

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARCUS EVANS,)	
)	
Plaintiff,)	
)	
v.)	No. 2012-C-163
)	
TRACEY COENEN AND)	
SEQUENCE, INC.,)	
)	
Defendants.)	

ANSWER TO COMPLAINT

Defendants Tracey Coenen and Sequence, Inc. hereby answer the Complaint of Plaintiff Marcus Evans Incorporated (“Mei,” or the “Plaintiff”) as follows:

THE PARTIES

1. Marcus Evans is a Delaware corporation with its North American headquarters located at 455 North Cityfront Plaza Drive, 9th Floor, Chicago, Illinois.

ANSWER: Defendants are without sufficient information upon which to base a belief as to the truth or falsity of the allegations of paragraph 1 of the Complaint and therefore neither admit nor deny said allegations, but demand strict proof thereof.

2. Sequence, Inc. is a Wisconsin corporation doing business at 10 South Riverside Plaza, Suite 1800, Chicago, Illinois (“Sequence”).

ANSWER: Defendants admits that Sequence, Inc. is a Wisconsin Corporation.

3. Tracy Coenen is an individual who is a resident of Wisconsin, doing business in Chicago, Illinois, as the owner of Sequence (“Cohen”).

ANSWER: Defendants admit that Coenen is a citizen and resident of Wisconsin.

JURISDICTION AND VENUE

4. This Court has jurisdiction in this matter because Defendants have submitted to jurisdiction pursuant to 735 ILCS 5/2-2099(a)(1) and (2) and 735 ILCS 5/209(b)(1) and (4).

ANSWER: Denied pursuant to removal to this Court.

5. Venue properly lies with this Court, pursuant to Section 2-101 of the Illinois Code of Civil Procedure.

ANSWER: Denied pursuant to removal to this Court.

FACTS

6. Marcus Evans is a business information company, providing global business intelligence and information to assist clients in strategic and effective decision-making. Marcus Evans provides industry sector-focused events for business learning and networking opportunities across a variety of industries and professions.

ANSWER: Defendants are without sufficient information upon which to base a belief as to the truth or falsity of the allegations of paragraph 6 of the Complaint and therefore neither admit nor deny said allegations, but demand strict proof thereof.

7. Marcus Evans's technology (or CIO) summits feature speakers and programs that explore issues in the technology industry. The programs include case study presentations, pre-arranged business meetings, workshops and round table discussions.

ANSWER: Defendants are without sufficient information upon which to base a belief as to the truth or falsity of the allegations of paragraph 7 of the Complaint and therefore neither admit nor deny said allegations, but demand strict proof thereof.

Defendants' Website and Content

8. Defendants maintain a website at www.sequenceinc.com (The "Website").

ANSWER: Defendants admit the allegations of Paragraph 8.

9. The Website promoted Coenen as a supposed expert in financial and accounting investigation, including “fraud examinations.” The Website promotes “an independent and unbiased analysis” of cases on which Coenen works.

ANSWER: Defendants deny Plaintiff’s characterization of Coenen as a “supposed expert in financial and accounting investigations”; and admit the remaining allegations of Paragraph 9.

10. The Website contains a page captioned “The Fraud Files” wherein Defendants post statements about various companies, including Marcus Evans. The Website is interactive, allowing Defendants to communicate with th Website’s visitors.

ANSWER: Defendants deny that the Defendants’ website is “interactive”; and admit the remaining allegations of Paragraph 10.

11. On or about July 27, 2011, Defendants posted statements of fact on the Website related to Marcus Evans, its business and its employees. Specifically, Defendants titled the post “Marcus Evans Scam: Fraud Complaints about Events and Sales Pitch.” A copy of the July 27, 2011 post is attached at Exhibit A.

ANSWER: Defendants deny that they “posted statements of fact on the Website related to Marcus Evans, it business and its employees”, and admit the remaining allegations of Paragraph 11.

12. The untruthful statements, include, “Searches for terms like “marcus evans scam”, “marcus evans complaints”, and “marcus evans fraud” curiously return numerous websites that Marcus Evans created about their “fraud events” and such . . . **clearly an attempt to dominate the search engine results for anything related to complaints about the company.**”

(emphasis in original)

ANSWER: Defendants admit that the words set forth in paragraph 12 of the Complaint appear on Defendants' web site, but deny any statements on that web site are untruthful and affirmatively allege that the statements set forth in paragraph 12 are taken out of context.

13. The statements of fact in the July 27, 2011 post were untruthful.

ANSWER: Defendants deny the allegations of Paragraph 13.

14. Defendants knew the statements of fact in the July 27, 2011 were false or had no reasonable basis for believing the statements to be true.

ANSWER: Defendants deny the allegations of Paragraph 14.

15. Defendants made the statements maliciously and with an evil intent to injure Marcus Evans without just cause or excuse.

ANSWER: Defendants deny the allegations of Paragraph 15.

16. In the same July 27, 2011 post (Ex. A) Defendants re-published statements of fact made by other individuals related to Marcus Evans, its business and its employees. In that post, Defendants stated that the re-published statements came from www.ripoffreport.com, a website that Defendants identified as a "scam" (The "ROP Website"). Defendants also stated in this post that Defendants identified as a "scam" the ("ROP Website). Defendants also stated in this post that the ROP Website contains some "posted complaints" that could be considered not legitimate.

ANSWER: Defendants deny the characterizations of the material Defendants posted on the web site on July 27, 2011, and refer the court to Exhibit A to the Complaint for its contents.

17. The untruthful, republished statements in the July 27, 2011 post included:

(a) "[W]e see what is here and realize just another version of the Nigerian

scam.”

- (b) “By this I mean the rep will always always say that the only reason she is able to call you is because one of their existing clients either became insolvent (went out of business) or has a date conflict, and now has been forced to forfeit their deposit (of approximately \$10,000) and now they are interviewing a small select handful of appropriate companies in your industry niche with your exact expertise to take over their client’s schedule of 30 prequalified face to face meetings AND also to get to apply the forfeited deposit towards the booking of the next company who books on.

So they hook you with a made up rare discount opportunity that you think “other clients of theirs did not have the opportunity to take advantage of”, which is wrong. At the same time, this urgency forces your buying decision to be an emotional impulse decision because the sales rep will actually tell you that if you want to take the meetings then you will have to set up a call back later that day or the very next day within 24 hours. They get you to do this by deceptively lying claiming to already have scheduled calls with your competitors who are already very very interested in taking the final block of meetings.”

- (c) “If you receive a phone call from a marcus evans employee, you might hear something like this:

* - Lie, false scenario, or outrageous exaggeration:

Hi, my name is _____ with the “Your industry (ex: medical device)” group. I am working* with a group of VP’s, and SVP’s, “Your potential target market) coming from big organizations in North America. I work with people like: name dropping, name Dropping . . .

And the reason why I am calling you SPECIFICALLY* today is because our group is interested in a company that does WHAT YOU GUYS DO*.

. . . We work very closely with these executives to identify* specific purchasing objectives and requirements for upcoming projects for the coming year. Once they send that information* to us, what e do then is find common areas of demand within the group and then partner with organizations like yours in each area of demand to meet with our buyers. And this is done through a series of 1-1 business meetings designed to help our clients with their objectives.

We only work with a select group* of solution providers like you. * * *

The ONLY reason why I'm contacting you today is because:

Scenario 1): One of our existing* clients just asked us to transfer to our European Summit.

Scenario 2) One of our existing* clients is filing for Chapter 11.

Scenario 3) One of our existing* clients didn't use their upgrade option.

. . or any other similar scenario where the existing client"* forfeited a deposit or had to pay a penalty of in between \$5000.00 - \$10,000.

NB. The "delegates", "buyers", or "executives" are being prospected like You. **They don't come on board because they are actively looking for solutions or suppliers.**

They will drop then "drop the price" which is always in between \$35000 and \$50000 for 2 executives taking 20-30 one-on-one meetings."
(Emphasis in original)

(d) "Long story short: The corporate counsel were also scammed to Show up at the summit. They went for free or for a very discounted price if they agreed to interview 6 to 8 legal venders. Most did not have any need for additional counsel. The in-house attorneys just wanted their CLE credit and a resort to visit.

Yes, you will meet many of the high-up IP counsel and perhaps decision makers from well known corporations. No, they were not carefully screened, nor did they work with anyone from Marcus Evans to determine If they really had any need for additional or new outside patent counsel for litigation, prosecution or contract work. I would bet that not a single IP attorney got a good solid lead toward new work. If anything is to be gained, it will occur in months and months of lead follow-up, which most attorneys do anyway regardless of the CLE or IP convention they go to.

ANSWER: Defendants admit that the words set forth in paragraph 17 of the Complaint appear on Defendants' web site, but deny any statements on that web site are untruthful and affirmatively allege that the statements set forth in paragraph 17 are taken out of context.

18. The re-published statements of fact in the July 27, 2011 post were untruthful.

ANSWER: Defendants deny the allegations of Paragraph 18.

19. Defendants knew the republished statements of act in the July 27, 2011 were false or had no reasonable basis for believing the statement to be true.

ANSWER: Defendants deny the allegations of Paragraph 19.

20. Defendants republished the statements maliciously and with an evil intent to injure Marcus Evans without just cause or excuse.

ANSWER: Defendants deny the allegations of Paragraph 20.

21. After reading the false statements of fact on the Website, Marcus Evans representatives contacted Defendant to discuss the statements.

ANSWER: Defendants admit that Plaintiffs' employees incessantly attempted to contact the Defendants following July 27, 2011 in a manner that approached harassment. Defendants deny the remaining allegations of Paragraph 21.

22. When Defendants did not respond to those efforts, Marcus Evans' Director of Client Management Relationships, Christopher Leese, sent a letter to Defendants offering the opportunity to discuss the false statements of fact. A copy of Leese's correspondence is attached as Exhibit B.

ANSWER: Defendants admit that Mr. Leese sent the Defendants the letter, a copy of which is attached to the Complaint as Exhibit B, and deny the remaining allegations of Paragraph 22.

23. On August 8, 2011, Defendants posted additional statements of fact about Marcus Evans, its business and its employees on the Website. A copy of the August 8, 2011 post is attached as Exhibit C.

ANSWER: Defendants admit that they posted material to the website on August 8, 2011, but deny the characterizations of the material contained in the Complaint and refer the court to Exhibit C to the Complaint for its contents.

24. In the August 8, 2011 post titled, "Marcus Evens Fraud: Company Covers up Scam Complaints (Ex. B)," Defendants did not provide any proof of "fraud complaints" or litigation against Marcus Evans. Defendants did not provide proof of any "cover up."

ANSWER: Defendants deny the characterizations of the material Defendants posted on the web site on August 8, 2011, and refer the court to Exhibit C to the Complaint for its contents.

25. The untruthful statements in the August 8, 2011 post include:

- (a) Last week I wrote about a company called Marcus Evans, who got my attention using dishonest sales tactics and scripted phone calls."
- (b) "[E]xcept when I googled "Marcus Evens complaints," "Marcus Evens scam," and "Marcus Evens fraud," I found tons of websites that were clearly set up by the company to dominate the search engine rankings for those terms."
- (c) "[N]ow the company has resorted to threatening me. I received this threatening letter (sent to me three different ways, nonetheless) from Christopher Leese, the Director of Client Relationship Management at Marcus Evans."
- (d) "Peter Laspas also posted as supporters of Marcus Evans, attempting to post [] two comments to the blog using false names."
- (e) "Marcus Evens employees then turned into stalkers."

ANSWER: Defendants admit that the words set forth in paragraph 25 of the Complaint appear on Defendants' web site, but deny any statements on that web site are untruthful and affirmatively allege that the statements set forth in paragraph 25 are taken out of context.

26. The statements of fact in the August 8, 2001 post were untruthful.

ANSWER: Defendants deny the allegations of Paragraph 26.

27. Defendants knew the statements of fact in the August 8, 2011 were false or had no reasonable basis for believing the statements to be true.

ANSWER: Defendants deny the allegations of Paragraph 27.

28. Defendants made the statements maliciously and with an even intent to injure Marcus Evans without just cause or excuse.

ANSWER: Defendants deny the allegations of Paragraph 28.

29. On September 19, 2011, Coenen posted Defendants' response to comments on Defendants' July 27, 2011 post providing more statements of fact about Marcus Evans, its business and its employees. (Ex. A).

ANSWER: Defendants admit that they posted a response to comments posted by Plaintiff, but deny the remaining allegations of paragraph 29.

30. The untruthful statements of fact in Defendants' September 19, 2011 comments include:

(a) "Interesting, isn't it Chuck, the amount of time and effort the company went to in order to bully me into silence, and to create these sites to dominate search engine rankings and push down the criticism?"

(b) "They are lying to service providers like myself[sic] when they say that in-house counsel is looking for new service providers."

(c) "Marcus Evans created hundreds of websites to dominate search engine rankings for fraud/complaints/scam and the name Marcus Evans."

ANSWER: Defendants admit that the words set forth in paragraph 30 of the Complaint appear on Defendants' web site, but deny any statements on that web site are untruthful and affirmatively allege that the statements set forth in paragraph 30 are taken out of context.

31. The statements of fact in the comments posted September 19, 2011 were untruthful.

ANSWER: Defendants deny the allegations of Paragraph 31.

32. Defendants knew the statements of fact in the September 19, 2011 were false or had no reasonable basis for believing the statements to be true.

ANSWER: Defendants deny the allegations of Paragraph 32.

33. Defendants made the statements maliciously and with an evil intent to injure Marcus Evans without just cause or excuse.

ANSWER: Defendants deny the allegations of Paragraph 33.

34. On October 6, 2011, Defendants posted additional statements of fact on the Website under the entry titled, "Marcus Evans Fraud: Threats and Intimidation Continue." A copy of the October 6, 2011 post is attached as Exhibit D.

ANSWER: Defendants admit that they posted Exhibit D on their web site, but deny the remaining allegations of paragraph 34.

35. The untruthful statements in the October 6, 2011 post include:

- (a) "But Marcus Evans - Peter Laspas, Chris Leese, Theron Burraway and Ian Milne in particular – sprang into action, threatening, and stalking me."
- (b) "It is clear that there are plenty of people who are suspicious of Marcus Evans and are doing research on the company."

ANSWER: Defendants admit that the words set forth in paragraph 35 of the Complaint appear

on Defendants' web site, but deny any statements on that web site are untruthful and affirmatively allege that the statements set forth in paragraph 35 are taken out of context.

36. The statements of fact in the October 6, 2011 post were untruthful.

ANSWER: Defendants deny the allegations of Paragraph 36.

37. Defendants knew the statements of fact in the October 6, 2011 were false or had no reasonable belief for believing the statements to be true.

ANSWER: Defendants deny the allegations of Paragraph 37.

38. Defendants made the statements maliciously and with an evil intent to injure

Marcus Evans without just cause or excuse.

ANSWER: Defendants deny the allegations of Paragraph 38.

39. On October 7, 2011, MEI sent a letter to Defendants requesting that they cease and desist from continuing to post the false statements of fact. A copy of the October 7, 2011 correspondence is attached as Exhibit E.

ANSWER: Defendants admit that Plaintiff sent the letter, a copy of which is attached to the Complaint as Exhibit E, but deny the characterizations of that letter set forth in paragraph 39 and refer the Court to Exhibit E for its contents.

COUNT I

(Defamation - Tracy Coenen)

40. Marcus Evans incorporates Paragraphs 1 through 39 as though fully set forth herein.

ANSWER: Defendants incorporate their answers to Paragraphs 1 through 39 as their Answer to Paragraph 40.

41. By engaging in the above actions, Coenen has made untruthful statements of fact about Marcus Evans, its business and its employees.

ANSWER: Defendants deny the allegations of Paragraph 41.

42. Coenen published her statements on the Website.

ANSWER: Defendants admit that they published material referring to Plaintiff on their web site, but affirmatively allege that the allegations of the Complaint do not set forth the entire publications written by Defendants.

43. Coenen the statements of fact in the posting were false or had no reasonable basis for believing the statements to be true.

ANSWER: Defendants deny the allegations of Paragraph 43.

44. Coenen made the statements maliciously and with an evil intent to injure Marcus Evans without just cause or excuse.

ANSWER: Defendants deny the allegations of Paragraph 44.

45. Marcus Evans has sustained damages, including damage to its reputation, as a result of Coenen's publication of the untruthful statements. Specifically, Marcus Evans Chicago office has lost at least three customers totaling not less than \$100,000 in compensatory damages.

ANSWER: Defendants deny the allegations of Paragraph 45.

COUNT II

(Defamation - Sequence, Inc.)

46. Marcus Evans incorporates Paragraphs 1 through 39 as though fully set forth herein.

ANSWER: Defendants incorporate their answers to Paragraphs 1 through 39 as their answers to Paragraph 46.

47. By engaging in the above actions, Sequence has made untruthful statements of fact about Marcus Evans, its business and its employees.

ANSWER: Defendants deny the allegations of Paragraph 47.

48. Sequence published the statements on the Website.

ANSWER: Defendants admit that they published material referring to Plaintiff on their web site, but affirmatively allege that the allegations of the Complaint do not set forth the entire publications written by Defendants.

49. Sequence knew the statements of fact in the posting were false or had no reasonable basis for believing the statements to be true.

ANSWER: Defendants deny the allegations of Paragraph 49.

50. Sequence made the statements maliciously and with an evil intent to injure Marcus Evans without just cause or excuse.

ANSWER: Defendants deny the allegation of Paragraph 50.

51. Marcus Evans has sustained damages, including damage to its reputation, as a result of Sequence's publication of the untruthful statements. Specifically, Marcus Evans Chicago office has lost at least three customers totaling not less than \$100,000 in compensatory damages.

ANSWER: Defendants deny the allegations of Paragraph 51.

AFFIRMATIVE DEFENSES

AFFIRMATIVE DEFENSE I

THE ILLINOIS CITIZEN PARTICIPATION ACT

Plaintiff's instant litigation is brought in connection with, or as retaliation for, Defendants' acts in furtherance of their rights to speak, petition or participate in government and seek favorable action; as such, Plaintiff's claim is subject to dismissal pursuant to the provision of the Illinois Citizens Participation Act, 735 ILCS 110/1 *et seq.* with an award of reasonable attorneys' fees to the Defendants.

AFFIRMATIVE DEFENSE II

FAILURE TO STATE A CLAIM

Plaintiff has failed to state a claim for defamation that is cognizable under law. The statements Plaintiff complains of do not constitute defamation, and as a matter of law are dismissible as non-defamatory.

AFFIRMATIVE DEFENSE III

PUBLIC FIGURE DOCTRINE

Plaintiff is a public figure and, as such, required to prove the Defendants acted with actual malice in making false and defamatory statements. Being unable to do so, Plaintiff's claims against the Defendants will fail.

AFFIRMATIVE DEFENSE IV

SUBSTANTIAL TRUTH

Defendants' statements are substantially true and therefore non-defamatory. So long as the gist of the Defendants' statements is correct, the statements are not defamatory.

AFFIRMATIVE DEFENSE V

RHETORICAL HYPERBOLE

Defendants' speech is protected as rhetorical hyperbole, as no reasonable reader of the statements would interpret them as being statements of fact. As such, they are incapable of constituting defamation, and Plaintiff's claims must fail on that basis.

AFFIRMATIVE DEFENSE VI

COMMON LAW PRIVILEGE

Defendants' statements address matters of public concern and thus are afforded the First Amendment's strongest protections. Because of the public import of the Defendants' statements, their content is privileged and non-actionable. Accordingly, Plaintiff's claims for defamation must fail as a matter of law.

AFFIRMATIVE DEFENSE VII

THE FIRST AMENDMENT

The First Amendment of the United States Constitution immunizes the Defendants from liability for their statements concerning Plaintiff, its business and its employees, as Defendants' statements are matters of public concern and entitled to Constitutional protection. By operation of the First Amendment, the Defendants are inoculated from liability arising from their statements concerning Plaintiff.

AFFIRMATIVE DEFENSE VIII

STATEMENTS OF OPINION

Defendants' statements concerning Plaintiff, its business and employees are statements of opinion, rather than fact, and cannot be the proper basis for a defamation claim. As such, Plaintiff's claims of defamation fail against the Defendants, as the Defendants have not made any false statements of fact.

Respectfully submitted,

S/Wayne B. Giampietro
Wayne B. Giampietro
One of Defendants' attorneys

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY pursuant to Fed. R. Civ. P. 5 that a true and correct copy of the foregoing has been furnished, on this 13th day of January, 2012, electronically to Plaintiff's counsel.

s/ Wayne Giampietro