

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

SUSAN HASSETT,

Plaintiff

CASE NO.:

VS.

COMPLAINT

ELISABETH HASSELBECK,
CENTER STREET HACHETTE
BOOK GROUP AND JOHN DOE,

Defendants.

Plaintiff, Susan Hassett, by her undersigned counsel, for her Complaint, hereby allege, on knowledge as to their own conduct and otherwise on information and belief as follows:

NATURE OF THE ACTION AND RELIEF SOUGHT

1. This action arises out of the Defendant Elisabeth Hasselbeck's, Center Street Hachette Book Group's and John Doe's willful and blatant violation of Plaintiff's intellectual property rights in her book, "Living With Celiac Disease" in violation of the Copyright Act. Defendant's, being fully aware of Plaintiff's rights in her book, "Living With Celiac Disease", misappropriated those rights by publishing A 234 page book entitled, "The G Free Diet-A Gluten-Free Survival Guide" (the "Infringing Book") which, upon information and belief, is comprised of widespread misappropriation of Ms. Hassett's informational content concerning products and ingredients containing gluten, the very language choices she makes, the detailed lists of grains listed in English with

their corresponding Latin names, the very format and organization of her book.

2. The Infringing Book is particularly troubling as it is misleading and potentially dangerous as it is being marketed as a fad diet for those with celiac disease rather than a serious approach to a potentially deadly disease. The Infringing Book was published on or about May 4, 2009.

3. The Plaintiff sent, with proof of mailing, a copy of her then just self-published book, "Living With Celiac Disease", [Library of Congress Catalog Card Number ISBN 978-1-60585-884-5] to Elisabeth Hasselbeck on April 4, 2008. Included with that book was a home made cooking video made by Ms. Hassett, a newspaper article about celiac disease dated on or about April 1, 2008 and her business card containing her address, phone number and email address. In her book Ms. Hassett wrote a personal note to the Defendant, Elisabeth Hasselback expressing her hope that her book would find her well; that it was fortunate that she caught her celiac disease early and; that she (Hasset) would be happy to discuss anything in her book in order to further spread the word about celiac disease to her viewers.

4. The Plaintiff's intentions from the start were sincere and without expectation of anything other than helping those with celiac disease (Ms. Hassett had nearly died from the disease). Ms. Hassett never received as much as an acknowledgement from Ms. Hasselbeck or anyone connected with her, "The View" or ABC.

5. The Plaintiff did everything she could to avoid filing this lawsuit by trying to engage Ms. Hasselbeck in a substantive dialogue only to be completely ignored. On May 4, 2009 at 7:26 a.m. after seeing Ms. Hasselbeck promote the Infringing Book on "Good

Morning America”, Ms. Hasset posted a blog on the ABC web site asking Ms. Hasselbeck to explain the similarities the Infringing Book had to the Ms. Hassett’s book mailed to Hasselbeck 13 months earlier. Within one hour this posting was removed. Ms. Hassett reposted her blog and it was removed 15 minutes later. Thereafter, Ms. Hassett’s emails were blocked from publication on the ABC web site. On June 9, 2009 a letter setting forth a thorough, though not exhaustive, list of copyright violations, requesting a discussion to settle this matter without filing suit, was sent to Defendant’s Hasselbeck and Center Street Hachette Book Group, among others by way of Certified Mail Return Receipt Requested. This letter was received by both Defendants on June 11, 2009 and as of this filing have made no communication to discuss a settlement of this matter.

6. Thus, Plaintiff has no choice but to file this lawsuit seeking injunctive relief and damages that she has suffered as a result of Defendant’s activities. Plaintiff intends to donate a portion of the proceeds of any monetary award that may result from this law suit to create a camp designed for children with celiac disease. Specifically, Plaintiff claims copyright infringement under the Copyright Act of 1976, 17 U.S.C. sections 101 et seq.

PARTIES

7. Susan Hassett is an individual residing in Falmouth, Massachusetts. Ms. Hassett is a first time author with the publication of “Living With Celiac Disease”, copyrighted in March of 2008.

8. Upon information and belief, Defendant, Elisabeth Hasselbeck is an individual with her principal place of business located at 320 West 66th Street, New York,

NY. The Infringing Book is available for sale to customers located in this judicial district through online vendors and retail stores located within this judicial district.

9. Upon information and belief, Defendant, Center Street Hachette Book Group (Center Street) is a publishing company with its principle place of business located at 237 Park Avenue, New York, NY. The Infringing Book is available for sale to customers located in this judicial district through online vendors and retail stores located within this judicial district.

10. Plaintiff is ignorant of the true name or names and address(es) of the ghost writer(s) of the Infringing Book. Plaintiff will seek leave of Court to amend her Complaint to include such person(s) and the applicable allegations there against when That information is ascertained.

JURISDICTION AND VENUE

11. This action asserts claims arising the Copyright Act of 1976 as amended. 17 U.S.C. sec. 101 et seq.

12. This Court has personal jurisdiction over the Defendants, Elisabeth Hasselbeck, Center Street and John Doe because the Defendants have committed tortuous acts both within and without the Commonwealth of Massachusetts through the sale of the Infringing Book which is available nationally and within the Commonwealth of Massachusetts through traditional and online retailers, causing injury to the Plaintiff within the Commonwealth of Massachusetts. Center Street has regularly conducted or solicited business within the Commonwealth of Massachusetts. Elisabeth

Hasselbeck is the co-host of a nationally syndicated television show, "The View" which is also shown throughout the Commonwealth of Massachusetts through television stations affiliated with the American Broadcast Company. John Doe, as the ghost writer, knowingly participated in the writing, production and sale of the Infringing Book which is available nationally, and within the Commonwealth of Massachusetts through traditional and online retailers.

**DEFENDANT'S INFRINGEMENT OF
PLAINTIFF'S INTELLECTUAL PROPERTY RIGHTS**

13. The Infringing Book, written by Elisabeth Hasselbeck and/or John Doe and published and distributed by Center Street nationwide on or about May 4, 2009 was promoted on that day by Defendant, Elisabeth Hasselbeck on "Good Morning America" to a nation wide television audience. The Infringing Book is currently being sold throughout the United States.

Defendant's Infringing Book-The G Free Diet-A Gluten-Free Survival Guide

14. The Infringing Book repeats the majority of the factual content found Plaintiff's book which is a scrupulously researched compendium of do's and don'ts for those who suffer from celiac disease. The Infringing Book adds approximately 100 pages of fluff designed to make the infringing Book a popular commercial diet book.. Specifically, the Infringing Book slavishly reproduces significant portions of lists of

offending grains (those containing gluten) complete with their scientific Latin names. The Infringing Book includes dozens of paraphrased as well as word for word regurgitations of phrases and scrupulously researched factual data entries found in Ms. Hassett's book. Moreover, the Infringing Book utilizes a virtually identical order and format of 13 chapters of Ms. Ms. Hassett's work and those suffering from celiac disease.

15. In addition to the infringing content, upon information and belief, is being marketed in such a way as to be misleading and dangerous to those who suffer from celiac disease. The Executive Director of National Celiac Foundation, Elaine Monarch issued the following warning about the Infringing Book, "I am writing to call your attention to the current publicity surrounding the new book, 'The G-Free Diet-A Gluten-Free Survival Guide', by Elisabeth Hasselbeck, co-host of 'The View'. While it is important to call attention to celiac disease, the information must be accurate- the inaccuracies in this book are potentially dangerous and detrimental to celiacs and to those yet to be diagnosed if people self diagnose and start eating GF. Our mission is to assist in getting people accurately diagnosed and the message in this book could defeat this mission. It appears that this book is being marketed as a fitness diet- eat g-free and feel so much better. Celiac is incorrectly referred to as an allergy not an autoimmune disease.

The GF diet is the medically mediated prescription that controls the condition for a diagnosed celiac. Several items in the book are misleading and inaccurate and place further limitations on the GF diet. The gluten-free lifestyle is a lifelong commitment for the diagnosed celiac, not an option, not a fad- adhering the GF lifestyle requires patience and persistence. This lifestyle can not be trivialized".

COUNT ONE-COPYRIGHT INFRINGEMENT-ELISABETH HASSELBECK
(17 U.S.C. sec.s 101 et seq.)

16. The Plaintiff, Susan Hassett, repeats and re-alleges each and every allegation set forth in Paragraphs 1 through 15, inclusive and incorporates them herein by reference.

17. By their actions alleged above, Defendant, Elisabeth Hasselbeck, has infringed and will continue to infringe Ms. Hassett's copyright in her book, "Living With Celiac Disease", without permission.

18. Plaintiff is entitled to an injunction restraining the Defendant, Elisabeth Hasselbeck, her agents, employees, assigns and all persons acting in concert or participation with them, from engaging in any further such acts in violation of the Copyright Act.

19. The Plaintiff is further entitled to recover from Defendant, Elisabeth Hasselbeck, the damages, including attorney's fees, she has sustained and will sustain, and any gains in profits and advantages obtained by Ms. Hasselbeck as a result of her acts of infringement as alleged above. At the present, the amount of damages, gains, profits and advantages cannot be fully ascertained by Plaintiffs, but will be established according to proof at trial. Plaintiff is also entitled to recover statutory damages for Defendant, Elisabeth Hasselbeck's willful infringement of the Plaintiff's intellectual property in her book, "Living With Celiac Disease".

COUNT TWO-COPYRIGHT INFRINGEMENT-CENTER STREET
(17 U.S.C. sec.s 101 et seq .)

20. The Plaintiff, Susan Hassett, repeats and re-alleges each and every allegation set forth in Paragraphs 1 through 19, inclusive and incorporates them herein by reference.

21. By its actions alleged above, Defendant, Center Street, has infringed and will continue to infringe Ms. Hassett's copyright in her book, "Living With Celiac Disease", without permission.

22. Plaintiff is entitled to an injunction restraining Defendant, Center Street, its agents, employees, assigns and all persons acting in concert or participation with them, from engaging in any further violation of the Copyright Act.

The Plaintiff is further entitled to recover from Defendant, Center Street, the damages, including attorney's fees, she has sustained and will sustain and any gains, profits and advantages obtained by Center Street as a result of its acts of infringement as alleged above. At the present time, the amount of damages, gains, profits and advantages cannot be fully ascertained by the Plaintiff, but will be established according to proof at trial. Plaintiff is also entitled to recover statutory damages for Defendant, Center Street's willful infringement of the Plaintiff's intellectual property in her book, "Living With Celiac Disease".

COUNT THREE-COPYRIGHT INFRINGEMENT-JOHN DOE
(17 U.S.C. sec.s 101 et sec.)

23. The Plaintiff, Susan Hasset, repeats and re-alleges each and every allegation set forth in Paragraphs 1 through 23, inclusive and incorporates them herein by reference.

25. By his actions alleged above, Defendant, John Doe, has infringed and will continue to infringe Ms. Hasset's copyright in her book, "Living With Celiac Disease", without permission.

26. Plaintiff is entitled to an injunction restraining Defendant, John Doe, his agents, employees, assigns and all persons acting in concert or participation with them, from engaging in any further such acts in violation of the Copyright Act.

27. The Plaintiff is further entitled to recover from Defendant, John Doe, the damages, including attorney's fees, she has sustained and will sustain and any gains in profits and advantages obtained by John Doe as a result of his acts of infringement as alleged above. At the present, the amount of damages, gains, profits and advantages cannot be fully ascertained by the Plaintiff, but will be established according to proof at trial. Plaintiff is also entitled to recover statutory damages for Defendant, John Doe's willful infringement of Plaintiff's intellectual property in her book, "Living With Celiac Disease".

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Susan Hasset, respectfully demands:

1. That the Court finds Defendants, Elisabeth Hasselbeck, Center Street and John

Doe have respectively infringed Plaintiff's copyrights in her book, "Living With Celiac Disease";

2. That the Court finds that a substantial likelihood the Defendants, Elisabeth Hasselbeck, Center Street and John Doe will continue to infringe Plaintiff's intellectual property unless permanently enjoined from doing so;

3. That the Court issue a permanent injunction restraining Defendants, Elisabeth Hasselbeck, Center Street and John Doe and their agents, servants, employees, attorneys, successors and assigns and all persons, firms and corporation acting in concert with them, from directly or indirectly infringing Plaintiff's copyrights, including, but not limited to the continuing marketing of the Infringing Book or any other works or products or services derived or copied from Plaintiff's copyrighted work and from participating or assisting in any such activity within the United States of America, its territories and protectorates;

4. That the Court issue an order instructing the Defendants, Elisabeth Hasselbeck, Center Street and John Doe, their agents, servants, employees, attorneys, successors and assigns and all persons, firms and corporations acting in concert with them, to recall from all distributors, wholesalers, jobbers, dealers, retailers and all other persons known to them, the Infringing Book and any other work, product or service shown to infringe any of Plaintiff's intellectual property;

5. That the Court enter a judgment for Plaintiff against the Defendants, Elisabeth Hasselbeck, Center Street and John Doe respectively for Plaintiff's actual damages, and

for any profits attributable to infringements of Plaintiff's intellectual property, according to proof;

6. That the Court enter judgment for the Plaintiff and against Defendants, Elisabeth Hasselbeck, Center Street and John Doe respectively for statutory damages based upon their respective acts of infringement pursuant to the Copyright Act of 1976, 17 U.S.C. sec.s 101 et seq.,;

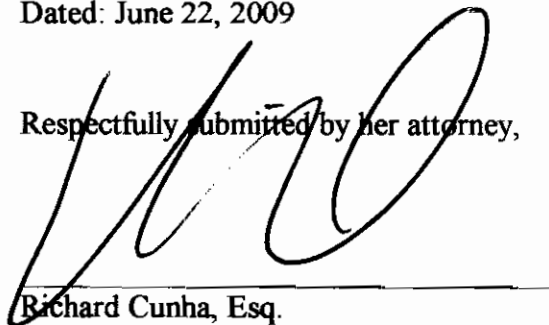
7. That the Court award Plaintiff's costs and disbursements of this action including reasonable attorney's fees, pursuant to 17 U.S.C. sec. 505 and 15 U.S.C. sec. 1117;

8. That the Court grant such other relief as the Court deems proper and just;

9. Plaintiff hereby demands trial by jury.

Dated: June 22, 2009

Respectfully submitted by her attorney,



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