

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

ELLORA'S CAVE PUBLISHING, INC.,
and
JASMINE-JADE ENTERPRISES, LLC,

Case No: 5:14-cv-02331-JRA

Plaintiffs,

v.

DEAR AUTHOR MEDIA NETWORK, LLC,
and
JENNIFER GERRISH-LAMPE,

Defendants.

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DECLARATION OF MARC J. RANDAZZA

I, MARC J. RANDAZZA, being over 18 years of age and competent to testify about the matters contained in this declaration, state as follows:

1. I am counsel for Defendants Dear Author Media Network, LLC ("Dear Author") and Jennifer Gerrish-Lampe.

2. There was a mutual understanding between the parties, which was approved by the Court, that preliminary, limited discovery would conclude by July 15, 2015, in which Plaintiffs would primarily take discovery prior to the filing of summary judgment motions.

3. There has been no final discovery cutoff scheduled for this case yet.

4. Defendants have attempted to schedule the depositions of Patricia Marks and Tina Engler, but Plaintiffs did not assent to these scheduling efforts.

5. Due to the limited discovery agreement between the parties, by which Defendants remain permitted to conduct these depositions, Defendants have not attempted to compel the depositions of Ms. Marks or Ms. Engler.

6. One of the reasons Dear Author did not move to compel the depositions of Ms. Marks and Ms. Engler is that Plaintiffs did not disclose that they possessed personal knowledge of Plaintiffs' intent in filing this suit. Ms. Marks' declaration in support of Plaintiffs' Motion for Summary Judgment (Doc. 45-1), however, shows that both she and Ms. Engler possess such knowledge.

7. Had Dear Author been aware of this, it would have sought to take the depositions of Ms. Marks and Ms. Engler much more aggressively, including seeking to compel their depositions during the limited discovery period.

8. To adequately oppose Plaintiffs' Motion for Summary Judgment, Dear Author will need to inquire as to whether this suit was initiated for the improper purpose of intimidating other current and former authors for Plaintiffs from publishing criticism of them, as well as vindicating the personal feelings of Ms. Engler.

9. On June 10, 2015, Defendants served Requests for Production of Documents on Plaintiffs, seeking documents directly relevant to the issue of Plaintiffs' motivations in filing this suit and their attempts to intimidate other authors by making an example of Defendants. A true and correct copy of the Requests is attached as **Exhibit 1** to Dear Author's Motion for Further Discovery Pursuant to Fed. R. Civ. P. 56(d).

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10. Without documents responsive to these requests, and without an opportunity to take the depositions of Ms. Marks and Ms. Engler, it will be significantly more difficult, if not impossible, for Dear Author to oppose Plaintiffs' Motion for Summary Judgment.

11. On September 5, 2015 the article *This Mother's Day, I'm Grateful My Mom Helped Me Build My Erotica Business* published in the Huffington Post was provided to Defendants. Before that, it was not available to Defendants.

12. On September 9, 2015, the Romance Writers of America issued a statement, attached as **Exhibit 4** to Dear Author's Motion for Further Discovery Pursuant to Fed. R. Civ. P. 56(d). This newsletter raises issues that would be necessary to explore in order to respond to summary judgment.

I declare under penalty of perjury that the foregoing statements are true and correct, to the best of my knowledge.

Executed on: September 15, 2015
in: Las Vegas, NV.

/s/ Marc J. Randazza
Marc J. Randazza