

EXHIBIT E

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO
CIVIL DIVISION

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

Case No: CV-2014-09-4421

Plaintiffs,

v.

DEAR AUTHOR MEDIA NETWORK, LLC
and
JENNIFER GERRISH-LAMPE

Defendants.

**DECLARATION OF JULIE NAUGHTON IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION FOR ENTRY OF A TEMPORARY
INJUNCTION**

I, Julie Naughton, having personal knowledge of the matters set forth herein and being competent to testify about them if called to do so at trial, state as follows:

1. I began working with Ellora's Cave Publishing in December 2012 as a content/acquiring editor. I was hired by Kelli Collins, who at the time was Ellora's Cave's Editor in Chief.
2. I was typically paid every two weeks in the pay periods during which I had submitted work. Ellora's Cave's policy with content editors was to have editors submit a final edited manuscript in any given pay period and then receive a check two weeks later.
3. I personally began experiencing payment problems with Ellora's Cave in July 2014. I was not paid in the typical time period for "Coming for Midnight" by Jessica Shin, a manuscript edited and submitted for final copy editing in July 2014. Repeated emails sent to Ellora's Cave Chief Financial Officer Courtney Thomas through mid-September went unanswered.
4. I was paid the \$225.19 owed to me for the editing of Ms. Shin's book with a check dated August 22, 2014 but with a Cleveland, Ohio postmark of October 2, 2014, which was received in Hoboken, New Jersey, where I live, on October 8, 2014. I took an iPhone video of myself showing the date on my computer, the postmark on the envelope,

opening the envelope and drawing out the pre-dated check as proof of this statement on October 8, 2014.

5. I've been told by several other editors that they have had similar experiences.
6. Ellora's Cave Publishing currently owes me \$381.26 for the editing of the manuscript "Hands All Over" by Kacey Hammell, submitted in the August 18 through 21, 2014 pay period. I have written verification of this amount owed in an email from former Managing Editor Whitney Mihalik dated September 10, 2014. To date, I have received no guidance on when I can expect this money, and multiple emails to Ms. Thomas have gone unanswered.
7. On August 18, 2014, Ellora's Cave Publisher Raelene Gorlinsky sent all content editors working as independent contractors an email on behalf of Ellora's Cave Chief Executive Officer Patricia Marks, stating that due to a dispute with Amazon, book sales via Amazon had dropped sharply and that Ellora's Cave was experiencing a negative return on investment with most of its books, and could not afford to continue to employ the independent editors. I have written verification of this statement in the form of the email from Ms. Gorlinsky and written by Ms. Marks.
8. There was no notice whatsoever to editors or to authors that we would all be laid off. Ms. Marks noted in that email that payment would be delayed but gave no time frame in which to expect payment. She also stated that all remaining books submitted and contracted would be edited by in-house editors. At that time, I believe there were three staff editors, and hundreds of manuscripts. I have verification of these claims in email form, in the email written by Ms. Marks and distributed by Ms. Gorlinsky. Part of that email appeared in an article written by Calvin Reid, which appeared in the August 25, 2014 issue of Publishers Weekly: <http://www.publishersweekly.com/pw/by-topic/digital/retailing/article/63779-ellora-s-cave-ceo-confirms-amazon-sales-drop.html>
9. I had heard concerns from several of my authors that royalties were late and/or much lower than was usual beginning in January 2014. I had referred these questions/concerns to Ms. Gorlinsky at that time.
10. Due to increasingly late payments and the abrupt dismissal of all content editors on August 18, 2014 (independent contractor cover artists were dismissed the week prior), as well as Ms. Marks's statement about the company's financial problems, my opinion as of August 18, 2014 was that Ellora's Cave was in dire financial straits.
11. My feeling that Ellora's Cave was in dire financial straits was further compounded by public records I accessed before and on the day of my termination. These records, on the website of the Summit County Clerk of Courts, indicated that Ms. Engler-Keen and Ellora's Cave have an unpaid tax June 26, 2014 lien judgment from the Ohio

Department of Taxation in the amount of \$105,819.92 on as well as a judgment from the City of Akron for unpaid taxes in the amount of \$29,679.52. I further noted that Ms. Engler-Keen's pattern of tax lien judgments extended to several prior years. I was also dismayed to read the court filings of Ms. Engler-Keen's and Ms. Marks's conduct in the case of *Christina M. Brashear vs. Ellora's Cave Publishing Inc.*, case number CV-2008-04-2729, especially the documents which detail Ms. Engler-Keen's and Ms. Marks's defamatory behavior in detail with the document:

<http://www.cpclerk.co.summit.oh.us/PublicSite/Documents/civzzze700002F5D.pdf>

12. My concerns about the future health of the organization were underlined on September 12, 2014, when during a phone conversation with Ms. Mihalik, she revealed to me that she had resigned from the company.
13. Later that day I heard that Chief Operating Officer Susan Edwards had also tendered her resignation.
14. When I read the Dear Author post entitled The Curious Case of Ellora's Cave on September 14, 2014, I remember thinking that it was well-researched and sourced, as pretty much everything stated in the post was backed up by official communications I'd received from Ms. Marks, Ms. Gorlinsky, and Ms. Mihalik, or was an opinion or issue stated to me by an Ellora's Cave author or employee.
15. I respected Ms. Gerrish-Lampe's comprehensive and impartial reporting, although I was already aware of everything she stated, as were many others, especially those who had been independent contractors and full-time staff members of Ellora's Cave.
16. My opinion of Ellora's Cave was very negative due to the reasons above well before Ms. Gerrish-Lampe's post on September 14, 2014. Aside from the fact that I believe what Ms. Gerrish-Lampe wrote is true, I have been a working professional journalist for the past 23 years in New York City, and the First Amendment is critically important to me. I am also of the opinion that if Ohio had an anti-SLAPP law, this suit would not continue:
<http://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/64178-ellora-s-cave-files-libel-suit-against-dear-author-blog.html>
17. My opinion of Ms. Engler-Keen was further negatively influenced by rambling Facebook posts and offensive Twitter posts that were posted under Ms. Engler-Keen's pseudonym, Jaid Black. Ms. Engler-Keen has since deleted all offensive postings — including a Facebook post on September 14 calling those editors and authors who were speaking up about non-payment “stone-cold, batshit fuck nuts” — screenshots are available of multiple offensive postings, including Ms. Engler-Keen's Facebook profile picture of September 23, 2014, in which she “flips the bird” to her audience with her

middle finger extended. I have a screencap of this and it has also been all over Twitter and Facebook via other people. I have multiple screenshots of said offensive posts.


18. There has been at least one suspicious new Twitter account, which I would classify as a sockpuppet—or fake account—founded since this suit was filed. One in particular, @Pubnt, has repeatedly posted Ms. Gerrish-Lampe's name, fully aware that she writes her blog under the pseudonym of Jane Litte, and has repeatedly made defamatory comments about Ms. Gerrish-Lampe and positive ones about Ms. Engler-Keen. By repeatedly broadcasting Ms. Gerrish-Lampe's real name, it is my opinion that whomever is behind this account is attempting to intimidate Ellora's Cave authors—most of whom write under pseudonyms—by indicating their real names could be revealed at any time. This would be disastrous for some of these authors and could lead to dismissal from day jobs. While writing erotic romance is certainly not illegal, there are many employers who might not look kindly upon employees who write it. On October 12, 2014, the @pubnt account referred to Ellora's Cave authors as 'trash who don't know how to behave.' I have a screenshot of this as well.
19. In clear violation of court filings dated October 2, 2014 — <http://www.cpclerk.co.summit.oh.us/PublicSite/Documents/sumr000000A6A.pdf> — Ms. Engler-Keen continues to post both on her own blog, jaidblack.com, and on other websites, about the case and its merits. <http://jaidblack.com/entries/general/for-the-silenced-victims->
20. Upon further research, seeking independent documentation of the alleged “defamation” in Ms. Gerrish-Lampe's statements, I found a Craigslist posting advertising the Ellora's Cave office building at 1056 Home Avenue in Akron, Ohio, for rent. <http://akroncanton.craigslist.org/off/4628577164.html>. This was posted to Craigslist on August 20, 2014 at 1:30 pm. This is the address listed in the court filings and on my checks from the business as the address of Ellora's Cave Publishing Inc. While the ad was deleted on or about October 12, 2014, I have a screenshot demonstrating that it did, at one time, appear.
21. I also found miscellaneous items for sale here: <http://stores.ebay.com/Elloras-Cave-Publishing> and had been told by a former employee that there was a warehouse sale at the company headquarters in July.
22. Several authors have reported to me that they got statements in October 2014 saying royalties had been overpaid over 13 months and the amount deducted from the current checks. These authors further state that checks were being mailed with undated meter strips until it was mentioned on Twitter that this practice is illegal, in fact a federal

offense for the United States Postal Service. Then envelopes began arriving with postmarks.

23. Ms. Marks repeatedly, in both official communications and in statements to Publishers Weekly, stated that the company's financial problems were due first to a software glitch and then to Amazon's algorithms. The "software glitch" excuse has been used for more than a year and was alluded to in an article written by Calvin Reid which appeared in the May 15, 2014 issue of Publishers Weekly. I strongly believe that if any software had that many problems, a qualified chief financial officer and chief executive officer would have cut their losses and switched to another type of program. Certainly such problems should not last most of the year, in my opinion. It is my opinion that improper spending of author royalties, coupled with a lack of cash flow to pay authors, began at least as early as late 2013.
24. <http://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/62296-ellora-s-cave-blames-software-for-royalty-problems.html>

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

Executed this 10/13/2014, in Hoboken, New Jersey.

DocuSigned by:

Julie Naughton
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