Case	β:19-cv-00160-WQH-BLM Document 2 F	Filed 01/24/19 Pa	ageID.150 Page 1 of 9				
Case 1 2 3 4 5 6 7	PANAKOS LAW, APCAaron D. Sadock (SBN 282131)555 West Beech Street, Ste. 500San Diego, California 92101Telephone: (619) 800-0529Facsimile: (866) 365-4856LAW OFFICES OF DANIEL A. KAPLANDaniel A. Kaplan (SBN 179517)Alexandra R. Byler (SBN 294307)555 West Beech Street, Suite 230San Diego, California 92101Telephone: (619) 685-3988	I	ageID.150 Page 1 of 9 ELECTRONICALLY FILED Superior Court of California, County of San Diego 03/23/2017 at 01:51:00 PM Clerk of the Superior Court By Connie Hines, Deputy Clerk				
8	Facsimile: (619) 684-3239 Attorneys for Defendants						
9	Attorneys for Defendants						
10	SUPERIOR COURT OF CALIFORNIA						
11	COUNTY OF SAN DIE	GO – CENTRAL	DIVISION				
12	JANE DOE NOS. 1-14, inclusive, individuals;	Case No. 37-2	2016-00019027-CU-FR-CTL				
13	Plaintiffs,		TS' ANSWER TO S' SECOND AMENDED				
14	v.	COMPLAIN					
15 16	GIRLSDOPORN.COM, a business organization, form unknown; MICHAEL J.	Judge: Hon. Dept.: C-71	Gregory W. Pollack				
17	PRATT, an individual; ANDRE GARCIA, an individual; MATTHEW WOLFE, an	Complaint Fil	ed: June 2, 2016				
18	individual; BLL MEDIA, INC., a California corporation; BLL MEDIA HOLDINGS,	Trial Date:	February 23, 2018				
19	LLC, a Nevada limited liability company; DOMI PUBLICATIONS, LLC, a Nevada		IMAGED FILE				
20	limited liability company; EG PUBLICATIONS, INC., a California corporation; MIM MEDIA, LLC, a California						
21	limited liability company; BUBBLEGUM FILMS, INC., a business organization, form						
22	unknown; OH WELL MEDIA LIMITED, a business organization, form unknown;						
23	MERRO MEDIA, INC., a California corporation; MERRO MEDIA HOLDINGS,						
24	LLC, a Nevada limited liability company; and ROES 1 - 500, inclusive,						
25	Defendants.						
26							
27							
28							
	DEFENDANTS' ANSWER TO PLAIN	TIFFS' SECOND AM	IENDED COMPLAINT				

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1	Defendants GIRLSDOPORN.COM, MICHAEL J. PRATT, ANDRE GARCIA,
2	MATTHEW WOLFE, BLL MEDIA, INC., BLL MEDIA HOLDINGS, LLC, EG
3	PUBLICATIONS, INC., M1M MEDIA, LLC, MERRO MEDIA, INC., and MERRO MEDIA
4	HOLDINGS, LLC (collectively, "Defendants") hereby answer Plaintiffs' Second Amended
5	Complaint ("Complaint") as follows:
6	GENERAL DENIAL
7	Pursuant to the provisions of California Code of Civil Procedure section 431.30,
8	Defendants generally and specifically deny each and all of the allegations in Plaintiffs'
9	Complaint, including each and every purported cause of action contained therein. Defendants
10	further deny that Plaintiffs have or will sustain damages in the amounts alleged, or in any amount
11	whatsoever, by reason of any conduct of Defendants. Further, Defendants:
12	1. Deny that Plaintiffs are entitled to judgment against Defendants in any amount
13	whatsoever, and for any reason or manner as alleged.
14	2. Deny that Plaintiffs are entitled to any form of relief whatsoever, and;
15	3. Deny that Plaintiffs are entitled to any award of attorneys' fees and costs incurred
16	as a result of these claims, or for any other reason.
17	AFFIRMATIVE DEFENSES
18	As to each and every cause of action stated against Defendants in the Complaint,
19	Defendants allege the following as separate and affirmative defenses.
20	FIRST AFFIRMATIVE DEFENSE
21	(Failure to State a Claim)
22	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
23	Complaint, that the Complaint fails to state a claim upon which relief can be granted.
24	SECOND AFFIRMATIVE DEFENSE
25	(No Damages Suffered)
26	Plaintiffs have not suffered any damage as a result of any actions or omissions of
27	Defendants.
28	///
	-1- DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT
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1	THIRD AFFIRMATIVE DEFENSE
2	(Failure to Mitigate Damages)
3	Defendants allege, and without admitting any of the allegations contained in the
4	Plaintiffs' Complaint, that Plaintiffs failed, neglected, and refused to mitigate their alleged
5	damages.
6	FOURTH AFFIRMATIVE DEFENSE
7	(Unclean Hands)
8	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
9	Complaint, that Plaintiffs' claims are barred, in whole or in part, because of their own unclean
10	hands.
11	<u>FIFTH AFFIRMATIVE DEFENSE</u>
12	(Proportion of Fault)
13	Defendants allege, and without admitting any of the allegations contained in the
14	Complaint, that the damages alleged by Plaintiffs, if any, were a direct and proximate result of
15	the actions of parties other than these Defendants, and that the Defendants' liability, if any, is
16	limited in direct proportion to the percentage of fault directly attributable to them.
17	SIXTH AFFIRMATIVE DEFENSE
18	(In Pari Delicto)
19	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
20	Complaint, that the claims therein and each and every purported cause of action are barred due to
21	Plaintiffs' own acts and courses of conduct which render it in pari delicto.
22	SEVENTH AFFIRMATIVE DEFENSE
23	(Laches)
24	Defendants allege, and without admitting any of the allegations contained in the
25	Complaint, that Plaintiffs have delayed for an unreasonable period of time in asserting their
26	claims or causes of action against Defendants, which delays have prejudiced Defendants.
27	Therefore, Plaintiffs' claims or causes of action against Defendants are barred under the doctrine
28	of laches.
	-2- DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT

EIGHTH AFFIRMATIVE DEFENSE (Independent, Intervening Conduct) Plaintiffs are barred from recovery in that any damage sustained by Plaintiffs was the direct and proximate result of the independent, intervening, negligent and/or unlawful conduct of
Plaintiffs are barred from recovery in that any damage sustained by Plaintiffs was the
and out and promining result of the most of the most of the second of the most of the second of the
independent third parties or their agents, and not any act or omission on the part of Defendants.
NINTH AFFIRMATIVE DEFENSE
(Unjust Enrichment)
Defendants allege, and without admitting any of the allegations contained in the
Complaint, that Plaintiffs will be unjustly enriched by an award of the amount claimed in the
Complaint.
TENTH AFFIRMATIVE DEFENSE
(Doctrine of Estoppel)
Defendants allege, and without admitting any of the allegations contained in the
Complaint, that Plaintiffs are estopped to recover from Defendants as a result of their own
conduct.
ELEVENTH AFFIRMATIVE DEFENSE
(Doctrine of Waiver)
Defendants allege, and without admitting any of the allegations contained in the
Complaint, that Plaintiffs are barred from any recovery against Defendant as a result of the
doctrine of waiver.
<b>TWELFTH AFFIRMATIVE DEFENSE</b>
(Consent)
Defendants allege, and without admitting any of the allegations contained in the
Complaint, that Plaintiffs consented to and approved all alleged acts and omissions attributed to
Defendants. Therefore, Plaintiffs' claims or causes of action against Defendants are barred under
the doctrine of consent.
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-3- DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT

1	THIRTEENTH AFFIRMATIVE DEFENSE
2	(Justification)
3	Defendants deny that they committed any unlawful act or omission against Plaintiffs,
4	however, any action or omission they did take was justified under the circumstances.
5	FOURTEENTH AFFIRMATIVE DEFENSE
6	(Statute of Limitations)
7	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
8	Complaint, that the claims therein and each and every purported cause of action are barred due to
9	the statute of limitations, including, but not limited to, California Code of Civil Procedure
10	sections 339 and 335.1.
11	FIFTEENTH AFFIRMATIVE DEFENSE
12	(No Punitive Damages)
13	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
14	Complaint, that any award of punitive or exemplary damages as sought by Plaintiffs therein
15	would violate the due process and excessive fine clauses of the Fifth, Eighth, and Fourteenth
16	Amendments of the United States Constitution, as well as the Constitution of the State of
17	California.
18	SIXTEENTH AFFIRMATIVE DEFENSE
19	(No Attorney Fees, Costs, or Pre- or Post-Judgment Interest)
20	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
21	Complaint, that attorneys' fees, costs, and pre- and post-judgment interest are not recoverable by
22	Plaintiffs as a matter of law in this case.
23	SEVENTEENTH AFFIRMATIVE DEFENSE
24	(Negligence)
25	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
26	Complaint, that Plaintiffs were negligent or otherwise at fault and should be barred from
27	recovery of that portion of the damages (if any were suffered) directly attributable to their
28	proportionate share of the negligence or fault, pursuant to the doctrine of comparative
	-4- DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT
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Case	8:19-cv-00160-WQH-BLM Document 2 Filed 01/24/19 PageID.155 Page 6 of 9
1	negligence.
2	EIGHTEENTH AFFIRMATIVE DEFENSE
3	(Misjoinder – CCP § 430.10(D))
4	The Complaint contains a defect or misjoinder of parties.
5	NINETEENTH AFFIRMATIVE DEFENSE
6	(Parol Evidence)
7	Defendants allege, and without admitting any of the allegations contained in Plaintiffs'
8	Complaint, that the claims therein and each and every purported cause of action are barred due to
9	the Parol evidence rule.
10	TWENTIETH AFFIRMATIVE DEFENSE
11	(Speculative Damages)
12	Defendants allege, and without admitting any of the allegations contained in the
13	Plaintiffs' Complaint, that Plaintiffs are seeking to recover lost profits or damages that are
14	completely speculative in nature.
15	TWENTY-FIRST AFFIRMATIVE DEFENSE
16	(Assumption of Risk)
17	Defendants allege, and without admitting any of the allegations contained in the
18	Plaintiffs' Complaint, that Plaintiffs knowingly and voluntarily assumed the risk of the conduct,
19	events, and matters alleged in their Complaint, and the damages, if any, incurred by Plaintiffs,
20	was the proximate result of the risks so assumed.
21	TWENTY-SECOND AFFIRMATIVE DEFENSE
22	(Additional Affirmative Defenses)
23	Defendants currently have insufficient information upon which to form a belief as to
24	whether they may have additional, as yet unstated, affirmative defenses available. Defendants
25	reserve their rights to assert additional defenses in the event discovery indicates additional
26	affirmative defenses are appropriate.
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28	///
	-5- DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT

	8:19-cv-00160					
1				<u>PRAYER</u>		
2	WHE	REFORE, Def	fendants pray as	follows:		
3	1.	That Plaintif	ffs take nothing b	by virtue of this ac	tion;	
4	2.	For judgmer	nt to be entered a	gainst Plaintiffs a	nd in favor of D	efendants;
5	3.	That Defend	lants be awarded	their costs incurre	ed in this action	, and any other
6		amounts rec	overable under la	aw; and		
7	4.	That this Co	ourt grant Defend	ants such other re	lief the Court m	ay deem just a
8		proper.				
9						
10	Dated: March	n 23, 2017		LAW OFFICE	S OF DANIEI	A. KAPLAN
11				D A		
12				By: Daniel	ALL TROUDINE	
13				Alexand Attorney	lra R. Byler ys for Defendan	ts
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and not a party fo the within action; my business address is 555 West Beech Street, Suite 500, San Diego, California 92101.         On March 23, 2017, I served true and correct copies of the foregoing document(s) described as:         10       I. DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT         11       on interested parties in this action by placing □ the original ⊠ true copy(ies) thereof enclos as follows:         13       Robert Hamparyan, Esq.       Attorney for Plaintiffs         14       ROBERT HAMPARYAN, APC 275 W. Market Street       San Diego, CA 92101         15       San Diego, CA 92101       robert@lamparyanlawfirm.com         16       robert@lamparyanlawfirm.com         17       John J. O'Brien, Esq.       Attorney for Plaintiffs         18       rtiff O'BRIEN LAW FIRM, APLC         750 B. Street, Suite 3300       San Diego, CA 92101         19       john@theobrienlawfirm.com         20       Brian M. Holm, Esq.       Attorney for Plaintiffs         21       HOLM LAW GROUP, PC       12636 High Bluff Drive, Suite 400         23       an Diego, CA 92130       brian@holmlawgroup.com         24       Carrie Goldberg       CA. GOLDBERG, PLLC         25       I6 Court Street, Suite 2500       Brooklyn, NY 11241         24       carrie@cagoldberglaw.com       27 <th>Case 3</th> <th>19-cv-00160-WQH-BLM Document 2 Filed 01/24/19 PageID.157 Page 8 of 9</th>	Case 3	19-cv-00160-WQH-BLM Document 2 Filed 01/24/19 PageID.157 Page 8 of 9
2       SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN DIEGO - CENTRAL DIVISION         3       Jane DOES Nos. 1-14 y. GIRLSDOPORN.COM. et al. San Diego Superior Court Case No 37-2016-00019027-CU-FR-CTL         4       J. Candace Ceballos declare as follows:         6       I am employed by a member of the bar of the State of California. I am over the age of and not a party to the within action; my business address is 555 West Beech Street, Suite 500, San Diego, California 92101.         8       On March 23, 2017, I served true and correct copies of the foregoing document(s) described as:         10       I. DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT         11       on interested parties in this action by placing □ the original ⊠true copy(ies) thereof enclos as follows:         12       Robert Hamparyan, Esq. ROBERT HAMPARYAN, APC 275 W. Market Street San Diego, CA 92101         14       ROBERT HAMPARYAN, APC 750 B. Street, Suite 3300         15       San Diego, CA 92110         16       rbert@hamparyanlawfirm.com         17       John J. O'Brien, Esq. 12636 High Bluff Drive, Suite 400         28       Brian M. Holm, Esq. 4100 M LAW GROUP, PC 12636 High Bluff Drive, Suite 400         28       Diego, CA 92130         18       Carrie Goldberg C.A. GOLDBERG, PLLC         19       Brian M. Holm, Esq. 4100 M LAW GROUP, PC         12       San Diego, CA 92130         Brian@hol	1	PROOF OF SERVICE
3       COUNTY OF SAN DIEGO - CENTRAL DIVISION         4       Jane DOES Nos. 1-14 y. GIRLSDOPORN.COM. et al. San Diego Superior Court Case No 37-2016-00019027-CU-FR-CTL         5       1, Candace Ceballos declare as follows:         6       I am employed by a member of the bar of the State of California. I am over the age of an ota party to the within action; my business address is 555 West Beech Street, Suite 500, San Diego, California 92101.         7       on March 23, 2017, I served true and correct copies of the foregoing document(s) described as:         10       IDEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT         11       on interested parties in this action by placing □ the original ⊠true copy(ies) thereof enclos as follows:         13       Robert Hamparyan, Esq. Attorney for Plaintiffs         14       ROBERT HAMPARYAN, APC 275 W. Market Street         15       san Diego, CA 92101         16       robert@hamparyanlawfirm.com         17       John J. O'Brien, Esq. Attorney for Plaintiffs         18       THE O'BRIEN LAW FIRM, APLC         175 0B. Street, Suite 3300       San Diego, CA 92101         19       john@uteobrienlawfirm.com         20       San Diego, CA 92101         21       john@uteobrienlawfirm.com         22       Street, Suite 3300         23       an Diego, CA 92130         24	2	
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15       San Diego, CA 92101         16       robert@hamparyanlawfirm.com         17       John J. O'Brien, Esq.       Attorney for Plaintiffs         18       750 B. Street, Suite 3300         San Diego, CA 92101       john@theobrienlawfirm.com         19       john@theobrienlawfirm.com         20       Brian M. Holm, Esq.       Attorney for Plaintiffs         21       HOLM LAW GROUP, PC         12636 High Bluff Drive, Suite 400       San Diego, CA 92130         23       brian@holmlawgroup.com         24       Carrie Goldberg         C.A. GOLDBERG, PLLC       16 Court Street, Suite 2500         Brooklyn, NY 11241       carrie@cagoldberglaw.com         27       28	14	ROBERT HAMPARYAN, APC
16robert@hamparyanlawfirm.com17John J. O'Brien, Esq.Attorney for Plaintiffs18THE O'BRIEN LAW FIRM, APLC18750 B. Street, Suite 330019john@theobrienlawfirm.com20Brian M. Holm, Esq.Attorney for Plaintiffs21HOLM LAW GROUP, PC12636 High Bluff Drive, Suite 400San Diego, CA 9213023brian@holmlawgroup.com24Carrie Goldberg2516 Court Street, Suite 250026Brooklyn, NY 112412728	15	
<ul> <li>THE O'BRIEN LAW FIRM, APLC</li> <li>750 B. Street, Suite 3300</li> <li>San Diego, CA 92101</li> <li>john@theobrienlawfirm.com</li> </ul> Brian M. Holm, Esq. Attorney for Plaintiffs HOLM LAW GROUP, PC <ul> <li>12636 High Bluff Drive, Suite 400</li> <li>San Diego, CA 92130</li> <li>brian@holmlawgroup.com</li> </ul> Attorney for Plaintiffs Carrie Goldberg <ul> <li>C.A. GOLDBERG, PLLC</li> <li>16 Court Street, Suite 2500</li> <li>Brooklyn, NY 11241</li> <li>carrie@cagoldberglaw.com</li> </ul>	16	
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19john@theobrienlawfirm.com20Brian M. Holm, Esq.Attorney for Plaintiffs21HOLM LAW GROUP, PC12636 High Bluff Drive, Suite 40022San Diego, CA 92130brian@holmlawgroup.comAttorney for Plaintiffs23Carrie Goldberg24Carrie Goldberg2516 Court Street, Suite 2500Brooklyn, NY 1124126carrie@cagoldberglaw.com2728	18	
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23       Attorney for Plaintiffs         24       Carrie Goldberg         25       16 Court Street, Suite 2500         Brooklyn, NY 11241         26         27         28	22	San Diego, CA 92130
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26     carrie@cagoldberglaw.com       27	25	16 Court Street, Suite 2500
27 28	26	
28		
Proof Of Service	-	37-2016-00019027-CU-FR-CTL Proof Of Service

Case	19-cv-00160-WQH-BLM Document 2 Filed 01/24/19 PageID.158 Page 9 of 9
1	
2	George Rikos
3	LAW OFFICES OF GEORGE RIKOSAttorney for Defendant Domi Publications225 Broadway, Suite 2100LLC
4	San Diego, CA 92101 george@georgerikoslaw.com
5	
6	<b>BY U.S. MAIL</b> (C.C.P. § 1013(a)) I am readily familiar with the firm's practice of collection and
7	processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with United States postal service on that same day with postage thereon fully prepaid at San Diego, California in the ordinary course of business. The envelope
8	was sealed and placed for collection and mailing on that date following ordinary business practices. I am aware that on motion of the party served, service is presumed invalid if postal
9	cancellation date or posted meter date is more than one day after date of deposit for mailing in affidavit.
10	ELECTRONIC TRANSMISSION (C.C. P. § 1010.6(6)) Based on a court order or an agreement of the
11	parties to accept service by email or electronic transmission, I caused the documents to be sent to the persons at the e-mail address(es) listed. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
12	<b>BY OVERNIGHT DELIVERY</b> (C.C. P. § 1013(c)) I am readily familiar with the firm's practice of
13	collection and processing correspondence for mailing with Overnite Express and Federal Express. Under that practice, it would be deposited with Overnite Express and/or Federal
14	Express on that same day thereon fully prepaid at San Diego California in the ordinary course of business. The envelope was sealed and placed for collection and mailing on that date following
15	ordinary business practices.
16	<b>By FACSIMILE</b> (C.C. P. § 1013(e)) Based on agreement of the parties to accept service by fax transmission, I faxed the documents on this date to the person(s) at the fax numbers listed. No
17	error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
18	Dr. Dr. Correction (G. G. D. 1994) N. Lease 141 and a survey to here there is an
19 20	<b>BY PERSONAL SERVICE</b> (C.C. P. § 1011(a)) I served the documents by placing them in an envelope or package addressed to the person(s) at the addresses listed and providing them to a professional messenger service for service on this date.
20	(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
22	
23	(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.
24	Executed on March 23, 2017, in San Diego, California.
25	
26	Candace Celalles
27	Candace Cebanos
28	
	37-2016-00019027-CU-FR-CTL
	Proof Of Service