

04171-00109

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(CAMDEN VICINAGE)**

LINDA WOODSON

Plaintiff,

vs.

ATLANTIC CITY BOARD OF
EDUCATION, JAMES KNOX, NATIONAL
ASSOCIATION OF ELEMENTARY
SCHOOL PRINCIPALS

Defendants.

CIVIL ACTION NO: 1:19-cv-14572-JHR-JS

**ANSWER TO PLAINTIFF'S SECOND
AMENDED COMPLAINT,
AFFIRMATIVE DEFENSES AND
DEMAND FOR JURY TRIAL OF
DEFENDANT NATIONAL
ASSOCIATION OF ELEMENTARY
SCHOOL PRINCIPALS**

Defendant, National Association of Elementary School Principals ("NAESP"), by way of
Answer to Plaintiffs' Second Amended Complaint, says:

NATURE OF THE ACTION

1. Paragraph 1 of plaintiff's Second Amended Complaint states conclusions of law to which no response is required. To the extent that a response may be required, defendant denies the same.

2. Paragraph 2 of plaintiff's Second Amended Complaint states conclusions of law to which no response is required. To the extent that a response may be required, defendant denies the same.

3. Paragraph 3 of plaintiff's Second Amended Complaint states conclusions of law to which no response is required. To the extent that a response may be required, defendant denies the same.

4. Paragraph 4 of plaintiff's Second Amended Complaint states conclusions of law to which no response is required. To the extent that a response may be required, defendant denies the same.

5. Paragraph 5 of plaintiff's Second Amended Complaint states conclusions of law to which no response is required. To the extent that a response may be required, defendant denies the same.

PARTIES

6. Neither admitted nor denied as the same is not directed to answering defendant.

7. Neither admitted nor denied as the same is not directed to answering defendant.

8. Neither admitted nor denied as the same is not directed to answering defendant.

9. Admitted.

JURISDICTION AND VENUE

10. Answering defendant repeats and re-alleges the responses to paragraphs 1 through 9 as if fully set forth herein.

11. Neither admitted nor denied as the same is not directed to answering defendant.

12. Neither admitted nor denied as the same is not directed to answering defendant.

13. Admitted.

14. The allegations of paragraph 14 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

15. The allegations of paragraph 15 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

16. The allegations of paragraph 16 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

17. The allegations of paragraph 17 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

18. The allegations of paragraph 18 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

19. The allegations of paragraph 19 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

20. The allegations of paragraph 20 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

21. The allegations of paragraph 21 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

BACKGROUND AND FACTS

22. Answering defendant repeats and re-alleges the responses to paragraphs 1 through 21 as if fully set forth herein.

23. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 23. To the extent a response is required, the same are denied.

24. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 24. To the extent a response is required, the same are denied.

25. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 25. To the extent a response is required, the same are denied.

26. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 26. To the extent a response is required, the same are denied.

27. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 27. To the extent a response is required, the same are denied.

28. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 28. To the extent a response is required, the same are denied.

29. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 29. To the extent a response is required, the same are denied.

30. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 30. To the extent a response is required, the same are denied.

31. Admitted that the Article was published in the January/February 2001 edition of “Principal.” The remaining allegations of this paragraph are denied.

32. Admitted.

33. The allegations of paragraph 33 are denied and the answering defendant leaves plaintiff to her proofs.

34. Admitted.

35. Admitted.

36. Denied as stated and answering defendant leaves plaintiff to her proofs.

37. The allegations of paragraph 37 are not directed to answering defendant and, therefore, the same are denied.

38. The allegations of paragraph 38 are not directed to answering defendant and, therefore, the same are denied.

39. The allegations of paragraph 39 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

40. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 40. To the extent a response is required, the same are denied.

41. The allegations of paragraph 41 are directed to defendants other than answering defendant and, therefore, answering defendant denies the same.

42. The allegations of paragraph 42 are directed to defendants other than answering defendant and, therefore, answering defendant denies the same.

43. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 43. To the extent a response is required, the same are denied.

44. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 44. To the extent a response is required, the same are denied.

45. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 45. To the extent a response is required, the same are denied.

46. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 46. To the extent a response is required, the same are denied.

47. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 47. To the extent a response is required, the same are denied.

48. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 48. To the extent a response is required, the same are denied.

49. Answering defendant has insufficient knowledge to form a belief as to the allegations contained in paragraph 49. To the extent a response is required, the same are denied.

50. The allegations of paragraph 50 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

COUNT I
(Copyright Infringement)

51. Answering defendant repeats and re-alleges the responses to paragraphs 1 through 50 as if fully set forth herein.

52. The allegations of paragraph 52 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

53. The allegations of paragraph 53 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

54. The allegations of paragraph 54 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

55. The allegations of paragraph 55 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

56. The allegations of paragraph 56 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

57. The allegations of paragraph 57 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

58. The allegations of paragraph 58 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

59. The allegations of paragraph 59 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

COUNT II
(Vicarious Copyright Infringement)

60. Answering defendant repeats and re-alleges the responses to paragraphs 1 through 59 as if fully set forth herein.

61. The allegations of paragraph 61 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

62. The allegations of paragraph 62 are directed to defendants other than answering defendant and, therefore, answering defendant neither admits nor denies the same.

63. Denied.

64. The allegations of paragraph 64 are directed to defendants other than answering defendant and, therefore, answering defendant neither admits nor denies the same.

65. The allegations of paragraph 65 are directed to defendants other than answering defendant and, therefore, answering defendant neither admits nor denies the same.

66. The allegations of paragraph 66 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

67. The allegations of paragraph 67 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

68. The allegations of paragraph 68 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

69. The allegations of paragraph 69 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

70. The allegations of paragraph 70 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

COUNT III
(Contributory Infringement)

71. Answering defendant repeats and re-alleges the responses to paragraphs 1 through 70 as if fully set forth herein.

72. The allegations of paragraph 72 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

73. The allegations of paragraph 73 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

74. The allegations of paragraph 74 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

75. The allegations of paragraph 75 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

76. The allegations of paragraph 76 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

77. The allegations of paragraph 77 state conclusions of law to which no response is required. To the extent that a response is required, the same are denied.

WHEREFORE, defendant demands judgment in its favor dismissing plaintiff's Complaint in its entirety with prejudice, together with attorney's fees and costs, and such other and further relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted, in whole or in part.
2. Plaintiff is not entitled to statutory damages.
3. Plaintiff's Complaint fails to plead a cause of action for copyright infringement and unfair competition with particularity.
4. The Complaint is barred by any losses sustained by plaintiff since the same were due to her own acts or omissions or were as a result of the acts or omissions of persons or entities over whom defendant exercised no control.
5. The Complaint is barred because plaintiff has suffered no damages or ascertainable loss.
6. Plaintiff has suffered no harm and/or irreparable harm.
7. The Complaint is barred, in whole or in part, because plaintiff has failed to mitigate her damages, if any.
8. There is no express or implied covenants of warranties, oral or written, between the parties.
9. The Complaint is barred by the Statute of Frauds.
10. The Complaint is barred by the applicable Statute of Limitations.
11. The Complaint is barred by the Equitable Doctrines of Waiver, Acquiescence, Estoppel, and Laches.
12. The Complaint is barred by the Doctrines of Accord and Satisfaction.
13. The Complaint is barred by the Doctrine of Unclean Hands.

14. The Complaint does not state a claim for injunctive or declaratory relief.
15. The Complaint fails to make a factual showing for entitlement to prejudgment interest.
16. Plaintiff lacks ownership of any exclusive right to the copyright material.
17. To the extent that Defendant failed to act in accordance with applicable law, which is specifically denied, Defendant did not intent to cause Plaintiff harm.
18. At all times, Defendant acted in a reasonable and lawful manner.
19. Defendant's alleged conduct was innocent, and not intentional, willful or in bad faith.
20. Plaintiff's claims are barred by the doctrine of fair use.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that defendant demands a trial by jury as to all issues.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
Attorneys for Defendant,
National Association of Elementary School
Principals

/s/ Jeremy J. Zacharias

BY: _____

JEREMY J. ZACHARIAS

DATED: January 22, 2021

CERTIFICATE OF FILING/SERVICE

The within Answer of Defendant National Association of Elementary School Principals to Plaintiff's Second Amended Complaint has been e-filed with the Clerk of the Court, United States District Court for the District of New Jersey.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
Attorneys for Defendant,
National Association of Elementary School
Principals

/s/ *Jeremy J. Zacharias*
BY: _____
JEREMY J. ZACHARIAS

DATED: January 22, 2021

PROOF OF SERVICE

On January 22, 2021, the following was served electronically on:

Anthony M. Verna, III, Esquire
Verna Law
80 Theodore Fremd Avenue
Rye, NY 10580

Tracy L. Riley, Esquire
Riley & Riley
Executive Court
2 Eves Drive, Suite 109
Marlton, NJ 08053

**Answer of Defendant National Association of Elementary School Principals to Plaintiff's
Second Amended Complaint**

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
Attorneys for Defendant,
National Association of Elementary School
Principals

/s/ Jeremy J. Zacharias
BY: _____
JEREMY J. ZACHARIAS

DATED: January 22, 2021