (Failure to State a Claim)

16 Plaintiff’s Complaint, and each claim for relief therein, fails to state a claim against
17 Defendants on which relief can be granted.

18 SECOND AFFIRMATIVE DEFENSE TO EACH AND EVERY

19 ALLEGED CAUSE OF ACTION

20 (Waiver)

21 Plaintiff’s Complaint and each claim for relief therein, is barred, in whole or in part, by the
22 doctrine of waiver.

23 THIRD AFFIRMATIVE DEFENSE TO EACH AND EVERY

24 ALLEGED CAUSE OF ACTION

25 (Laches)

26 Plaintiff’s Complaint, and each claim for relief therein, is barred, in whole or in part, by the
27 doctrine of laches.

28 ///

1 FOURTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

2 ALLEGED CAUSE OF ACTION

3 (Statute of Limitations)

4 Plaintiff's Complaint, and each claim for relief therein, is barred, in whole or in part, by the
5 applicable statute of limitations.

6 FIFTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

7 ALLEGED CAUSE OF ACTION

8 (Unclean Hands)

9 Plaintiff's Complaint, and each claim for relief therein, is barred, in whole or in part, by the
10 doctrine of unclean hands.

11 SIXTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

12 ALLEGED CAUSE OF ACTION

13 (Consent)

14 Defendants deny that they committed the acts alleged in the Complaint. Assuming,
15 *arguendo*, that they did commit these acts, Plaintiff's Complaint, and each claim for relief therein,
16 is barred, in whole or in part, as Plaintiff consented to Defendants' actions.

17 SEVENTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

18 ALLEGED CAUSE OF ACTION

19 (Truth)

20 Plaintiff's Complaint, and each claim for relief therein, is barred, in whole or in part, as
21 Defendants' allegedly defamatory statements as described in the Complaint were based on truth.

22 EIGHTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

23 ALLEGED CAUSE OF ACTION

24 (Privilege)

25 Defendants deny that they committed the acts alleged in the Complaint. Assuming,
26 *arguendo*, that they did commit these acts, Plaintiff's Complaint, and each claim for relief therein,
27 is barred, in whole or in part, as Defendants' actions as alleged in the Complaint were privileged.

28 ///

1 NINTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

2 ALLEGED CAUSE OF ACTION

3 (Assumption of the Risk)

4 If Plaintiff suffered or sustained any loss, damage or injury at or about the time and place
5 alleged in the Complaint, although such is not admitted hereby or herein, such loss, damage or
6 injury was the direct and proximate result of the risk, if any risk there was, knowingly assumed by
7 Plaintiff.

8 TENTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

9 ALLEGED CAUSE OF ACTION

10 (Intervening and Superseding Cause)

11 Assuming, *arguendo*, that any loss, injury, damage or detriment occurred as Plaintiff
12 alleges, the loss, injury, damage or detriment was proximately caused and contributed to by persons
13 other than Defendants, including, but not limited to, Plaintiff. Such other causation was an
14 intervening and superseding cause of the purported loss, injury, damage or detriment of which
15 Plaintiff complains.

16 ELEVENTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

17 ALLEGED CAUSE OF ACTION

18 (Apportionment)

19 If Plaintiff sustained damages as alleged in the Complaint, those damages were proximately
20 caused and contributed to by persons other than Defendants, including but not limited to Plaintiff,
21 and/or all other parties. The liability of each and every such party, named or unnamed, should be
22 apportioned according to their relative degrees of fault, and the liability, if any, of Defendants
23 should be reduced accordingly.

24 TWELFTH AFFIRMATIVE DEFENSE TO EACH AND EVERY

25 ALLEGED CAUSE OF ACTION

26 (Failure to State a Basis for Attorneys Fees)

27 Plaintiff's Complaint, and each claim for relief therein, fails to allege facts sufficient to
28 enable Plaintiff to recover attorney's fees.

1 THIRTEENTH AFFIRMATIVE DEFENSE TO EACH AND EVERY
2 ALLEGED CAUSE OF ACTION

3 (Failure to State a Basis for Exemplary or Punitive Damages)

4 Plaintiff's Complaint, and each claim for relief therein, fails to allege facts sufficient to
5 enable Plaintiff to recover exemplary or punitive damages.

6 FOURTEENTH AFFIRMATIVE DEFENSE TO EACH AND EVERY
7 ALLEGED CAUSE OF ACTION

8 (Reservation of Right to Assert Additional Affirmative Defenses)

9 As a fourteenth and separate defense to the Complaint and to each cause of action stated
10 therein, Defendants allege that they have insufficient knowledge of information upon which to
11 form a belief as to whether they have as yet unstated affirmative defenses available and, therefore,
12 reserves the right to assert such affirmative defenses in the event that discovery indicates that they
13 are proper.

14
15 WHEREFORE, Defendants pray for a judgment as follows:

- 16 (1) That Plaintiff's Complaint and each cause of action thereof be dismissed with
17 prejudice;
18 (2) That Plaintiff take nothing by her Complaint;
19 (3) That Defendants be awarded costs incurred herein, including attorney's fees; and
20 (4) That the Court order such other and further relief for Plaintiff as the Court may deem
21 just and proper.

22
23 Dated: May 8, 2011

PICK & BOYDSTON LLP

24
25 By: 

26 Erik Syverson
27 Attorneys for Defendants CHRISTOPHER STONE and
28 ELITE IMAGING CONCEPTS, LLC

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18811 Huntington Street, Suite 240, Huntington Beach, CA 92648.

On April 23, 2013, I served the foregoing documents described as the following:

PLAINTIFF ALYSSA BACKLUND'S NOTICE OF MOTION AND MOTION STRIKING ANSWERS OF DEFENDANTS CHRISTOPHER STONE AND ELITE IMAGING CONCEPTS, LLC; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

on interested parties in this action by sending a true copy of the document to the following parties:

Christopher Stone
DEFENDANT, in pro per
P.O. Box 2088
Los Angeles, CA 90078

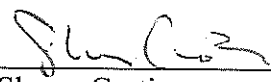
Christopher Stone, Elite Imaging Concept, LLC
DEFENDANT, in pro per
P.O. Box 2088
Los Angeles, CA 90078

^{EXPRESS} **BY OVERNIGHT MAIL:** I deposited such documents at the ^{USPS} ~~Next Delivery drop box~~ located at ~~17011 Beach Blvd. (Huntington Beach, CA 92647)~~. The envelope was deposited with delivery fees thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the mailing service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 10, 2013, at Huntington Beach, California.



Sherry Curtiss

LAW OFFICES OF F. EDIE MERMELSTEIN
18811 Huntington Street, Suite 240
Huntington Beach, CA 92648