

**IN THE CIRCUIT COURT OF MARYLAND
FOR FREDERICK COUNTY**

DIANA WATERMAN
26 CECILY LANE
COMMACK, NY 11725

JENNIFER GRANT
840 HAVERFORD AVENUE, APT. 2
PACIFIC PALISADES, CA 90272

DANITA CLEMONS
230 Golden Farm Rd.
Beaufort, NC 28516

*on their own behalf and on behalf of
all others similarly situated,*

Plaintiffs,

v.

WILLEM MEINERS
ADDRESS UNKNOWN

LARRY CLOPPER
ADDRESS UNKNOWN

PUBLISHAMERICA LLLP
230 EAST PATRICK STREET
FREDERICK, MD 21701

Case No. _____

DEFENDANTS

Serve on: Victor E. Credtella, III
230 East Patrick Street
Frederick, MD 21701

Defendant.

CLASS ACTION COMPLAINT

Named Plaintiffs Diana Waterman (“Waterman” or “Named Plaintiff”), Jennifer Grant (“Grant” or “Named Plaintiff”), and Danita Clemons (“Clemons” or “Name Plaintiff”) on their own behalf and on behalf of all others similarly situated (“Class”), through their attorneys Cory L. Zajdel, Esq. and Z LAW, LLC and Oren Giskan, Esq. and Giskan, Solotaroff & Anderson & Stewart LLP, hereby submit this Class Action Complaint against Defendant PublishAmerica LLLP (“PublishAmerica” or “Defendant”). For support Named Plaintiffs state:

I. PRELIMINARY STATEMENT

1. Named Plaintiffs Waterman, Grant, and Clemons bring this class action on behalf of themselves and a Class of similarly situated individuals against Defendant PublishAmerica, seeking damages for the proposed Class as defined herein, pursuant to the Maryland common law, California’s Unfair Competition Law, Business and Professions Code §§ 17200, *et seq.* (“CUCL”), 17500, *et seq.*, and the New York General Business Law, N.Y. GBS. LAW § 349 (“NYGBL”).

2. Defendant markets itself as a “traditional advance and royalty paying book publisher” that is home to over 50,000 authors.

3. On its website, Publish America’s uses the tagline: “We treat our authors the old-fashioned way—we pay them.” Nothing could be further from the truth. PublishAmerica makes money *from* its authors, not *for* them. As alleged below, authors published by Publish America have no chance of selling their books to a general audience.

4. Publish America makes its authors’ books un-sellable in a number of ways. The most obvious is pricing. Plaintiff Waterman’s paperback children’s book is priced at \$24.95. By contrast, *Curious George*, a beloved children’s book, is available online at Houghton Mifflin

Harcourt for \$6.99. In fact, Plaintiff Waterman's book is priced significantly higher than all of New York Times' ten best-selling children's books. See Exhibit 1 attached hereto.

5. PublishAmerica sabotages its authors' ability to sell and market their books by printing them with errors. These errors are inserted by PublishAmerica itself. Plaintiff Grant's book has glaring typographical errors. On the side binding of the book, the word "collection" is misspelled as "collectrion." If that were not enough, on every other page, the title of the book is misspelled, replacing "romantically" with "roimantically," humiliating Grant once it became widely searchable on the Internet. Notwithstanding these glaring errors, PublishAmerica prices Plaintiff Grant's book at \$30. This price is notably higher than the top ten selling paperback books. See Exhibit 2 attached hereto.

6. The simple fact is that the only consumers who will purchase these overpriced, poorly published books are the authors themselves.

7. PublishAmerica also bombards its authors with promotions for services to promote books sales. But as alleged below, these services are often no more than a hoax or are never even delivered. Furthermore, they are designed around an inherently unmarketable book.

8. As PublishAmerica openly states on its website, it specializes in books and authors "who face and overcome hardships and obstacles in life."

9. Defendant shamelessly preys on ambitious first time authors and those who have faced significant personal hardships, luring them into exploitatively long contracts, often as long as ten years -- that can only be broken for a high fee.

II. JURISDICTION AND VENUE

10. This Court has jurisdiction over this case pursuant to Md. Code Ann., Cts. & Jud. Proc. § 1-501.

11. Venue in Frederick County is proper because Defendant is headquartered in Frederick County and Defendant's publishing contracts with its authors require that all disputes be resolved in the State of Maryland.

III. THE PARTIES

12. Waterman is a natural person currently residing at 26 Cecily Lane, Commack, New York 11725. Waterman contracted with Defendant PublishAmerica on January 3, 2012 to publish her book *Don't Bite, Dwight*. She contracted with PublishAmerica for the publication of two more children's books, *In a While, Kyle* and *Claire Beware*, on January 19, 2012 and March 16, 2012, respectively. The first two books were published but Waterman terminated the contract for the third book, *Claire Beware*, on August 1, 2012, and the book was not published.

13. Grant is a natural person currently residing at 840 Haverford Avenue, Apt. 2, Pacific Palisades, California 90272. Grant entered into a contract with Defendant PublishAmerica in February 2010 to publish her book *Portraits of the Romantically Challenged*, which was published in June 2010. She has not terminated her contract, and PublishAmerica still owns the publishing rights and the book's ISBN.

14. Clemons is a natural person currently residing at 230 Golden Farm Rd., Beaufort, NC 28516. Clemons entered into a contract with Defendant PublishAmerica on November 2, 2012 to publish her book *The Integrity of Her Death*, which was published on November 26, 2012. She has not terminated her contract, and PublishAmerica still owns the publishing rights and the book's ISBN.

15. Defendant Willem Meiners is a co-owner and co-founder of PublishAmerica. He closely controls all aspects of PublishAmerica and uses the business to commit fraud.

16. Meiners controls the day to day operations of the company, including but not

limited to the staffing, business decisions, and the creation of all services PublishAmerica promotes to its authors.

17. Meiners also writes threatening emails to authors from nameless PublishAmerica email accounts.

18. Upon information and belief, Meiners is extracting all profit from the company.

19. Defendant Lawrence Clopper is a co-owner and co-founder of PublishAmerica. He closely controls all aspects of PublishAmerica and uses the business to commit fraud.

20. Clopper controls the day to day operations of the company, including but not limited to the staffing, business decisions, and the creation of all services PublishAmerica promotes to its authors.

21. PublishAmerica currently operates out of Mr. Clopper's private townhome.

22. Upon information and believe, Clopper is extracting all profit from the company.

23. Defendant PublishAmerica is a Maryland Limited Liability Limited Partnership with its principal office and place of business at 230 Patrick Street, Frederick, MD 21701. Defendant depicts itself as a traditional publisher that pays advances and royalties to its authors.

IV. STATEMENT OF FACTS

24. Aspiring authors face daunting choices in publishing their work. The most coveted publishers remain traditional publishing houses that pay advances and royalties and assume the financial burden and risk of publishing a book.¹

25. Publication through such publishers is extremely rare. Traditional publishers profit from selling an author's books and invest in editing, designing, marketing, and selling the book to wholesalers and retailers. Authors receive royalties from book sales.² Book stores

¹ MARILYN ROSS & SUE COLLIER, GUIDE TO SELF-PUBLISHING 21(5th ed. 2010)

² *Id.*

usually stock books from traditional presses only, since these publishers accept returns of unsold books.³

26. PublishAmerica advertises itself as a traditional publisher, even bearing the tagline: “We treat our authors the old-fashioned way – we pay them.” On its website, Defendant sets forth a benevolent philosophy: lowering the bar to publication by a *traditional publisher* so that more authors can fulfill their dreams.

27. The website also sets forth an innocuous business model, acknowledging that while most authors sell only a handful of books, sales from a handful of books multiplied by over fifty thousand authors yields significant profits, permitting PublishAmerica to operate as a traditional publisher without any big name authors or blockbusters. But this is not the case.

Nature of Defendant’s Business

28. PublishAmerica bears no resemblance to a traditional publisher: it has no intention of selling its authors’ books to a general audience. For starters, PublishAmerica sets outrageously high prices for its books. In some instances, PublishAmerica fails even to stock retailers with books when readers have ordered them online from stores such as BarnesandNoble.com and Amazon.com, forcing retailers to refund their customers’ orders. This occurs precisely because PublishAmerica is not in the business of selling books to a general audience but of scamming authors.

29. PublishAmerica profits first by selling books back to the author, then proceeds to profit by selling authors bogus services designed around an unmarketable product and never delivering those services.

³ Rudy Shur, HOW TO PUBLISH YOUR NON-FICTION BOOK: A COMPLETE GUIDE TO MAKING THE RIGHT PUBLISHER SAY YES 37, 158 (2001).

30. For example, PublishAmerica sells book reviews from allegedly prominent literary or publishing figures to be posted on online sources such as goodreads.com. But authors soon discover that PublishAmerica never contacted the alleged reviewer and never posted any book reviews.

31. Defendant also bombards authors with offers to rush the publication of their book for a fee, when in fact PublishAmerica does nothing differently to expedite the process.

32. Defendant offers to promote books at international conventions and fairs, charging extra for placement in the front of the booth, while never displaying copies of those books at all.

33. Defendant also offers to lower the book's list price, again for a large fee.

34. Most troubling for authors, their book is often published replete with formatting and typographical errors that the authors did not make. After the book has been published and distributed, PublishAmerica then bombards authors with promotions to fix the errors *if the author buys more copies of her book or pays an exorbitant flat fee*. In other words, PublishAmerica will often send manuscripts to authors filled with errors the author herself did not make, rush the manuscript to publication, and induce its authors to buy several copies of its own book in order to fix these errors. Many authors are embarrassed about the poor quality of their book, widely available for preview or purchase on the Internet, and will pay hefty fees to edit their book.

35. Upon information and belief, PublishAmerica *intentionally* inserts errors into its authors' final manuscripts immediately before publication for the purpose of selling editing services after the book has been published. In addition, PublishAmerica makes no effort to identify and correct existing errors in submitted manuscripts.

36. PublishAmerica also turns a steady profit by selling copies of the book back to the author and her friends and family, its built-in consumers, at a grossly inflated price, charging six to eight dollars *per book* for shipping.

37. PublishAmerica also profits by selling its authors contact information, as some authors find that after signing a contract with PublishAmerica, they are then bombarded with phone calls and emails from other publishing services.

38. PublishAmerica has established a quota, requiring its employees to obtain twenty book contracts per day, knowing that each signed contract will generate revenue, but not from book sales to a general readership.

Defendant's Deceptive Tactics

39. PublishAmerica employs several tactics to lure authors into signing publishing contracts. Even the terms of the publishing contract itself are strategically designed to give authors the impression that PublishAmerica operates a legitimate, traditional publishing house that serves the best interests of the author when in fact it runs a scam operation that sells bogus services to its authors centered around an unmarketable product.

40. For example, the terms of the contract provide for royalties. However, PublishAmerica knows that its authors will almost never sell enough copies of their books to earn a single penny in royalties. Upon information and belief, beginning around 2010, Defendant thus amended its publishing contracts, increasing the royalties its authors would theoretically receive to make the terms of the contract more appealing to authors.

41. Even in the few instances where an author has earned royalties as per the terms of the contract, PublishAmerica fails to pay its authors.

42. Since the terms of PublishAmerica's publishing contract expressly provide for

royalties, authors enter into the agreement with the expectation that PublishAmerica will uphold its end of the bargain and will not thwart or frustrate authors' efforts to earn income from their work and to promote their work. But at every turn, PublishAmerica does exactly that.

43. The terms of the contract give authors the impression that PublishAmerica will create an "attractive and substantial-looking" book; that PublishAmerica will take efforts to promote their work; and also that PublishAmerica will make edits, revisions, and general efforts to "provide editorial services of its own that it considers in the *best interest* of the Work." (Emphasis added.) But PublishAmerica does not intend and utterly fails to serve the best interests of an author's work.

44. PublishAmerica creates positive reviews of the company and its services online. Amazon.com took notice of this tactic and required PublishAmerica to stop reviewing. As a result, Defendant attempted to diversify the IP addresses of the reviews to escape Amazon.com's detection and continue submitting positive reviews of the company online.

45. PublishAmerica asks its authors to "like" the company on Facebook in exchange for personal messages from PublishAmerica's CEO, which never come to pass.

46. Even a flawless book put out by PublishAmerica is inherently unmarketable for the simple reason that book stores will not stock PublishAmerica's books.⁴

47. The books are highly overpriced, notorious for poor design and editing, and most significantly, unsold copies cannot be returned to the publisher, a practice that is expected of traditional publishing houses.

48. Bookstores will not assume the risk of selling every copy of the books that it stocks, since industry practice dictates that it is the publisher's role to assume that risk. Authors

⁴ *Attention Writers: Avoid PublishAmerica*, N. Country Gazette, (August 29, 2012 6:15 p.m.), http://www.northcountrygazette.org/2010/04/19/writers_shaft/.

who have placed copies in bookstores must typically buy copies themselves and place them in a bookstore to be sold on consignment. Many authors do not even receive free copies of their own book. Since almost no store will stock PublishAmerica's books, authors find themselves automatically excluded from book readings and signings to promote their books.

49. These practices drive many authors to terminate their seven to ten year contracts with PublishAmerica, but often, this can only be done only for a large fee of several hundred dollars, if it can be done at all.

50. Oftentimes, PublishAmerica fails to respond to emails from members of the Class requesting contract termination.

51. PublishAmerica knows that its books have almost no chance at placement in a traditional bookstore, since PublishAmerica does not accept returns on unsold books.

52. Nonetheless, PublishAmerica writes into its contracts that authors are contractually obligated "to actively participate in promoting the sales . . . in his home town area and elsewhere, by making himself available to media interviews, book readings and/or signings . . ." of their own books. This contract provision is deceptive, and also strategic, for two reasons.

53. First, the terms create the impression that PublishAmerica is in the business of profiting from book sales to a larger audience when this is not the case.

54. Second, the terms allow PublishAmerica to exploit and profit from the book's very unmarketability, baiting authors to pay for various book promotion products.

55. To honor the terms of the contract regarding self-promotion, authors must first have the financial capital to buy several copies of their own book. They must then attempt to place them in bookstores, usually on consignment in independent bookstores. But even here, PublishAmerica frustrates authors' efforts to meet the terms of the contract by using poor design

that is unappealing to consumers, shoddy copyediting, and most significantly, by pricing books far above market value.

56. Class members enter into publishing contracts with PublishAmerica with the expectation that PublishAmerica will appropriately design the book, as per the terms of the contract, “in such format, type and style of paper, jacket and binding as will make the volume(s) attractive and substantial looking.” PublishAmerica fails to deliver this promise, using amateur art and stock art that is poorly edited and unappealing to consumers and a telltale sign to book store managers that the book is of poor quality.

57. Class members are also led to believe that PublishAmerica will edit the author’s book, which is typical of traditional publishing house, but this is not the case.

58. The poor quality formatting, art, and design of the book and the exorbitant price set by the publisher directly prevent authors from successfully promoting their own work, even to small, independent bookstores or even libraries.

59. PublishAmerica exploits the book’s poor quality and inherent unmarketability with a long menu of bogus promotional and marketing services for authors to purchase, ranging in price from tens of dollars to hundreds of dollars.

60. Once an author has signed a long publishing contract with PublishAmerica, they typically encounter a range of obstacles and frustrations, from extremely poor service, slow response times from editors, lack of telephone communication or access, threatening and abusive emails, to PublishAmerica’s odd practice of not disclosing editors’ last names, so that class members do not know whether they are receiving a canned email or an actual, individually crafted response.

Waterman Allegations

61. Waterman signed three contracts with PublishAmerica in short succession over the course of two months. She first signed a contract with PublishAmerica on January 3, 2012 for the publication of her first children's book, *Don't Bite, Dwight*, published on May 9, 2012. Waterman signed a second contract on January 19, 2012 with PublishAmerica for her second children's book, *In a While, Kyle*, which was published on July 20, 2012. She signed a third contract on March 16, 2012 for her children's book *Claire Beware*, which was never published, since Waterman terminated the contract on August 1, 2012 by paying \$299.00.

62. None of the contracts Waterman signed explained that she would have to pay fees to edit or promote her book. All of her contracts required PublishAmerica to design and create an attractive and substantial-looking book.

63. Based on representations made on Defendant's website, Waterman believed that PublishAmerica was a traditional publisher that would provide her a legitimate avenue to launch her children's book career.

64. Waterman selected to work with PublishAmerica because she believed, based on representations on Defendant's website, that they are not a vanity press and that she would not have to pay fees. Waterman spent approximately 80 hours drafting her first children's book, and several more hours going over edits with friends and family.

65. Waterman submitted the manuscript to PublishAmerica, which promised to edit, design, illustrate, promote, and market her book.

66. In an email to Waterman dated January 3, 2012, encouraging Waterman to publish with PublishAmerica, the "Acquisitions Editor" named "Michael," no last name provided, represented that PublishAmerica encourages authors to be involved with the cover design and other design elements. He also cautioned that PublishAmerica maintains final say

over book design and production to ensure a book's marketability, stating "[p]lease remember that if a book does not sell, we will only lose money."

67. Waterman understood this to mean that PublishAmerica made its money from book sales and was thus invested in making every effort to sell her book. She decided to sign two more publishing contracts with PublishAmerica.

68. In May 2012, however, when she received a draft of the first book, Waterman was concerned about the poor editing of the text, the illustrations, and other design elements.

69. She submitted a list of corrections to the text and a list of suggestions for the illustrations. She was allowed to make only five changes to the illustrations. While she made changes to punctuation and grammar, PublishAmerica failed to copyedit her book and published it with several mistakes. Furthermore, the illustrations it used were of extremely poor quality and poorly edited so that some illustrations failed to fill a page or bled onto the next.

70. *Don't Bite, Dwight* was placed on Amazon.com and BarnesandNoble.com. As per the terms of the publishing contract, Waterman's husband, Jason Waterman, attempted to place the book at several bookstores and also at the local library.

71. Barnes & Noble told him that the book was published by a Print-on-Demand publisher and would thus not stock it, since the publisher would not accept unsold copies. The local library likewise refused to stock the book, since it contained grammatical errors and unprofessional art.

72. Waterman purchased twenty copies of her book on June 9, 2012 for a total of \$389.30, \$139.80 of which was for shipping. The list price of *Don't Bite, Dwight*, set by PublishAmerica, is \$24.95, which is unreasonably high for a poorly illustrated soft-cover children's book.

73. PublishAmerica sends Waterman approximately ten or more solicitations for various services *each day*, including several emails baiting her to buy more copies of her own book in exchange for the opportunity to publish a second edition of the book with more corrections. Waterman has declined such offers.

74. On June 13, 2012, Waterman did, however, purchase a \$34.99 package allegedly designed to market her book to Scholastic press, a major children's book publisher. On June 15, 2012, she received the following email from PublishAmerica:

From: noreply@publishamerica.com
To: diny15@hotmail.com
Date: Fri, 15 Jun 2012 11:55:39 -0400
Subject: Scholastic and your book

Dear jason waterman:

Thank you for participating in our Scholastic presentation. Discussions are moving forward with the executive editor that we met with during Book Expo America recently in New York. After that meeting she took a handful of book reviews and a full-color catalog for consideration. This time, your book will be on our list to discuss with her. Scholastic is the publisher of countless children's and young adult books including Harry Potter and the Hunger Games trilogy. Your book deserves the chance to be side by side with these best sellers and this could be your opportunity to get the attention of Scholastics high-ranking editor.

If any interest is shown in your book we will be sure to let you know. Any transfer of rights will be handled as smoothly as possible for everyone involved.

Thank you,
PublishAmerica Support
www.publishamerica.com
Follow us on Twitter at @PublishAmerica!
Like us on Facebook: <http://www.facebook.com/PublishAmerica>
PublishAmerica is hosting an authors convention July 26 in Branson. Register at www.authorsconvention.com .

75. Waterman soon realized that the Scholastic press package was a scam: the only sign that the presentation to Scholastic had occurred was the above canned email filled with

promises that would never materialize. Waterman did not hear anything regarding the Scholastic promotion again.

76. Waterman's second book *In a While, Kyle* was published on July 20, 2012, containing several mistakes and low quality art. Waterman purchased twelve copies of the book for \$112.54, of which \$95.88 was for shipping alone.

77. On July 25, 2012, PublishAmerica sent Waterman proofs for her third book. Again, Waterman was concerned with the poor editing and low quality illustrations. Waterman's husband wrote to a PublishAmerica editor requesting that it hold off publication of the book since it was poorly edited, illustrated, and generally not marketable. Defendant, most likely through Defendant Meiners, responded rudely:

Date: Thu, 26 Jul 2012 21:45:00 -0400
To: diny15@hotmail.com
From: noreply@publishamerica.com
Subject: Jason Waterman: none of your business

Dear Jason Waterman:

With all due respect, sir, this book is none of your business. The contract we have for production of this book is with your wife and your wife alone. We will discuss this book with her and her alone, as the contract clearly states.

There have been no contract breaches on our end. Any good lawyer would advise you to drop this nonsense. The contract clearly states that all matters dealing with the design and production of the book are at the publisher's election and discretion. Publisher means PublishAmerica and only PublishAmerica. We involve our authors in the process, but we retain the final say, and may we remind you once more that you are not even the author of this book.

Proceed in these nonsensical delays, and we will terminate the contract for this book thus ending your wife's opportunity to have the book published. Quit copying ceoletter@publishamerica.com on all messages.

PublishAmerica is hosting authors conventions!
Register at <http://www.authorsconvention.com/>

PublishAmerica Support

<http://publishamerica.com/support/>

Follow us on Twitter at @PublishAmerica!

Like us on Facebook: <http://www.facebook.com/PublishAmerica> We have 16,000 Likes!

78. Waterman requested to be released from her contract. PublishAmerica, from a nameless source, responded:

Date: Sun, 29 Jul 2012 18:35:00 -0400

To: diny15@hotmail.com

From: noreply@publishamerica.com

Subject: Diana Waterman: contract termination request

Dear Diana Waterman:

We have received your request to terminate your book's contract. As a general rule, publishers are not in favor of that. When a publisher agrees to contract a book, it is done with an expectation of entering into a profitable venture. PublishAmerica never charges any of its authors any money in return for producing and publishing their book and making it available to a worldwide audience. This is why we enter into contracts with a seven-year lifetime, which affords the book ample opportunity to turn a profit.

If your request was granted, PublishAmerica would be denied, prematurely, any hope of recovering its expenses. This is why we would prefer to keep the contract in place until its expiration date.

Therefore, if you were to persist on wishing to relinquish your status as a published author, we can only grant your request if you agree to a \$299 compensation payment, which will help to offset some of our losses. If you want to proceed with termination, please go to: <http://www.publishamerica.net/service/product9.html>. Be sure to enter your book's title in the "order comments" field. If not, we will both understand and applaud your decision. As said, we prefer to keep the book under contract.

PublishAmerica is hosting authors conventions!

Register at <http://www.authorsconvention.com/>

PublishAmerica Support

<http://publishamerica.com/support/>

Follow us on Twitter at @PublishAmerica!

Like us on Facebook: <http://www.facebook.com/PublishAmerica> We have 16,000 Likes!

79. Waterman paid the \$299 to terminate the contract for *Claire Beware*. Even though the book was never published, PublishAmerica claims to maintain ownership over the

book's ISBN number, allowing it to set unreasonably high book prices.

Grant Allegations

80. Grant contacted PublishAmerica by letter in November 2009. PublishAmerica responded by inviting Grant to submit her manuscript. On December 4, 2009, Grant submitted an incomplete manuscript and ten days later, on December 14th, 2009, PublishAmerica accepted the manuscript.

81. Grant reviewed PublishAmerica's contract and had numerous questions about it. She did not sign it immediately. On February 12, 2010, Grant received a phone call from PublishAmerica asking if there was anything they could do to help her accept the contract.

82. Based on Defendant's website and emails Grant exchanged with Defendant, Grant believed that PublishAmerica was a traditional, and professional, publisher. As a result, on February 20, 2010, Grant entered into a seven year contract with PublishAmerica, which gave PublishAmerica publishing rights to her book and also ownership over the book's ISBN. On February 24, 2010, Grant even emailed her editor at PublishAmerica a thank you email.

83. Grant received proofs of her book in June 2010. The proofs returned to Grant replete with glaring errors made by PublishAmerica. For instance, on the side binding of the book, the word "collection" is misspelled as "collectrion," and the title of the book, displayed on the top of every other page, contains a typographical error, replacing the word "romantically" for "roimantically." In the table of contents, the subtitle of a chapter containing the phrase "surface religion" had been changed to "surfer religion." Other subtitles were completely omitted or lacked apostrophes to indicate possession. Furthermore, many of the chapters of the book ran together and were not separated onto different pages.

84. By the terms of her contract, Grant was given forty-eight hours to edit the proof.

The proof contained so many errors within the first forty-three pages of the two hundred eighty-sixth page book, however, that Grant realized she would not have enough time to make all corrections.

85. She requested an extension and immediately asked PublishAmerica to send her a new proof that addressed the glaring errors before she entered her corrections. PublishAmerica corrected a handful of the glaring errors and never sent Grant a new proof. Instead, Grant received an email stating that the book met professional and industry standards.

86. Grant requested that PublishAmerica not submit her book for publication as a result of its poor quality.

87. On June 17, 2010, Grant emailed customer service to request that they edit the book properly, otherwise she wished to rescind her contract with PublishAmerica.

88. On June 24, 2010, five copies of her book were sent to her in the mail. These copies were filled with errors. PublishAmerica rushed the book to publication and distributed the book to Amazon.com, Barnesandnoble.com, and other online distributors.

89. PublishAmerica priced the soft-cover book at \$29.95, well above market-price for a soft-cover book.

90. Grant personally contacted as many distributors as she could to request that they remove her book from their websites, since she felt that readers should not pay for such a poorly edited book. Many companies obliged her request.

91. PublishAmerica then began distributing her book through international websites and Grant has been unable to remove the book from many international and some national distributors' sites.

92. PublishAmerica repeatedly attempted to sell Grant copies of her book, but she

refused to buy copies of her book, because of its poor quality.

93. PublishAmerica also made several offers to her to induce her to pay a large fee to correct the errors that PublishAmerica had inserted into her own book. Grant refused to do so.

94. In July 2010, Grant contacted the Better Business Bureau, but they were unable to resolve her dispute with PublishAmerica.

95. PublishAmerica maintains publishing rights and ownership over the ISBN of Grant's book.

Clemons Allegations

96. Clemons signed a contract with PublishAmerica on November 2, 2012 for the publication of her book *The Integrity of Her Death*. The book was published on November 26, 2012. None of the contracts Clemons signed explained that she would have to pay fees to edit or promote her book. All of her contracts required PublishAmerica to design and create an attractive and substantial-looking book.

97. Based on representations made on Defendant's website, Clemons believed that PublishAmerica was a traditional publisher that would allow her to launch her career as a writer.

98. She was eager to see her work in print and to promote her book extensively.

99. To that end, on November 12, 2012, she purchased several services, including a fee for rush publication of her book for \$199.00.

100. Upon information and belief, her book was not expedited in any way to the printer.

101. On that same date, Clemons ordered a "Christmas Review" of her book that was to be reviewed and posted on goodreads.com by "the top book reviewer," Jaime Polychrones, as advertised on PublishAmerica's website. The review was to be completed in time for the holiday

shopping season. Jaime Polychrones never received any information regarding Clemons and never posted a review of her book online. Clemons paid \$49.00 for the review itself and \$7.99 in shipping for PublishAmerica to send Clemons a copy of the review in the mail, which she never received.

102. On November 14, 2012, Clemons ordered a service to promote her book on the first page of a PublishAmerica brochure to bookstores throughout New York City. She and her family called numerous bookstores to ask whether they had received such a brochure with her book listed, and not a single one of them had. Clemons paid \$45.00 for the service and \$7.99 to have a brochure shipped to her home, which she never received.

103. On November 25, 2012, Clemons ordered a service for free shipping until 2013, which she was told included free shipping on PublishAmerica's special "services," such as shipping on promotional brochures that she ordered. She paid \$74.00 for this service and was then told that the free shipping only applied to book orders.

104. On November 28, 2012, she ordered a service that would promote her book via brochure to public libraries nationwide. She paid \$59.00 for the service and \$7.99 for shipping. After a few phone calls to libraries, she realized her book had not been promoted to libraries either.

105. On November 25, 2012, she emailed the CEO to express concern over the list price of her book. She received an email response, unsigned, offering to reduce the price of the book for a fee.

106. Clemens made significant efforts to promote her own book. In December 2012, just from her friends and family alone, eighty consumers attempted to purchase her book on Amazon.com and Barnesand Noble.com, but both retailers told the consumers that they were not

in stock.

107. On January 16, 2013, after realizing that PublishAmerica had scammed her, Clemons wrote a long email to Defendant expressing her frustration and requesting that PublishAmerica reimburse her for services she ordered two months prior and had never received.

108. In return, she received a menacing response, again unsigned, demanding that she apologize for various allegations:

From: PublishAmerica Support <noreply@publishamerica.com>
To: deeclemons@ymail.com
Sent: Wednesday, January 16, 2013 5:58 PM
Subject: Danita Clemons: making a fool of herself

Dear Danita Clemons:

Your message is so full of nonsense that it is absolutely bizarre. As you can see below, we deleted it without even reading all of it. Do NOT send us such nonsense in the future. We reply below to just a couple of things. Read the facts, apologize, and then we will respond to any other issues that you may have.

>>I know that you've been involved in large class
>>action lawsuits, all of which are basically stalemate

READ CAREFULLY:

No, we have NOT been involved in ANY class action lawsuit.
AGAIN, NO, we have NOT been involved in ANY class action lawsuit.

We are happy to tell you that there is no suit. There never was a class-action suit. It was rejected by a judge. The court dismissed all Plaintiffs' claims and found no validity in them whatsoever. Even if that were not the case, it would not matter. Lawsuits are very common in this industry, and in our society.

The same law firm filed class action lawsuits against Simon and Schuster, HarperCollins, PublishAmerica, and Penguin, so we are in good company. A class action lawsuit has also been filed against Harlequin, the famous romance novel publisher. The claims are directly contradicted by the following:

- PublishAmerica's contracts, websites, and contract performance
- 47,000 authors happily joined us over the past twelve years
- 15,000 authors happily joined us again, for their next book

The claims distort the facts, omit relevant information, and were just plain false. The claims are without any basis, and they were rejected by the court.

And, our reputation is stellar. We have been steadily growing for 12 years! We have 57,000 titles under contract. And thousands of our authors keep telling the world how happy they are:

<http://www.publishamerica.com/testimonials/index.php>. There are now over 4,000 unsolicited testimonials. That, of course, is the real story. For every one author who complains, there are many more who praise us.

>>I've researched your company well since we began

No, you have not. If you had, you would know that what you are saying is simply false. We will expect your apology.

>>I have spoken with every bookstore in Manhattan

No, you did not. We will expect your apology.

>>NO WHERE have I been able to find that my book was
>>introduced in ANY of your pamphlets or advertising

No, that is false. We will expect your apology.

>>return my monies for services not provided, that simple

Certainly, we would be happy to do so. But all the services that you paid for were provided.

>>I know that you have enough claims against you with the
>>Better Business Bureau that the B.B.B. isn't hip to hearing it anymore

Stop the childish slang. No, that is false. We will expect your apology.

READ CAREFULLY: Here is some TRUE information about a lawsuit that we WERE involved in:

The leader of the group that conned you falsely accused PublishAmerica and its attorney of numerous unethical and illegal activities. He was served a summons to attend trial and testify, and a judgement was entered by a jury. What he said was found to be simply, plainly, false, and the jury rejected his testimony. He was ordered to pay \$53,000 in damages, his paychecks are being garnished, and he has paid thousands of dollars so far.

We travel all over the world to meet with foreign and domestic book publishers and rights agents. Recently we have gone to England, France, Scotland, Israel, Iceland, Japan, Greece, and Mexico. We also went to China, to the Beijing Book Fair, and to Germany,

to the famous Frankfurt Book Fair.

PublishAmerica is home to 45,000 authors and 60,000 book titles. We have achieved success like no other publisher in history. We accept more new and unpublished authors than any other traditional book publisher in the nation. We produce and publish a book at zero cost to the author, period. We are also the world's number one illustrated children's book publisher. We illustrate children's books for absolutely free.

So, we're thriving, for 13 years, with millions of customers, 60,000 titles, and people contacting us each day to join us!

PublishAmerica Support
<http://publishamerica.com/support/>

PublishAmerica is hosting an author's convention in Gettysburg PA on February 12th, 2013

Register today at: www.authorsconvention.com

Follow us on Twitter at @PublishAmerica!

Like us on Facebook: <http://www.facebook.com/PublishAmerica> We have 17,500 Likes!

109. PublishAmerica maintains publishing rights and ownership over the ISBN of Clemons's book.

V. CLASS ACTION ALLEGATIONS

110. Named Plaintiffs bring this action as a class action pursuant to Rule 2-231 of the Maryland Rules on behalf of themselves and the following class:

All persons residing in the United States who contracted with PublishAmerica LLLP for the publication of their literary work(s) within three years from November 29, 2012.

Excluded from the class are Defendant, Defendant's employees and any entity in which the Defendant has a controlling interest, and their legal representatives, officers, directors, assignees and successors.

111. Named Plaintiffs also bring this action on behalf of a subclass of all people who

are currently and formerly under contract with PublishAmerica for the publication of their literary work(s) within the last three years and are residents of California or New York. Excluded from the class are Defendant, Defendant's employees and any entity in which the Defendant has a controlling interest, and their legal representatives, officers, directors, assignees and successors.

Subclasses

California: All persons residing California who contracted with PublishAmerica LLLP for the publication of their literary work(s) within three years from November 29, 2012.

New York: All persons residing in New York who contracted with PublishAmerica LLLP for the publication of their literary work(s) within three years from November 29, 2012.

112. **Numerosity/Impracticability of Joinder:** The members of the Class are so numerous that joinder of all members would be impracticable. The proposed Class includes thousands of members. The precise number of Class members can be ascertained by reviewing documents in Defendant's possession, custody, and control.

113. **Commonality and Predominance:** There are common questions of law and fact which predominate over any questions affecting only individual members of the Class. These common legal and factual questions include, but are not limited to the following:

- (a) Whether PublishAmerica misled Named Plaintiffs and the Class;
- (b) Whether PublishAmerica's representations that it is a traditional publisher has the capacity, tendency, or effect of deceiving or misleading consumers;
- (c) Whether PublishAmerica's representations of its publishing or promotional services have the capacity, tendency, or effect of deceiving or misleading consumers;
- (c) Whether PublishAmerica's representations of its publishing or promotional services suggest a sponsorship, approval, status, affiliation, or connection which it

does not have;

- (d) Whether Named Plaintiffs and the Class were injured as a result of PublishAmerica's deceptive conduct;
- (e) Whether Named Plaintiffs and the Class have conferred a benefit upon PublishAmerica;
- (f) Whether it is inequitable for PublishAmerica to retain the publishing rights of Named Plaintiffs and members of the proposed class;
- (g) Whether it is inequitable for Publish America to retain payment for services that it misrepresented or failed to carry out;
- (h) Whether, as a result of PublishAmerica's conduct, Named Plaintiffs and the Class have suffered damages; and if so the appropriate amount;
- (i) Whether PublishAmerica acted in such a manner as to prevent Named Plaintiffs and members of the Class from performing obligations under the contract
- (j) Whether Defendant's conduct violated the California Unfair Competition Law;
- (k) Whether Defendant's conduct violated the California Business and Professions Code; and
- (l) Whether Defendant's conduct violated the New York General Business Law.

114. **Typicality**: The Named Plaintiffs' claims are typical of the claims of the members of the Class. Named Plaintiffs and all Class members have been injured by the same wrongful practices in which PublishAmerica has engaged. Named Plaintiffs' claims arise from the same practices and course of conduct that give rise to the claims of all Class members and are based on the same legal theories.

115. **Adequacy**: Named Plaintiffs are representatives who will fully and adequately assert and protect the interests of the Class, and have retained class counsel who are experienced and qualified in prosecuting class actions. Neither Named Plaintiffs nor their attorneys have any interests which are contrary to or conflicting with the Class.

116. **Superiority**: A class action is superior to all other available methods for the fair

and efficient adjudication of this lawsuit, because individual litigation of the claims of all Class members is economically unfeasible and procedurally impracticable. The individual damages incurred by each Class member resulting from PublishAmerica's wrongful conduct are too small to warrant the expense of individual suits. The likelihood of individual Class members prosecuting their own separate claims is remote, and even if every Class member could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases. Individual members of the Class do not have a significant interest in individually controlling the prosecution of separate actions, and individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all of the parties and to the court system because of multiple trials of the same factual and legal issues. Named Plaintiffs know of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action. In addition, PublishAmerica has acted or refused to act on grounds generally applicable to the Class and, as such, final injunctive relief or corresponding declaratory relief with regard to the members of the Class as a whole is appropriate.

117. Named Plaintiffs and the Class do not anticipate any difficulty in the management of this litigation.

VI. CLAIMS FOR RELIEF

COUNT ONE BREACH OF CONTRACT

118. Named Plaintiffs repeat and reallege the allegations set forth herein and further allege:

119. Named Plaintiffs and the other members of the Class all entered into publishing contracts with PublishAmerica during the Class Period.

120. Defendant uses a standard contract with all of its authors. Upon information and belief, Defendant has made no material changes to its publishing contracts in the last three years other than the duration of the contract, which does not impact this lawsuit.

121. Defendant has expressly breached its contract with Named Plaintiffs and members of the class by failing to pay royalties due.

122. Every contract also imposes upon each party a duty of good faith and fair dealing in the performance of the contract.

123. Under Maryland law, the duty of good faith prohibits one party from acting in such a manner as to prevent the other party from performing his obligations under the contract.

124. In addition, in agreements providing royalties, Maryland law imposes an implied promise of diligent and careful performance in good faith.

125. At all times during the class period, Defendant failed to carry out its promise to act diligently and to carefully perform the contract in good faith by:

- a. intentionally sabotaging the ability of Named Plaintiffs and members of the class to sell and market their books;
- b. intentionally inserting errors into the manuscripts of Named Plaintiffs and members of the class or by not correcting blatant publisher or author errors to support the best interests of the work;
- c. overpricing the books of Named Plaintiffs and members of the class; and
- d. failing to stock online retailers promptly.

126. Defendant has also promised to format and design the book to ensure that the book is “attractive and substantial-looking.”

127. Defendant has failed to do so and has thus breached the contract entered into with

members of the Class by using stock art or extremely low quality art that bookstores, libraries, and literary agents immediately identify as low quality work.

128. At all times during the class period, Defendant has obligated Named Plaintiffs and members of the Class to participate in promoting their literary work(s) in their hometown and elsewhere, but their efforts to do so have been thwarted by Defendant's deceitful business practices.

129. Defendant breached the implied covenant of good faith and fair dealing in its agreements with Named Plaintiffs and the Class by hindering members of the Class from promoting their own works in creating an inherently unmarketable, poorly edited, and ill-designed product designed either: (1) to bait members of the Class into purchasing fee-for-service products that were not reasonably designed to improve the quality of or market the author's work(s); or (2) to encourage termination of the contract with Defendant for a large fee, while still maintaining ownership over the ISBN.

130. As a direct result of PublishAmerica's breach of contract and breach of the implied covenant of good faith and fair dealing, Named Plaintiffs and the other members of the Class suffered damages in an amount to be determined at trial.

COUNT TWO
UNJUST ENRICHMENT

131. Named Plaintiffs repeat and reallege the allegations set forth herein and further allege:

132. Named Plaintiffs and class members have conferred a benefit upon Defendant in the form of right to publish their works or in the form of payment for one or more of the dubious services defendant offers concerning the publication, production or promotion of their books.

133. Defendant acknowledges the benefits received. Defendant seeks to hold the

publication rights to the works written by Named Plaintiffs and class members. Defendant has also retained payments from Named Plaintiffs and class members for services relating to the publication, production or promotion of their books.

134. Defendant has represented itself as a traditional publisher, rather than a vanity press. As such, it created expectation that it would provide some minimal services to produce and market the books to the public.

135. The books are not properly edited and are poorly marketed. Defendant's no-return policy and pricing policies also make the books unmarketable to the general public.

136. Because Defendant represented itself as a traditional publisher and then failed to provide the minimal services that a traditional publisher would provide, retention of the publication rights to the works of Named Plaintiffs and class members would be inequitable. For the same reason, it is inequitable for Defendant to retain payment for services related to the production and promotion of books published by Named Plaintiffs and members of the class. It is also inequitable for Defendant to retain payment for services that it misrepresented or failed to carry out.

COUNT THREE **FRAUD**

137. Named Plaintiffs repeat and reallege the allegations set forth herein and further allege:

138. As alleged herein, in the course of conducting its alleged business of publishing books and providing promotional services, Defendant has intentionally and falsely represented to Named Plaintiffs and members of the class that it is a traditional publisher in the business of profiting from the sale of books to a general readership.

139. The purpose was to defraud the Named Plaintiffs and members of the class by

luring them into purchasing copies of their own book at a high cost.

140. The purpose was also to defraud the Named Plaintiffs and members of the class by luring them into purchasing services not reasonably designed to promote, improve, or sell the inherently unmarketable product.

141. The Named Plaintiffs reasonably relied on these misrepresentations and had the right to rely on these misrepresentations.

142. As a proximate result of Defendant's intentional misrepresentations, Plaintiffs and members of the Class suffered damages in an amount to be proven at trial.

COUNT FOUR
CALIFORNIA BUSINESS AND PROFESSIONS CODE
(CAL. BUS. & PROF. CODE § 17500, ET. SEQ. – Untrue Advertising)
(California Subclass)

143. Grant repeats and realleges the allegations set forth herein and further alleges:

144. Grant asserts this cause of action for violations of California Business and Professions Code § 17500, *et seq.*, for untrue advertising against Defendant.

145. At all material times, Defendant has engaged in a scheme of luring its authors in with false promises of publication by a traditional publisher to Grant and members of the California Class by way of, *inter alia*, the Internet, its website, its publishing contract, its email correspondence with its authors, and other materials.

146. Defendant does not operate as a traditional publisher.

147. At all material times, Defendant has also made representations on its website, its publishing contract, its email correspondence with its authors, and other materials, falsely claiming or conveying the impression that Defendant will engage in reasonable marketing efforts and will provide reasonable support to its authors in their efforts to promote their works as a

traditional publisher would. Defendant does not disclose to its authors that it will only promote their work on a fee-for-service basis, nor does it reveal to its authors that it lacks the reputation, skills and connections to provide reasonably effective marketing services.

148. Defendant's fee-for-service offers form a part of Defendant's deceptive scheme to lure its authors in with false promises of publication by a traditional publisher. Defendant misleads Grant and members of the California Class by concealing, suppressing, misrepresenting or omitting material facts that render these services useless.

149. Many of Defendant's promotions suggest sponsorship, approval, status, affiliation, or connection with other entities that defendant does not have, *e.g.* booksellers, publishers, and trade fairs.

150. Consumers, including Grant and members of the California Class, necessarily and reasonably relied on Defendant's statements.

151. Consumers, including Grant and members of the California Class, were among the intended targets of these representations and statements.

152. The above acts of Defendant, in disseminating said misleading and deceptive representations and statements throughout the State of California to consumers, including Grant and members of the California Class, were and are likely to deceive reasonable consumers, by obfuscating the nature of Defendant's business practices, all in violation of the "untrue" prong of California Business and Professions Code § 17500, *et seq.*

153. Plaintiffs and members of the California Class, pursuant to California Business and Professions Code § 17535, are entitled to an order of this Court enjoining such future wrongful conduct on the part of Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and restore to any person in interest any

money paid to Defendant as a result of its deceptive marketing scheme.

COUNT FIVE
CALIFORNIA UNFAIR COMPETITION LAW
(CAL. BUS. & PROF. CODE § 17200, ET. SEQ. – Unlawful Business Acts and Practices)
(California Subclass)

154. Grant repeats and realleges the allegations set forth herein and further alleges:

155. Such acts of Defendant, as described herein, and each of them, constitute unlawful business acts and practices.

156. Marketing and advertising itself as a traditional publisher when, in fact, Defendant is a print-on-demand vanity press is unlawful.

157. Selling services marketed to promote or market Grant and other California Class members' books when, in fact, such services are not reasonably designed to market or promote Defendant's book, is unlawful.

158. The business practices alleged above are unlawful under Business and Professions Code § 17200, *et seq.* by virtue of violating Business and Professions Code § 17500, *et seq.*, which forbids untrue advertising and misleading advertising.

159. As a result of the wrongful business practices described above, Grant and members of the California Class, pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future wrongful conduct on the part of Defendant and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and to restore to any person in interest any money paid for the products as a result of the wrongful conduct alleged herein.

160. The above-described unlawful business acts and practices of Defendant present a reasonable likelihood of deception to Grant and members of the California Class in that Defendant has systematically perpetrated and continues to perpetrate such acts or practices upon

members of the California Class by means of misleading advertising and marketing.

COUNT SIX
CALIFORNIA UNFAIR COMPETITION LAW
(CAL. BUS. & PROF. CODE § 17200, ET. SEQ. – Unfair Business Acts and Practices)
(California Subclass)

161. Grant repeats and realleges the allegations set forth herein and further alleges:

162. Such acts of Defendant, as described herein, and each of them, constitute unfair business acts and practices.

163. Grant and other members of the California Class, suffered a substantial injury by virtue of signing a seven to ten year contract with a vanity press that they would not have signed absent Defendant's unfair advertising.

164. PublishAmerica's conduct is immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers.

165. PublishAmerica lures authors into extensively long contracts, removing thousands of books from the marketplace that could otherwise be published with legitimate vanity presses or with legitimate self-publishing companies. PublishAmerica also degrades the quality of books on the marketplace by poorly designing and editing the books, while also inflating book prices.

166. There is no benefit to consumers or competition by falsely advertising that PublishAmerica operates as a traditional publisher and by failing to disclose the true nature of its business. Indeed, the harm to the consumers and competition is substantial.

167. As a result of the business acts and practices described above, Grant and members of the California Class, pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future wrongful conduct on the part of Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and to restore to any person in interest any money paid for PublishAmerica's services as a result of the wrongful

conduct of Defendant.

COUNT SEVEN
CALIFORNIA UNFAIR COMPETITION LAW
(CAL. BUS. & PROF. CODE § 17200, ET. SEQ. – Fraudulent Business Acts and Practices)
(California Subclass)

168. Grant repeats and realleges the allegations set forth herein and further alleges:

169. Such acts of Defendant as described herein, and each of them, constitute fraudulent business practices under California Business and Professions Code § 17200, *et seq.*

170. As more fully described herein, Defendant marketed itself as a traditional publisher. Instead, Defendant profits from exploiting its authors who are trapped in seven to ten year publishing contracts.

171. Grant and other members of the California Class were deceived into believing that they had signed contracts with a traditional publisher who profited from book sales to a general readership and not from exploiting and scamming its own authors.

172. Said acts are fraudulent business acts and practices.

173. As a result of these fraudulent business acts and practices, Grant and members of the California Class were induced into signing seven to ten year contracts that they could not terminate or that they could terminate only for a large fee of several hundred dollars.

As a result of the business acts and practices described herein, Grant and members of the California Class, pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future wrongful conduct on the part of Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and to restore to any person in interest any money paid for the services at issue as a result of the wrongful conduct of Defendant.

COUNT EIGHT

NEW YORK GENERAL BUSINESS LAW: DECEPTIVE ACTS AND PRACTICES
(N.Y. GBS. LAW § 349)
(New York Subclass)

174. Waterman repeats and realleges the allegations set forth herein and further alleges:

175. PublishAmerica engages in deceptive acts and practices that affect consumers at large.

176. PublishAmerica's representations on its website, its publishing contract, its email correspondence with its authors and other materials falsely claim or convey the false impression that Defendant is a traditional publisher in the business of profiting from book sales when this is not the case.

177. PublishAmerica's representations on its website, its publishing contract, its email correspondence with its authors and other materials falsely claim or convey the false impression that it will: produce an "attractive and substantial-looking" book; edit the book; engage in reasonable marketing efforts and provide reasonable support to its authors in their efforts to promote their works; and will generally promote the best interests of its authors' work.

178. Defendant does not disclose to its authors that it will only promote their work on a fee-for-service basis, nor does it reveal to its authors that it lacks the reputation, skills and connections to provide reasonably effective design, editing, or marketing services.

179. PublishAmerica's unfair and deceptive trade acts have caused damages and injury to Waterman and the Class.

PRAYER FOR RELIEF

Wherefore, Named Plaintiffs, on behalf of themselves and the other members of the class, respectfully pray:

A. That the Court determine that this action may be maintained as a class action pursuant to Rule 23 of the Maryland Rules and direct that reasonable notice of this action be given to the class;

B. That the acts alleged herein be adjudged and decreed to be unlawful in violation of Maryland, New York and California law;

C. That the Court order Defendant to release the publication rights of Named Plaintiffs and all Class members who so desire;

D. That Named Plaintiffs and the Class recover damages determined to have been sustained by them, and that judgment be entered against defendant in favor of the Class;

E. That Named Plaintiffs and the class recover the costs and expenses of suit, pre- and post-judgment interest, and reasonable attorney fees as provided by law;

F. That Defendant be ordered to pay restitution to Named Plaintiffs and the Class; and

G. That Named Plaintiffs and the Class be granted such other, further relief as may be determined to be just, equitable and proper by this Court, including but not limited to punitive damages and that the Court order such other and further relief as the Court deems just, necessary, and appropriate.

Respectfully submitted,

Z LAW, LLC

Dated: November 20, 2012

By: _____

Cory L. Zajdel, Esq.
10811 Red Run Blvd., Ste. 204
Owings Mills, Maryland 21117
(443) 213-1977
clz@zlawmaryland.com

Oren Giskan
GISKAN SOLOTAROFF & ANDERSON

& STEWART LLP
11 Broadway – Suite 2150
New York, NY 10004
212.847.8315
ogiskan@gslawny.com

Attorneys for Named Plaintiffs and the Class

JURY DEMAND

Named Plaintiffs Diana Waterman and Jennifer Grant on behalf of themselves and all others similarly situated demands a trial by jury.

Cory L. Zajdel