

UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DISTRICT

CAREY SCOTT,

Plaintiffs,

vs.

THE ZONDERVAN CORPORATION, INC. d/b/a
Zondervan Publishing; HARPERCOLLINS
PUBLISHERS LLC; HARPERCOLLINS
CHRISTIAN PUBLISHING, INC. and
CHRISTINE CAINE,

Defendants.

Case No.:

JURY TRIAL DEMANDED

COMPLAINT

Carey Scott, for her Complaint against Harpercollins Publishers LLC, Harpercollins Christian Publishing, Inc., The Zondervan Corporation, Inc. d/b/a Zondervan Publishing, and Christine Caine, alleges as follows:

Nature of this Action

1. Plaintiff, Ms. Carey Scott, is an author, speaker, and life coach who focuses her creative and business efforts in the Christian faith community. Her messaging is focused on Christian women who battle insecurity and feelings of worthlessness and shame. In this pursuit, Ms. Scott has developed a number of bible study methods, ministry aids, and general media and print resources. In May 2015, Ms. Scott published her book, *Untangled: Let God Loosen the Knots of Insecurity in your Life*, in conjunction with her publishing company, Revell, a subsidiary of the Baker Publishing Group.

2. Defendant, Ms. Christine Caine, is similarly an author, speaker, community organizer, and general faith entrepreneur who focuses her efforts in the Christian faith

community. She has a worldwide reach through her various non-profit organizations including Propel Women and A21 Ministries. She is the author of a number of books, bible study guides, and ministry aids. She has appeared in or produced a number of DVDs and online videos. She also appears regularly on faith-based television and radio programs. In May 2016, Ms. Caine published her book, *Unashamed: Drop the Baggage, Pick up your Freedom, Fulfill your Destiny*, in conjunction with her publisher Zondervan Publishing, which is a sister company to Harpercollins Christian Publishing, Inc. and upon information and belief, wholly owned by Harpercollins Publishers LLC. In October 2017, Ms. Caine also published *Unshakeable: 365 Devotions for Finding Unwavering Strength in God's Word*, again, in conjunction with her publisher Zondervan Publishing.

3. This action arises out of *Unashamed's* and *Unshakeable's* publications and the direct copying of *Untangled* that exists within *Unashamed* and *Unshakeable* as well as the substantial similarity between Ms. Scott's work and Ms. Caine's two works.

4. On April 27, 2016, approximately two weeks before *Unashamed's* publication, Ms. Scott first became aware of *Unashamed's* infringement prior to the book's release and informed Ms. Caine's publishers of the direct copying and substantial similarity. Communications were extensive between the two parties prior to the book's release; however, Ms. Caine and Zondervan persisted with the book's publication, and to date, *Unashamed* has been a success for Ms. Caine and Zondervan (over 100,000 copies sold) that has spawned study guides, DVDs, and other ministry aids. *Unashamed* was so successful that excerpts from that work were republished in *Unshakeable*. Many of the infringing portions from *Unashamed* were reprinted in *Unshakeable*.

5. Ms. Scott contends that her work, *Untangled*, including exact wording, phrasing, and compilation, along with the book's general thematic message and presentation, is consistently copied, reworded, and derived without authorization within *Unashamed* and *Unshakeable* and that there exists proof of direct copying within the book's promotional materials and printed, eBook, and audio forms.

6. Therefore, this is an action under federal copyright law for injunctive relief and monetary damages arising out of, inter alia, Defendants' willful infringement and unauthorized use of Plaintiff's copyrighted work.

Parties

7. Plaintiff Carey Scott is an individual residing in Windsor, Colorado. Ms. Scott is the author of *Untangled: Let God Loosen the Knots of Insecurity in Your Life* ("Untangled"), which was published in conjunction with Revell, a division of the Baker Publishing Group ("Baker"), on May 26, 2015.

8. Defendant Harpercollins Publishers LLC ("Harpercollins") is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business located at 10 East 53rd Street, New York, New York. Harpercollins Publishers, LLC maintains publishing groups in the United States, Canada, the United Kingdom, Australia/New Zealand, and India.

9. Defendant Harpercollins Christian Publishing, Inc. ("HCCP") is a for profit corporation incorporated and existing under the laws of the State of Tennessee, with its principal place of business located at 501 Nelson Place, Nashville, Tennessee.

10. Upon information and belief, HCCP is fully owned by Harpercollins.

11. Defendant The Zondervan Corporation is a for profit corporation incorporated and existing under the laws of the State of Michigan and doing business as Zondervan Publishing (“Zondervan”), with its principal place of business located at 3900 Sparks Drive SE, Grand Rapids, Michigan.

12. Upon information and belief, Zondervan is fully owned by Harpercollins.

13. Upon information and belief, Defendant Christine Caine is an individual residing in California. Ms. Caine is the author of *Unashamed: Drop the Baggage, Pick up your Freedom, Fulfill your Destiny* (“Unashamed”), which was published by Zondervan on May 10, 2016, and *Unshakeable: 365 Devotions for Finding Unwavering Strength in God’s Word* (“Unshakeable”), which was published by Zondervan on October 24, 2017.

14. Upon information and belief, the Defendants identified in paragraphs 8 through 13 were all involved in the publishing of Unashamed and Unshakeable, the infringing works identified herein.

Jurisdiction and Venue

15. This action arises under federal law seeking damages for copyright infringement under the copyright laws of the United States. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1338.

16. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because, among other reasons, the publisher of the infringing work is located there and all other Defendants have conducted business, continue to conduct business, and have caused damages to Plaintiff in this District.

Background Facts

17. Plaintiff is the author of and owner of the copyrighted work Untangled subject to Copyright Registration No. TX0008111856.

18. As the Copyright holder for Untangled, Ms. Scott owns and retains all rights, including those based in common law and conferred through registration, of a copyright holder of a literary work.

19. On May 26, 2015, Ms. Scott in conjunction with her publisher Revell published Untangled, making it available for worldwide sale through outlets such as Amazon, CBD, Barnes & Noble, Lifeway, and the Baker Publishing Group website. Further, Untangled was available for purchase in a number of brick and mortar bookstores throughout the United States.

20. While Ms. Scott is relatively new to the world of Christian media and publishing, she has been a national speaker and life coach for close to thirteen (13) years where she speaks on topics such as shame, self-esteem, unforgiveness, and feeling less than a fully-formed woman. In her short time as an author, Ms. Scott has developed a popular following, and she is recognized in the community and retail space as having a unique voice and presentation style.

21. Prior to Unashamed's publication, Ms. Scott was a fan of Ms. Caine and a subscriber to many of Ms. Caine's promotional materials, including Ms. Caine's website and email list.

22. On April 27, 2016, Ms. Scott received a promotional email from Ms. Caine's website with the subject line: There is a Path Out of Darkness. The email included a promotional video for Ms. Caine's new book, Unashamed. The video served as a two-minute trailer for the book with an overdubbed narration by Ms. Caine.

23. The video contained thirty seconds of narration that came directly from Ms. Scott's book, *Untangled*. The narration is a verbatim reading of a paragraph on page 55 of *Untangled*. Excerpt included as Exhibit A. Furthermore, the video confirmed the title of Ms. Caine's book as *Unashamed* and acknowledged Zondervan as the publisher.

24. In conjunction with this acknowledgement and as a remedy to the direct copying, Ms. Caine's publishing team proposed and implemented the following policies and corrections:

- a. HCCP staff examined the two books and ensured that there were no other copied or infringing passages from *Untangled* in *Unashamed*. To the contrary, Ms. Scott has identified a number of other examples of copying and substantial similarity that were not identified or acknowledged by HCCP staff.
- b. The acknowledged direct copying would be reworded in all future printed copies of *Unashamed* and a citation to *Untangled* and Ms. Scott would be included. Prior to Zondervan, HCCP, and Ms. Caine's acknowledgement of the copying, 30,000 initial copies of *Unashamed* had been printed with the direct copying from *Untangled*.
- c. The promotional video was redubbed without the direct copying, and the original video was removed, and the edited video was reposted. Since, third party users have reposted the original video to a number of channels and video streaming services. Therefore, the original video with the direct copying remains online.
- d. The eBook of *Unashamed* was immediately corrected with revised wording and a citation to *Untangled* was added. Because the copying was

acknowledged prior to Unashamed's publication date, no issues of the eBook with the direct copying had been published and made available for consumer purchase.

- e. The audio book was to be immediately corrected with the revised wording as well. HCCP provided conflicting information as to this correction. At first, HCCP claimed that the original audio had been produced but that future recordings would be edited and updated. Next, HCCP claimed that the audio book's release was delayed to make edits and re-record the passages.

It's unclear which of these procedures were actually implemented and to what extent. Furthermore, there are various printings of Unashamed and various versions of its audio book and eBook. Also, there are a number of study guides, DVDs, and ministry aids that also likely contain infringing materials.

25. 30,000 copies of Unashamed had been printed. The 30,000 books with the direct copying were made available for sale to the general public and presumably were sold.

26. Sometime in July 2016, following HCCP's and Zondervan's review process, Ms. Caine contacted Ms. Scott directly. Ms. Caine affirmatively acknowledged that she had access to and read Ms. Scott's work.

27. As an additional remedy, HCCP proposed a number of specific edits to Ms. Caine's books to limit any similarities or implications of copying or otherwise infringing material. These proposed edits were provided to Ms. Scott as evidence of HCCP's remedial efforts, but Ms. Scott was not permitted to participate in the identification or wording of the edits.

28. Furthermore, HCCP agreed to include citations to Ms. Scott's work in all future printings of Unashamed. The initial 30,000 copies of Unashamed did not carry any citations to Ms. Scott and did not contain any of HCCP's proposed edits, including the removal of the direct copying.

29. Since the release of Unashamed, Ms. Scott has further reviewed the works and ancillary study guides, DVDs, and ministry aids and found a number of similarities in language, message, and overall theme.

30. Ms. Scott contends that Ms. Caine had direct access to Untangled and copied its general theme and presentation in her work Unashamed. Aside from the direct copying previously acknowledged, Ms. Scott has identified a number of other areas in the books where wording from Untangled is copied or reworded. A complete analysis of the two works shows that Untangled and Unashamed are substantially similar.

31. On October 24, 2017, Ms. Caine, along with her publisher Zondervan, published Unshakeable. Unshakeable includes many of the same infringing passages that were included in Unashamed, including the direct copying from page 55 of Untangled.

COUNT I

Copyright Infringement

(As to All Defendants)

32. Ms. Scott repeats and realleges each and every allegation contained in paragraphs 1 through 31 hereof with the same force and effect as if fully set forth herein.

33. Zondervan, HCCP, HarperCollins, and Ms. Caine's unauthorized use of Ms. Scott's copyrighted work, Untangled, is copyright infringement. Unashamed and Unshakeable contain numerous instances of direct copying from Untangled and in greater scope, Unashamed's entire

theme, compilation, presentation, and general expression is substantially similar to that of Untangled. Protectable elements of Untangled are copied within Unashamed and Unshakeable without Ms. Scott's authorization. This unauthorized copying is pervasive throughout Unashamed and Unshakeable and extends beyond de minimus use. The overall look and feel of Unashamed and Unshakeable is copied and derived from Untangled.

34. Furthermore, Ms. Scott provided notice to HCCP, Zondervan, and Ms. Caine of this copying and similarity, and in persisting over objection to Unashamed's release and publication, HCCP, Zondervan, and Ms. Caine committed willful copyright infringement.

35. Ms. Scott is entitled, under 17 U.S.C. §§ 501-502 & 504-505, to: injunctive relief; at her election, statutory damages (enhanced for willful infringement) or actual damages and Zondervan, HCCP, HarperCollins, and Ms. Caine's profits under the Copyright Act; and recovery of Ms. Scott's costs and reasonable attorney fees.

PRAYER FOR RELIEF

WHEREFORE, Ms. Scott prays for judgment with respect to her Complaint as follows:

36. Declaring that Zondervan, HCCP, HarperCollins, and Ms. Caine have violated 17 U.S.C. § 106 by infringing Ms. Scott's copyright rights in Untangled through its ongoing acts of publishing Unashamed and Unshakeable;

37. Granting as against Harpercollins, Zondervan, HCCP, and Ms. Caine, their agents, servants, officers, and all those acting under their control and/or on their behalf and/or in concert with them, permanent injunctive relief enjoining them from: advertising or promoting the sale of Unashamed and Unshakeable by electronic or any other means; making copies of Unashamed and Unshakeable in any format, electronic, or otherwise; delivering copies of Unashamed and Unshakeable to any third party, whether for sale or otherwise, and whether via electronic means

or otherwise; advertising or promoting the sale in eBook format, or making copies or delivering copies to third parties in eBook format.

38. Ordering Harpercollins, Zondervan, HCCP, and Ms. Caine to produce, within thirty (30) days after issuance of an injunction order, a report in writing and under oath setting forth in detail the manner and form in which they have complied with the relief ordered herein.

39. Ordering that Harpercollins, Zondervan, HCCP, and Ms. Caine be required to pay Ms. Scott; under the Copyright Act, at Ms. Scott's election, statutory damages (enhanced for willful infringement) or the actual damages sustained by Ms. Scott as a result of Zondervan, HCCP, and Ms. Caine's infringing conduct, together with profits earned by Harpercollins, Zondervan, HCCP, and Ms. Caine; and Ms. Scott's costs, disbursements, expenses, and reasonable attorney fees.

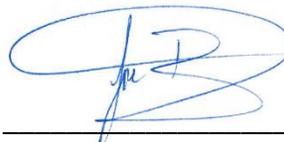
Demand for Jury Trial

Plaintiff Carey Scott hereby demands a trial by jury on all issues that are triable as of right to a jury.

Dated: May 10th, 2018

Respectfully submitted,

GUTWEIN LAW



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