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SEP 13 2005

LUTHER D. THOMAS, Clerk
By: Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DIVISION OF GEORGIA
ATLANTA DIVISION

EARTHLINK, INC.,

Plaintiff

v.

CHRISTINA REESE; YAMBOCS, INC.;
ANGELA M. NICKERSON d/b/a
YAMBOCS.COM; and JOHN DOES 4-25
(the "ASMTF Spammers")
IN PROPIA PERSONA
Defendants

CASE NO. 1:04-CV-3008 CAP

RESPONSE TO COMPLAINT FOR INJUNCTION AND DAMAGES

Defendants Christina Reese; Yambocs, Inc.; Angela M. Nickerson d/b/a Yambocs.com (hereby referred to jointly as "Defendants") in propia persona, files this response in regards to the allegations made by the Plaintiff, EarthLink, Inc. (hereby referred to as "Plaintiff".)

DENIAL OF ALLAGATIONS

1.

Defendants adamantly deny all charges made against them in counts I-XVII. Defendants do not possess the technical knowledge or equipment necessary to carry out these accused acts. The Defendants did not receive any benefit or financial gain as a result of "SPAM" or unsolicited email the Plaintiff accuses the Defendants of

sending. Defendants did not knowingly participate in any "SPAM" operations nor have the Defendants ever had any contact with any person or persons, entity, et al having to do with the website the Defendants are accused of "spamming" for, www.mashaworld.com. Defendants were not aware that this website even existed until said complaint was filed.

2.

Defendants have at all times cooperated with any and all entities that have contacted them in regards to this matter, including the Federal Bureau of Investigation and the Attorney General's office located in Atlanta, GA. Defendants given copies of hard drives of every computer owned by them to the FBI, as well as all personal and business related banking records, telephone and cell phone records, and ISP records in an effort to show their innocence in this matter. No criminal charges were brought against the defendants.

3.

Defendants contacted the Plaintiff's attorneys immediately after legal service was received by letter delivered by the United States Postal Service and offered the same evidence to show their innocence. Plaintiff's attorney Paul Wellborn contacted the Defendant Christina Reese on September 2, 2005 via the telephone number provided to the Plaintiff's attorneys in response to the letter sent. Mr. Wellborn asked the Defendants to come to Atlanta at their expense to give a sworn deposition and asked for access to all aforementioned items and documents. Defendant Christina Reese agreed that Angela Nickerson and herself would come to Atlanta to give the deposition and would supply all items requested. Defendant Christina Reese and Mr. Wellborn agreed to speak on the telephone after the holiday weekend to confirm a date of arrival. Defendant Christina Reese called Mr. Wellborn on Tuesday, September 6, 2005 as agreed and left a voice mail message for Mr. Wellborn that was unreturned. Defendant Christina Reese called Mr. Wellborn's office again on Wednesday, September 7, 2005, and left another unreturned voice mail message. On Thursday, September 8, 2005, Defendant Christina Reese

again called the Plaintiff's attorneys and reached Mr. Kelly Wallace. Mr. Wallace informed Christina Reese that he was not yet aware that Christina had spoken to Mr. Wellborn. He further explained that Mr. Wellborn was out of the office that day in meetings, and that either he or Mr. Wellborn would return her call on Friday, September 9, 2005. Defendant Christina Reese did not receive a return call from either Mr. Wellborn, Mr. Wallace, or anybody in the office.

4.

Defendant Christina Reese initially felt that the first conversation with Mr. Wellborn that occurred on September 2, 2005 was fruitful. Mr. Wellborn assured the Defendant that the Plaintiffs were "fair people" and to rest assured that if the Defendants could show that they were not responsible for the unsolicited email and other accusations brought forth in the complaint that the Plaintiff would drop the lawsuit. Mr. Wellborn also assured the Defendant Christina Reese that he was a "straight-shooter" and could be relied upon to be truthful and forthcoming. Since that time, the Plaintiff's Attorneys have avoided the Defendants phone calls. The Plaintiff's Attorneys new that the Defendants were not represented by legal counsel and completely unfamiliar with Civil Law or its process. If not for the research conducted by the Defendants, they would have been unaware that a formal response to the Court would have allowed the Plaintiffs to obtain a default judgment against them. Defendants believe this "phone tag" to be a ploy by the Plaintiff's Attorneys to obtain such a judgment against the Defendants.

CAUSE OF ACTION

5.

Defendants allege and are seeking damages for the following against the Plaintiff;

COUNT I

NEGLIGENT AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

6.

Plaintiffs caused the negligent and intentional emotional distress of the Defendants. Plaintiffs were at

all times aware that the filing of this complaint would cause mental anguish and emotional distress to the Defendants. Since learning of this complaint, the Defendants have been under the care of a physician and have been treated for depression and anxiety.

COUNT II
SLANDER AND DEFAMTION

7.

Plaintiff's committed Slander and Defamation as that term is defined at G.G.A.U.C. 51-5-4. Defendants learned of this complaint through their local newspaper "The Seattle Post Intelligence" in an article or press release dated on or about February 9, 2005, before any legal service had been received or known to exist by the Defendants. Upon further research, Defendants discovered that this information was published in every major newspaper across the country, as well as on the Internet. The press releases made by the Plaintiff's have identified the Defendants by their first and last names, as well as the city of their residence. Plaintiff's press release went on further to identify the Defendants as "Porn Spammers" and charged the Defendants with violating Federal Laws such as the CAN SPAM Act, the Computer Fraud and Abuse Act, and the Georgia Computer Systems Protection Act.

COUNT III
MALICIOUS USE OF CIVIL PROCEEDINGS

8.

Plaintiff's committed Malicious Use of Civil Proceedings as that term is defined at G.G.A.U.C. 51-7-85. Plaintiff's did not conduct and/or complete a competent investigation before filing said complaint against the Defendants. Plaintiff's are abusing the use of Civil Proceedings in order to gain recognition, notoriety, and acknowledgement by the general public, as well as their own customers, for being the "number one spam fighting ISP" without regard to factual information available to the Plaintiff's.

COUNT IV
NEWSPAPER LIBEL

9.

Plaintiffs have committed Newspaper Libel as that term is defined at G.G.A.U.C. 51-5-2. Plaintiff's knowingly gave a press release that identified the Defendants as criminals and "Porn Spammers" knowing that a majority of the general public has a hatred for "spammers" in an effort to disgrace, demoralize, cause contempt for, and ridicule the Defendants.

COUNT V
LIBEL

10.

Plaintiffs have committed Libel as that term is defined at G.G.A.U.C. 51-5-1. Plaintiff's knowingly gave a press that identified the Defendants as criminals and "Porn Spammers" knowing that a majority of the general public has a hatred for "spammers" in an effort to disgrace, demoralize, cause contempt for, and ridicule the Defendants.

COUNT VI
PUNITIVE DAMAGES PERSUANT
TO O.C.G.A. 51-12-51

11.

In relation to their wrongful acts described above and to each and every count set forth above, Plaintiffs have acted with willful misconduct, malice, wantonness, oppression, and/or that entire want of care which raises a presumption of conscious indifference to the consequences of their actions.

12.

Plaintiffs knew that their intentional wrong doing would cause substantial harm to the Defendants. Plaintiff intended the consequences of their actions. The express goal of the Plaintiff's acts was unearned recognition and benefit at the Defendant's expense.

13.

Given the intentional nature of the Plaintiff's conduct, the Defendants are entitled to an award of punitive damages pursuant to O.C.G.A. 51-12-5.1 to punish and penalize the Plaintiff, to deter the Plaintiff from filing similar future complaints against innocent Defendants and other similar entities, and to deter other Internet Service Providers from filing similar, unfounded complaints:

PRAYER FOR RELIEF

14.

WHEREFORE, Defendants Christina Reese and Angela M. Nickerson pray for judgment against the Plaintiff that includes:

- (a) A preliminary and permanent injunction enjoining Plaintiff and any other affiliated persons or entities from directly or indirectly releasing any more libelous, slanderous, and defaming press releases about the Defendants;
- (b) Special and general damages to be proven at trial;
- (c) The trebling of its damages pursuant to statutory law cited herein;
- (d) Punitive and exemplary damages in an amount to be proven at trial;
- (e) Reasonable attorney's fees herein;
- (f) Costs of suit incurred herein; and
- (g) Such other and further relief as this Court may deem just and proper.



CONCLUSION

15.

The Defendants have made themselves available to the legal authorities as well as to the Plaintiff to correct the Plaintiff's mistake. The Defendants have at all times been truthful and open in an effort to correct the Plaintiff's mistake. The Plaintiff has

not responded to the Defendant's openness and continues to cause harm to the Defendants. The Defendants were, after some investigation, able to learn the identity of the "spammer" and have offered this information to the Plaintiff, who has refused to even consider their mistake. It is the Defendants sincerest hope that this Court will see the wrong doing of the Plaintiff and hold the Plaintiff responsible. The Defendants will prove at trial that they are not "spammers" but are in fact victims of both the Plaintiff and the real "spammer".

Respectfully submitted this 12th day of September, 2005.

Christina Reese
Angela M. Nickerson
In Propria Persona

1801 Martin Luther King Jr. Way
Seattle, WA 98122

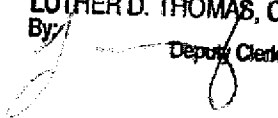
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**RULE 7.1 CERTIFICATE OF
COMPLIANCE WITH LOCAL RULE 5.1**

This is to certify that the foregoing Response to Complaint for Injunction and Damages was prepared using 12 point Courier New font and accordingly complies with Local Rule 5.1 This certificate is given in compliance with Local Rule 7.1(D) this 12th day of September, 2005.

A handwritten signature in black ink, appearing to read 'Christina Reese', with a long horizontal flourish extending to the right.

Christina Reese
Angela Nickerson
In Propria Persona

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