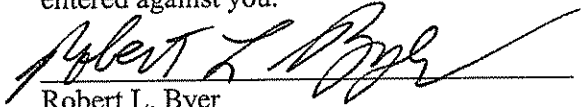


NOTICE TO PLEAD

To: Todd J. Hollis
You are hereby notified to file a written response to the enclosed Preliminary Objection under Pa.R.C.P. 1028(a)(1) within twenty days from service hereof or a judgment may be entered against you.



Robert L. Byer
Counsel for objecting defendants

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

TODD J. HOLLIS,

Plaintiff,

vs.

TASHA C. JOSEPH, individually, and as owner and operator of DONTDATEHIMGIRL.COM, EMPRESS MOTION PICTURES, doing business as THE CAVELLE COMPANY, INC., CAROLYN MERITT LATTIMORE, ALESCIA ROSKOV, ANNA DOE, BARBARA DOE, CATHERINE DOE, DEBORAH DOE, and EMILY DOE,

Defendants.

) CIVIL DIVISION
) No. GD 06-12677
) Code: 008
)

) **PRELIMINARY OBJECTIONS TO**
) **COMPLAINT UNDER Pa.R.C.P.**
) **1028(a)(1)(RAISING QUESTIONS OF**
) **FACT) AND, IN ALTERNATIVE,**
) **Pa.R.C.P. 1028(a)(4)**

) Filed on behalf of Defendants TASHA C.
) JOSEPH, individually, and as owner and
) operator of DONTDATEHIMGIRL.COM,
) and EMPRESS MOTION PICTURES,
) doing business as THE CAVELLE
) COMPANY, INC.
)

) Counsel of Record for These Parties:
)

) Robert L. Byer
) Pa. I.D. No. 25447
) Duane Morris LLP
) 600 Grant Street, Suite 5010
) Pittsburgh, PA 15219
) (412) 497-1083
)

) Lida Rodriguez-Taseff
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) Miami, FL 33131
) (305) 960-2242

**PRELIMINARY OBJECTIONS TO COMPLAINT – LACK
OF JURISDICTION OVER THE PERSON (Pa.R.C.P. 1028(a)(1)) AND, IN
ALTERNATIVE, LEGAL INSUFFICIENCY (Pa.R.C.P. 1028(a)(4))**

Pursuant to Pa.R.C.P. 1028(a)(1) and Pa.R.C.P. 1028(a)(4), the defendants whom the Complaint identifies as “Tasha C. Joseph, individually, and as owner and operator of DontDateHimGirl.com, and Empress Motion Pictures, doing business as The Cavelle Company, Inc.” but who are accurately identified in Paragraphs 2 through 5 below (the “objecting defendants”), assert Preliminary Objections to the Complaint based on a lack of jurisdiction over the person and, in the alternative, legal insufficiency.

Preliminary Objection Pursuant to Pa.R.C.P. 1028(a)(1)

The objecting defendants are not subject to *in personam* jurisdiction in the Commonwealth of Pennsylvania, and the purported exercise of such jurisdiction would violate the objecting defendants’ right to due process under the Fourteenth Amendment to the United States Constitution, for the following reasons:

1. Plaintiff did not serve process on the objecting defendants in Pennsylvania, but instead served the Writ of Summons on each of the objecting defendants in the State of Florida.

2. Defendant Tasha C. Joseph is an individual who is a citizen of and resides in the State of Florida.

3. Defendant Empress Motion Pictures is a fictitious name under which Ms. Joseph previously intended to do business in the State of Florida. Ms. Joseph no longer uses that fictitious name.

4. Defendant The Cavelle Company, Inc. is a corporation incorporated under the laws of the State of Florida with its principal address at 771 NW 48 Street, Miami, FL 33127. Ms. Joseph is the sole shareholder of The Cavelle Company, Inc.

5. The Cavelle Company, Inc. owns and operates the web site "DontDateHimGirl.com."

6. DontDateHimGirl.com's server is located in the State of Florida, and all web site operations take place in the State of Florida.

7. DontDateHimGirl.com provides a service allowing women to post information concerning their experiences with certain men on the Internet. This posted information appears in the form of a "profile."

8. DontDateHimGirl.com does not electronically transmit posted information to users or members of DontDateHimGirl.com.

9. DontDateHimGirl.com, Tasha C. Joseph, and agents or employees of The Cavelle Company, Inc., do not provide any of the information posted in the profiles on the web site, nor do they write any of the postings or profiles.

10. None of the objecting defendants has continuous or systematic contacts with the Commonwealth of Pennsylvania.

11. Neither Ms. Joseph nor The Cavelle Company, Inc. maintains offices in Pennsylvania.
12. Neither Ms. Joseph nor The Cavelle Company, Inc has agents or employees in Pennsylvania.
13. Neither Ms. Joseph nor The Cavelle Company, Inc. owns or leases property in Pennsylvania.
14. Neither Ms. Joseph nor The Cavelle Company, Inc. has any bank accounts in Pennsylvania.
15. Neither Ms. Joseph nor The Cavelle Company, Inc. conducts business in Pennsylvania.
16. Neither Ms. Joseph nor any agent or employee of The Cavelle Company, Inc. has ever traveled to Pennsylvania for business purposes.
17. The nature and quality of the commercial activity that DontDateHimGirl.com conducts over the Internet is of a relatively low level.
18. DontDateHimGirl.com is a minimally interactive web site in that an individual typically posts information on the web site for other users to read, and in some cases, posts information that may relate, reply or corroborate another profile.
19. While users and members may transmit information to DontDateHimGirl.com; DontDateHimGirl.com does not transmit information directly to its users or members. Users and members must visit DontDateHimGirl.com to access information posted to the web site.

20. DontDateHimGirl.com does not charge a fee to women who post information on the web site.

21. The web site DontDateHimGirl.com does not specifically target residents of the Commonwealth of Pennsylvania. DontDateHimGirl.com does not transmit posted profiles or any other information to residents of Pennsylvania as a group.

22. Less than 5% of the profiles posted on DontDateHimGirl.com have originated from residents of Pennsylvania.

23. DontDateHimGirl.com also maintains on its server in Miami, Florida an online store where users of the web site may purchase clothing and accessory items.

24. DontDateHimGirl.com does not specifically solicit residents of Pennsylvania to purchase items from the online store.

25. The online store at DontDateHimGirl.com has sold approximately \$200.00 worth of merchandise to residents of Pennsylvania, which is less than 5% of the online store's total sales.

26. DontDateHimGirl.com sells space on its web site to individuals and companies for advertising purposes.

27. None of the advertisements on DontDateHimGirl.com specifically target residents of Pennsylvania.

28. None of the individuals or companies that advertise on DontDateHimGirl.com reside in Pennsylvania.

WHEREFORE, the objecting defendants request this Court to sustain their preliminary objection and dismiss all claims against them, because this Court lacks personal jurisdiction over them, they are not subject to personal jurisdiction in the Commonwealth of Pennsylvania on this or any other claim, and any purported exercise of personal jurisdiction against them would violate their rights to due process of law under the 14th Amendment to the United States Constitution.

Alternative Preliminary Objection Pursuant to Pa.R.C.P. 1028(a)(4)

29. Plaintiff alleges in Count I of his Complaint that Defendant Tasha C. Joseph published false and defamatory statements regarding Plaintiff. Complaint at paragraph 38.

30. Plaintiff alleges in Count II of his Complaint that Defendant The Cavelle Company, Inc. published false and defamatory statements regarding Plaintiff. Complaint at paragraph 53.

31. The Communications Decency Act provides immunity to those who make available information on the Internet that is created or developed by others. See 47 U.S.C. § 230(c)(1) and (e)(3).

32. The Communications Decency Act states in part that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” 47 U.S.C. § 230(c)(1).

33. The Communications Decency Act provides that “[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.” 47 U.S.C. § 230(e)(3).

34. “The term ‘interactive computer service’ means any information service, system or access software provider that provides or enables computer access by multiple users to a computer server . . .” 47 U.S.C. § 230(f)(2).

35. Under the facts that Plaintiff avers in the Complaint, the objecting defendants’ web site, DontDateHimGirl.com, is a provider of an “interactive computer service” in that it makes available information on the Internet that is created or developed by others.

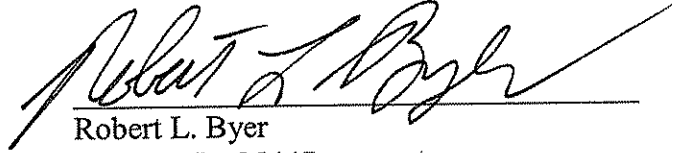
36. Under the facts that Plaintiff avers in the Complaint, the objecting defendants did not provide the information for any of the profiles alleged in Plaintiff’s Complaint to contain false and defamatory statements.

37. Counts I and II of Plaintiff’s Complaint are based on allegations that Ms. Joseph and The Cavelle Company, Inc. are responsible as publishers of the profiles on DontDateHimGirl.com that are alleged to contain false and defamatory statements. Complaint at paragraphs 39 and 53. However, under the Communications Decency Act, the objecting defendants, as a matter of law, cannot be deemed to be the publishers of those statements.

38. Counts I and II of Plaintiff’s Complaint assert causes of action for defamation under Pennsylvania law that are inconsistent with 47 U.S.C. § 230.

39. Therefore, Defendant Tasha C. Joseph and Defendant The Cavelle Company, Inc. are immune from Plaintiff’s claims pursuant to 47 U.S.C. § 230(c)(1) and (e)(3).

WHEREFORE, in the alternative to their objection based upon lack of jurisdiction over the person, the objecting defendants request that this Court dismiss Counts I and II of Plaintiff’s Complaint with prejudice because the claims in these Counts are legally insufficient.



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200 South Biscayne Boulevard, Suite 3400
Miami, FL 33131
(305) 960-2242

July 19, 2006

AFFIDAVIT

STATE OF FLORIDA

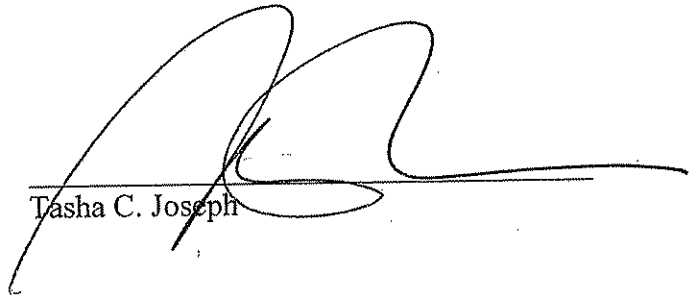
)

SS

COUNTY OF DADE

)

Tasha C. Joseph, upon being duly sworn according to law before a Notary Public in and for the State of Florida and County of Dade, states that the statements of fact in the foregoing Preliminary Objections are true, based upon her personal knowledge.


Tasha C. Joseph

July 17, 2006

SWORN TO AND SUBSCRIBED BEFORE ME

in Miami, Florida on July 12, 2006.

Karol Ecker

Commission # DD420957

Expires: APR. 20, 2009

www.AARONNOTARY.com



Notary Public

Miami - Dade County



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

TODD J. HOLLIS,

Plaintiff,

vs.

TASHA C. JOSEPH, individually, and as owner
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CATHERINE DOE, DEBORAH DOE, and
EMILY DOE,

Defendants.

) CIVIL DIVISION

) No. GD 06-12677

) Code: 008

ORDER

AND NOW, this _____ day of _____, 2006, Defendant Tasha C.

Joseph's and Defendant The Cavelle Company Inc.'s Preliminary Objection is sustained and Plaintiff's Complaint is dismissed as to these Defendants by reason of lack of jurisdiction over these Defendants.

CERTIFICATE OF SERVICE

I certify that I am serving the foregoing Preliminary Objections to Complaint

today by first class mail as follows:

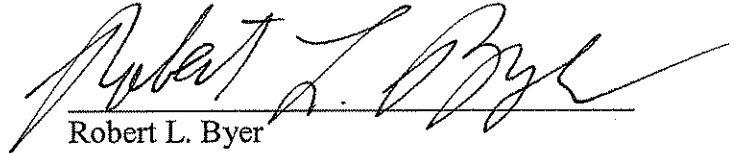
BY HAND DELIVERY:

John R. Orie, Jr., Esquire
Orie & Zivic
25th Floor, Lawyers Building
Pittsburgh, PA 15219

BY FIRST CLASS MAIL:

Ms. Carolyn Meritt Lattimore
471 Walnut Street
Pittsburgh, PA 15238-3352

Ms. Alecia Roskov
531 Franklin Avenue
Pittsburgh, PA 15221-2803


Robert L. Byer

July 19, 2006