

SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

TYLER PERRY and TYLER
PERRY STUDIOS, LLC

Plaintiffs,

vs.

JOSHUA SOLE,

Defendant.

CIVIL ACTION NO. 2014CV253401

ANSWER

COMES NOW Joshua Sole ("Defendant"), Defendant in the above-styled case, by and through Defendant's counsel, and files this Defendant's Answer to Plaintiff's Amended Complaint:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against Defendant Joshua Sole upon which relief can be granted.

SECOND DEFENSE

Plaintiff's claims may be barred in whole in part by waiver, estoppel, release, ratification, license, discharge, novation, and accord and satisfaction.

THIRD DEFENSE

Any claim by Plaintiff for equitable relief may be barred in whole or in part by the doctrines of unclean hands, estoppel, quasi-estoppel, equitable estoppel, waiver, and/or ! aches or to the extent that Plaintiff has an adequate remedy at law that bars their claims for equitable relief.

**FOURTH
DEFENSE**

Plaintiffs' claims for damages are barred in whole or in part because Plaintiff has not been damaged or, alternatively, has not mitigated their alleged damages.

FIFTH DEFENSE

To the extent that a response is required, Defendant states that he does not reside at 2430 Chesire Bridge Road, N.E., Atlanta, GA 30324. Defendant resides at 2406 Summerwind Dr., Jonesboro, GA 30236. Therefore jurisdiction is improper.

SIXTH DEFENSE

To the extent that a response is required, Defendant states that it does contest venue in this Court for the purpose of this action. Defendant resides at 2406 Summerwind Dr., Jonesboro, GA 30236. Therefore venue is improper.

Defendant, through his undersigned attorney of record, answers the individually numbered paragraphs of the Plaintiffs' Complaint as follows:

1.

Defendant is without sufficient information to form a belief as to the truthfulness of the allegations contained in paragraph 1 of Plaintiffs' Complaint.

2.

Defendant denies the allegations contained in paragraph 2 of Plaintiffs' Complaint.

3.

Defendant admits to the allegation contained in paragraph 3 of Plaintiffs' Complaint that Plaintiff attempted to contact Defendant Tyler Perry. Defendant specifically denies each and every remaining allegation contained in paragraph 3 of Plaintiffs' Complaint.

4.

Defendant denies the allegations contained in paragraph 4 of Plaintiffs' Complaint.

5.

Defendant admits to the allegation contained in paragraph 5 of Plaintiffs' Complaint that Plaintiff attempted to contact Defendant Tyler Perry. Defendant specifically denies each and every remaining allegation contained in paragraph 3 of Plaintiffs' Complaint.

6.

This paragraph appears to be a purported legal conclusion to which no response is required. To the extent that a response is required, denied.

7.

Defendant denies the allegations contained in paragraph 7 of Plaintiffs' Complaint.

8.

Defendant denies the allegations contained in paragraph 8 of Plaintiffs' Complaint.

9.

Defendant denies the allegations contained in paragraph 9 of Plaintiffs' Complaint.

10.

This paragraph appears to be a purported legal conclusion to which no response is required. To the extent that a response is required, denied.

11.

Defendant denies the allegations contained in paragraph 11 of Plaintiffs' Complaint.

12.

Defendant denies the allegations contained in paragraph 12 of Plaintiffs' Complaint.

13.

Defendant denies the allegations contained in paragraph 13 of Plaintiffs' Complaint.

14.

This paragraph appears to be a purported legal conclusion to which no response is required. To the extent that a response is required, denied.

15.

Defendant denies the allegations contained in paragraph 15 of Plaintiffs' Complaint.

16.

Defendant denies the allegations contained in paragraph 16 of Plaintiffs' Complaint.

17.

Defendant denies the allegations contained in paragraph 17 of Plaintiffs' Complaint.

18.

Defendant denies the allegations contained in paragraph 18 of Plaintiffs' Complaint.

19.

This paragraph appears to be a purported legal conclusion to which no response is required. To the extent that a response is required, denied.

20.

Defendant denies the allegations contained in paragraph 20 of Plaintiffs' Complaint.

21.

Defendant denies the allegations contained in paragraph 21 of Plaintiffs' Complaint.

22.

Defendant denies the allegations contained in paragraph 22 of Plaintiffs' Complaint.

23.

Defendant denies the allegations contained in paragraph 23 of Plaintiffs' Complaint.

24.

Defendant denies the allegations contained in paragraph 24 of Plaintiffs' Complaint.

25.

Defendant denies the allegations contained in paragraph 25 of Plaintiffs' Complaint.

26.

This paragraph appears to be a purported legal conclusion to which no response is required. To the extent that a response is required, denied.

27.

Defendant denies the allegations contained in paragraph 27 of Plaintiffs' Complaint.

SEVENTH DEFENSE

Any allegation, language or paragraph contained in Plaintiff's Complaint not here and before responded to is expressly denied.

WHEREFORE, the Defendant prays:

- a) That the Plaintiffs' Complaint be dismissed;
- b) That all costs be cast against the Plaintiffs;
- c) That Defendant have a trial by a jury of twelve; and
- d) Such further relief as this Court deems just and appropriate.

Respectfully submitted,

This 2nd day of December, 2014

LAW OFFICE OF KWAME THOMPSON, P.C.

Kwame Thompson
State Bar: 101114
Attorney for Defendant

KWAME THOMPSON, P.C.
44 Broad Street, Suite 600
Atlanta, GA 30303
404-994-5948 (Phone)
404-418-8511 (Fax)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the within and foregoing *Defendant's Answer And Affirmative Defenses to Plaintiffs' Complaint* on the person listed below by causing same to be deposited in the United States Mail with proper postage affixed thereto and addressed as follows:

Richard A Gordon
Richard A. Gordon P.C.
400 Interstate North Pkwy
Suite 520
Atlanta, GA 30339
gjlaw@bellsouth.net

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DEFENDANT'S MOTION TO DISMISS AND BRIEF IN SUPPORT

COMES NOW, Defendant Joshua Sole, and pursuant to O.C.G.A. § 9-11-12, moves this Honorable Court to enter its Order dismissing Plaintiff's Complaint. As grounds, Defendant shows this Court lacks jurisdiction over the subject matter, jurisdiction over the person and venue is improper.

STATEMENT OF FACTS

Plaintiffs seek a Protective Order pursuant to O.C.G.A. §§ 16-5-90 & 16-5-94, Injunction and Damages arising out of an incident which occurred on October 30, 2014. (Plaintiff's Complaint). Plaintiffs' suit herein was filed on November 3, 2014.

ARGUMENT AND CITATION OF AUTHORITY

Plaintiffs seek a Protective Order, Injunction and Damages for Violation of O.C.G.A. § 16-5-90, Stalking; O.C.G.A. §§ 16-7-21, 51-1-14, 51-9-1, and 16-7-21, Trespass; O.C.G.A. §§ 41-2-3 and 41-1-1, Nuisance; O.C.G.A. § 17-6-90, Bond For Good Behavior; and O.C.G.A. § 13-6-11, Attorney's Fees. Pursuant to O.C.G.A. § 19-13-2, the jurisdiction for a resident respondent is the superior court of the county where the respondent resides. On its face, Plaintiffs' Complaint contends that Defendant Joshua Sole is a non-resident of Georgia,

sojourning in Fulton County, Georgia, and is subject to the jurisdiction of this court pursuant to O.C.G.A. §§ 16-5-94 and 19-13-2. However, Defendant Joshua Sole is a resident of Georgia (See Attached Affidavit of Residence, Defendant's Exhibit 1) and was employed by Defendants Tyler Perry and Tyler Perry Studios on October 30, 2014. Defendant Joshua Sole was also a resident of Georgia on November 3, 2014. Accordingly, Plaintiffs' Complaint should be dismissed pursuant to O.C.G.A. § 9-11-12.

In general, one's legal residence for the purpose of being sued in Georgia is the same county as his or her domicile.

Significantly, O.C.G.A. § 16-5-94(b) expressly states that jurisdiction over a petition for a restraining order under this Code section "shall be the same as for family violence petitions as set out in Code Section 19-13-2." That section of the Georgia Family Violence Act gives jurisdiction to the superior court of the county in which the respondent resides. O.C.G.A. § 19-13-2(a).

In general, one's legal residence for the purpose of being sued in Georgia is the same county as his or her domicile. Pursuant to O.C.G.A. § 19-2-1: "(a) The domicile of every person who is of full age and is laboring under no disability is the place where the family of the person permanently resides, if in this state. If a person has no family or if his family does not reside in this state, the place where the person generally lodges shall be considered his domicile."

Sorrells v. Sorrells, 247 Ga. 9, 11(3), 274 S.E.2d 314 (1981); see In the Interest of B.G., 238 Ga.App. 227, 228, 518 S.E.2d 451 (1999).

Under the Family Violence Act, venue for protective order sought by wife was proper in county in which marital home was located and in second county in which husband was staying with his brother, where record did not indicate whether husband made known any intention to

remain in his brother's home. O.C.G.A. § 19-13-2. [Davis-Redding v. Redding, 2000, 246 Ga.App. 792, 542 S.E.2d 197](#)

Plaintiffs' Complaint is specious, groundless, and caused Defendant unnecessary trouble and expense.

In conclusion, Plaintiffs' Complaint should be dismissed for lack of jurisdiction over the subject matter.

This 21st day of November, 2014.

Respectfully submitted,

KWAME THOMPSON
Attorney for Defendant
Georgia Bar Number 394710

44 Broad Street, NW
Suite 600
Atlanta, GA 30303
(404) 994-5948

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CERTIFICATE OF SERVICE

This is to certify that I have on this day served a copy of the within and foregoing
DEFENDANT'S MOTION TO DISMISS AND BRIEF IN SUPPORT upon opposing counsel of
record, by placing a copy of same in a properly addressed envelope with adequate postage
affixed thereon to insure delivery and depositing the same in the United States Mail, addressed as
follows:

Richard A. Gordon
400 Interstate North Parkway
Suite 520
Atlanta, GA 30339

This 21st day of November, 2014.

Respectfully submitted,

KWAME THOMPSON
Attorney for Defendant
Georgia Bar Number 394710

44 Broad Street, NW
Suite 600
Atlanta, GA 30303
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