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7 Counsel for Defendant

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 GREGORY RICKS,

11 Plaintiff,

12 v.

13 BMEzine.COM, LLC,

14 Defendant.

Case No. 2:08-cv-01174-PMP-GWF

DECLARATION OF ELAYNE ANGEL IN
SUPPORT OF COUNTERCLAIM

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16 1. The undersigned, being warned that willful false statements and the like so
17 made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the
18 United States Code, declares that he is qualified to make all statements herein from his
19 own personal knowledge.

20 2. My name is Elayne Angel, and I am an adult over the age of 18 years, and I
21 am otherwise competent to make all of the statements in this Declaration.

22 3. I am independent of BMEzine, LLC and have no motivation to provide this
23 declaration except for the fact that the facts herein are my opinions and are truthful.

24 4. I am an expert in the field of body piercing, and have been registered as such
with the Technical Advisory Service for Attorneys (TASA).

25 5. I am a regular contributor to Pain Magazine, a body piercing publication, and
26 as such I am a recognized journalist in the body art community.

27 6. I am the author of the forthcoming book, The Piercing Bible, which deals with
28 body piercing issues. A relevant excerpt from this book appears below:

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Unfortunately, in our culture, friends and family often do not understand the full depth of the experience, nor appreciate our taste in body art. Therefore, you may want to turn to an on-line community, such as BME (www.bmezine.com) or Tribalectic (www.tribalectic.com) to discuss your piercing with like-minded people who have shared the same type of event. Membership to the BME website is commonly gained by submitting an "experience" – a written description of your piercing. Writing such an essay enables you to relive and internalize your piercing encounter and share it with others who can appreciate it.

– The Piercing Bible.

7. I am intimately familiar with the tattooing, body art, and body piercing marketplace, and in that marketplace (and in the mainstream media), BMEzine.com, LLC and its network of websites is simply known as "BME."

8. The entire tattooing, body piercing, and body art community refers to BMEzine.com, LLC and its various other enterprises such as the BME Fest, BME Scholarship, BME News, etc., as simply "BME".

9. I have known about BME since the mid 1990s when BME began as a usenet publication, and I have been familiar with it, using it as a resource for my journalism and for my professional research as an expert in the field of body piercing. BME was world-famous in this field as early as 1994 or 1995.

10. I am aware of the following BME websites:

- a. BMEvideo.com,
- b. BMEshop.com,
- c. BMEfest.com,
- d. TeamBME.com,
- e. BMEscholarship.com
- f. AskBME.com
- g. BMEhard.com,
- h. BMEworld.com
- i. BMEboys.com
- j. BMEink.com
- k. TeamBME.com,
- l. BMEjapan.com,

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1 11. All of these websites serve as resources for the body art community, and they
2 are well known in that marketplace.

3 12. There are no other companies, publications, nor any other vendors or
4 commentators of any kind that use the designation BME in the body art marketplace for any
5 purpose except to refer to the BME company and network with which I am familiar, and
6 which is legally referred to as BMEzine.com, LLC.

7 13. When I, or any other persons with whom I am familiar, hear the name "BME,"
8 we immediately identify this as meaning that the content or event or production under that
9 name was produced by BMEzine.com, LLC or was sponsored thereby.

10 14. The name "BME" can not identify any other organization or person in the body
11 art industry or genre.

12 15. If any other company used the designation BME, it would confuse me and
13 anyone else in this marketplace as to the source or origin of the goods or services provided
14 under that name.

15 16. BME has a reputation in this industry for producing quality content, having
16 high ethical standards, and has an enormous amount of good will built up under that name.

17 17. Since "BME" can only identify goods produced by BMEzine.com, LLC, if
18 anyone else were to use this name on their products or services, this would cause
19 considerable confusion in the marketplace.

20 18. If any other party were to use the name "BME" in this marketplace, it would
21 only serve to trade upon the reputation and goodwill that BMEzine has generated under
22 this famous name.

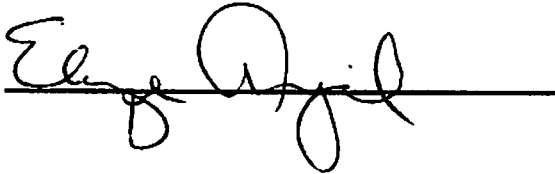
23 19. I visited the website located at www.BME.com. A true and correct copy of the
24 BME.com website as it appeared at the time of my visit (June 2008), is attached as Annex
25 1 to this Declaration. Upon first viewing it, I believed that it must be a new addition to
26 BMEzine's portfolio of websites and other body art enterprises, since the page displayed
27 links to tattooing, piercing, body lights, body art, and other similar services, and it showed
28 an image of a man tattooing another person.

29 20. If I were not already intimately familiar with BMEzine, I likely would have been
30 confused, and would not have remained at this poor quality website.

1 21. In my opinion, there is no other BME except the enterprise run by
2 BMEzine.com, LLC, and any other organization, person, or business that uses that
3 designation can only be doing so for one reason – to lure unsuspecting consumers into
4 believing that the user is somehow connected to BMEzine.com, LLC.

5 Dated: Nov. 6, 2008

6 Elayne Angel

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8 Signed:  _____
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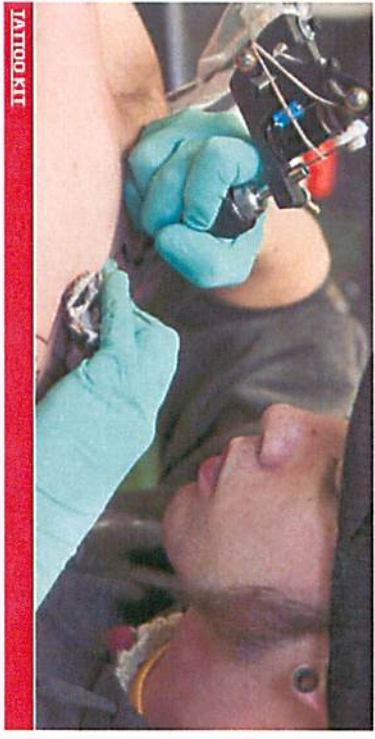
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BME.com
Welcome!

May 10, 2008
Search: **Search**

Related Searches: **BODY LIGHTS** **TATTOO SUPPLY** **TATTOO PICTURES** **EXTREME GENITAL PIERCING**

- RELATED SEARCHES:**
- Body Lights
 - Tattoo Supply
 - Tattoo Pictures
 - Extreme Genital Piercing
 - Body Piercing
 - Body Modification
 - Temporary Tattoos
 - Permanent Makeup
 - Henna Tattoo
 - Tattoo Cover Up



Welcome to BME.com
Search for goods and services on [Body Lights](#), [Tattoo Supply](#), [Tattoo Pictures](#), [Extreme Genital Piercing](#) and more.

Related Searches:
[Body Piercing](#) | [Body Modification](#) | [Temporary Tattoos](#) | [Permanent Makeup](#)

- RELATED SEARCHES:**
- Henna Tattoo**
 - Tattoo Machine**
 - Temporary Tattoo**

POPULAR CATEGORIES:

- Lighting Accessories**
[Switchplates](#), [Wall Plate](#), [Switch](#), [Switch Plate Cover](#), [Light Switch Cover](#)
- Bathroom Lighting**
[Lighting](#), [Bathroom Lighting](#), [Bathroom Light Fixture](#), [Bathroom Light](#), [Bath Lighting](#)
- Office Lighting**
[Office Lighting](#), [Office Lamp](#), [Halogen Work Light](#), [Fluorescent Work Light](#), [Office Light](#)
- Lamp Shades**
[Lamp Shades](#), [Bamboo Shades](#), [Lamp Shade](#), [Chandelier Lamp Shades](#), [Replacement Lamp Shades](#)
- Dining Room Lighting**
[Lamp](#), [Dining Room Chandelier](#), [Dining Room Lighting](#), [Dining Room Light](#), [Dining Room Light Fixture](#)
- [Kitchen Lighting](#)

Annex 1