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HAND DELIVERED

August 9, 2018


Vermont Superior Court, Chittenden Civil Division
Attention: Jill Mongeon, COM
175 Main Street
Burlington, VT 05401

Re: Burlington School District v. Provost, et al.
Docket No. 487-6-18 Cncv

Dear Ms. Sims:

Enclosed is the Answer and Counterclaim of Defendant Da Capo Publishing, Inc. d/b/a Seven Days.

Thank you for your assistance.

Very truly yours,

Thomas A. Little, Esq.

cc: Joseph A. Farnham, Esq.
Craig Weatherly, Esq.

COPY

VERMONT SUPERIOR COURT
FILED

AUG - 9 2018

Chittenden Unit

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

CHITTENDEN SUPERIOR COURT
DOCKET NO. 487-6-18 Cncv

BURLINGTON SCHOOL DISTRICT
Plaintiff

v.

ADAM PROVOST and
DA CAPO PUBLISHING, INC. d/b/a
SEVEN DAYS,
Defendants

**AMENDED ANSWER, AND COUNTERCLAIM, OF DEFENDANT DA CAPO
PUBLISHING, INC. d/b/a S EVEN DAYS**

Now comes Defendant Da Capo Publishing, Inc. d/b/a Seven Days (“Seven Days”), through its counsel, Little & Cicchetti, P.C., 117 St. Paul Street, P.O. Box 907, Burlington, VT 05402, and amends the previously filed response of Seven Days to the numbered allegations of the June 25, 2018 Complaint in this action to state as follows:

1. Admitted.
2. Admitted that Adam Provost is a former employee of the Plaintiff. Since Seven Days has been refused a copy of the Resignation Agreement, Seven Days is without information or knowledge to admit or deny any allegation relating to that Agreement.
3. Admitted, with the proviso that Seven Days is the trade name of Da Capo Publishing, Inc.
4. Admitted.
5. Seven Days is without information or knowledge of the content of the Resignation Agreement and of any communications between Plaintiff and Defendant Provost.
6. Seven Days is without information or knowledge of the content of the Resignation Agreement and of any communications between Plaintiff and Defendant Provost.
7. Seven Days is without information or knowledge of any communications between Plaintiff and Defendant Provost.
8. Seven Days is without information or knowledge of the content of any communications between Plaintiff and Defendant Provost.
9. Allegation 9 states a legal conclusion with respect to which no responsive pleading is required.

10. Since allegation 10 refers to the content of the Resignation Agreement and a proposed redaction thereof, neither of which is available to Seven Days, no responsive pleading is required.

Any allegation not expressly admitted shall be deemed denied.

COUNTERCLAIM AGAINST PLAINTIFF BURLINGTON SCHOOL DISTRICT

Defendant Seven Days asserts its Counterclaim against Plaintiff Burlington School District as follows:

1. On June 18, 2018, Seven Days submitted a public records request (the "Request") to Plaintiff Burlington School District to inspect a copy of the Resignation Agreement between Plaintiff and Defendant Adam Provost. The Plaintiff acknowledged to Seven Days the existence of the Resignation Agreement.
2. In violation of the Vermont Public Records Act, Plaintiff declined to grant the Request in its entirety, effectively denying it.
3. In denying the Request, Plaintiff failed to certify the statutory basis for the denial, failed to produce a redacted copy of the Resignation Agreement, failed to articulate reasons in support of the denial as required by 1 V.S.A. sec. 318(a)(2), and provided no "special circumstances" as contemplated under 1 V.S.A. sec. 318(a)(5).
4. Seven Days is aggrieved by the Plaintiff's denial of the Request.

WHEREFORE, Seven Days asks the Court for the following relief:

1. Under 1 V.S.A. sec. 319(a), to enjoin Plaintiff from withholding the Resignation Agreement and order Plaintiff to produce a true, unredacted copy of it to Seven Days.
2. Under 1 V.S.A. sec. 319(d), to award Seven Days attorney's fees and other litigation costs incurred in enforcing its rights under the Public Records Act.

Dated at Burlington, Vermont this 9th day of August, 2018.

Little & Cicchetti, P.C.

By: 

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