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SUITE 2400

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EVAN N. SPIEGEL

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ANDREW B. BRETTLER,
T. WAYNE HARMAN
DAVID B. JONELIS
ZEV F. RABEN²
JONATHAN M. KLEIN

ALLISON S. HART
HENRY L. SELF, III
OF COUNSEL

¹ ALSO ADMITTED IN NY
² ALSO ADMITTED IN NY AND NJ

June 13, 2017

VIA EMAIL: stephen@smcarthurlaw.com
& U.S. MAIL

Stephen Charles McArthur, Esq.
McArthur Law Firm

Re: Good American, LLC and Khloé Kardashian vs. Destiney Bleu and d.bleu.dazzled LLC
Our File No. 5293-7

Dear Mr. McArthur:

Our firm is litigation counsel to Good American, LLC (“Good American”) and its co-founder, Khloé Kardashian, and I am writing concerning your client’s and your malicious and tortious conduct. In order for your client Destiney Bleu to get her “15 minutes of fame,” you and your client outrageously defamed Good American and Ms. Kardashian by falsely stating that my clients stole or copied your client’s bodysuit designs. Your client has also brazenly misappropriated Ms. Kardashian’s valuable rights of publicity with her unrelenting commercial exploitation of Ms. Kardashian’s name and photograph – including photographs she has taken from Ms. Kardashian’s Instagram account without authorization – which your client freely admits has generated “a ton of @dbleudazzled sales.”

Your client’s statement that Good American copied bodysuit designs by your client that were purchased by Ms. Kardashian is an absolute lie. In her June 2, 2017 Tweet, your client posted images of two Good American bodysuits alongside a cropped image of one of your client’s catsuits with the text, “When someone buys 1 of everything on your site, has you make them custom @dbleudazzled work, never posts it or wears it, then copies it,” tagging Ms. Kardashian in the post. However, your client knows that Ms. Kardashian never purchased the catsuit depicted in your client’s June 2, 2017 Tweet, nor has Ms. Kardashian purchased “1 of everything” on your client’s site. To the contrary, as the invoices attached as Exhibit E to your letter to Chuck Shephard clearly show, Ms. Kardashian only purchased stockings, leggings and tights, bras and panties, and a customized jersey and briefs. There was no bodysuit purchased by Ms. Kardashian from your client.

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In your June 8, 2017 letter that you sent to the media, you made major false representations by posting pictures of clothing that you falsely claimed was obtained by Ms. Kardashian and compared it to clothing offered for sale by Good American. Although the stylist Monica Rose requested catsuits from your client for Ms. Kardashian in December 2016, the catsuits that were provided to Ms. Rose for Ms. Kardashian are completely different from the catsuit depicted in your client's June 2, 2017 Tweet which she falsely claims was copied by Good American. The catsuits requested by Ms. Rose bear no resemblance whatsoever to the Good American bodysuits. The catsuits are full-bodied, long-sleeved and lined with crystals distributed evenly all over the garments, as reflected in the following photo of the actual black catsuit that was provided to Ms. Rose for Ms. Kardashian:¹



In contrast, the Good American bodysuit worn by Ms. Kardashian for its recent launch is a sleeveless leotard, more akin to a corset, with crystals concentrated in the bust area which is meant to be worn with Good American jeans:

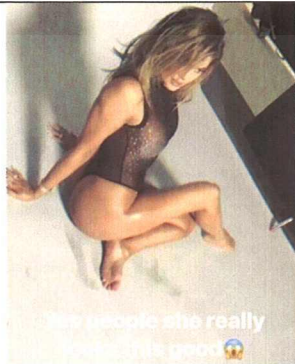
¹ It is only because Ms. Rose erroneously informed Ms. Kardashian that the catsuits requested by Ms. Rose from your client had been “gifted” to Ms. Kardashian that Ms. Kardashian’s assistant Alexa Okyle sent an email to your client on January 9, 2017 to inquire about keeping the catsuits. When your client informed Ms. Okyle that the catsuits had not been gifted as my client had been informed by Ms. Rose, my client made sure that Ms. Rose, who had requested the items without my client’s knowledge, paid your client for the merchandise, as evidenced by the invoice to Ms. Rose that is attached as the last page of Exhibit “E” to your June 8, 2017 letter.

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In a deliberate effort to mislead the public and bolster her false and defamatory statements that my clients allegedly copied her designs, in her June 2, 2017 Tweet, your client posted the photo of Ms. Kardashian modeling the Good American bodysuit alongside a photo of a completely different catsuit from the catsuit designs that were provided to Ms. Rose. Instead of posting photos of the catsuits that were sent to Ms. Rose, your client posted the following, conveniently cropped photo of the following catsuit, which was **never** provided to Ms. Kardashian and had never been seen by either of my clients prior to your client's June 2, 2017 Tweet:



As your client knows, the following is the catsuit that was requested by Ms. Rose and sent to Ms. Kardashian:



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Your client knows very well that Ms. Kardashian never purchased or received the above-catsuit depicted in her June 2, 2017 Tweet. Therefore, for her to post a Tweet falsely stating that Ms. Kardashian purchased that catsuit so that Good American could copy the design for its line of bodysuits is a false, malicious and highly defamatory lie and exposes your client to significant liability. Moreover, it is clear that your client intentionally and maliciously posted the defamatory statements about my clients as part of a cheap publicity stunt in order to garner attention for herself and generate sales of her merchandise, as evidenced by her June 9, 2017 Tweet in which she boasted, “Ima be having a ton of @dbleudazzled sales through next week. We have lots of inventory we want to dazzle the world with.”

So that it is clear, prior to your client’s June 2, 2017 Tweet, no one on the Good American design team had ever heard of your client or even seen the catsuit that she falsely claims was copied. Therefore, your client’s design was not and could not have been copied by Good American.

Moreover, the Good American bodysuits are clearly very different and distinct from your client’s designs, including the catsuit that she misleadingly posted on Twitter and falsely claimed was copied by Good American. Your client’s designs are full-body catsuits with long sleeves and extend to the ankle, and are meant to be worn on their own. The Good American bodysuits, on the other hand, are sleeveless and legless leotard-type tops, and are intended to be worn with the Good American jeans. Other than the fact that both happen to have crystal embellishments clustered around the bust, which is hardly a unique feature, there is little resemblance in the garments.

The concept of an embellished sheer bodysuit is hardly original to your client. Your client, like most designers, is obviously drawing inspiration for her work from past designs in history. This style has been around for decades and harkens back to costumes worn by burlesque dancers in the early 20th Century and Las Vegas showgirls in the 1950's. The bodysuit specifically has its roots in athletic apparel for sports like gymnastics and ballet, including with the leotard which was invented by its namesake, gymnast Jules Leotard, in the second half of the 19th Century.

Leotards, bodysuits and catsuits were popularized in the 1970's as a form of athleisure wear, and often included bright colors, shimmering fabrics, and embellishments like rhinestones to add a touch of glamour to the look. Designers took notice and dancewear companies like Danskin and Capezio began adding more fashionable bodysuits to their lines. Betsey Johnson launched a separates collection that centered on the leotard. In the 1980's Donna Karan included a bodysuit in her original dressing system as one of “Seven Easy Pieces.” While the bodysuit revolution began with American Apparel, it did not end with the brand and you can now find bodysuits being sold everywhere by both high and low end retailers alike. It is absurd for your client to claim that my clients copied this fashion style from her when she herself is either directly copying or drawing inspiration from a popular design that has been around for decades.

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The embellished bodysuits which your client falsely claims were copied from your client's designs are part of a line of 11 pieces that were inspired by 1980's and 1990's styles, including the iconic sheer black sequined catsuit first worn by Cher 25 years ago, and are meant to complement Good American jeans.² Similar sheer, crystal embellished catsuits and bodysuits by other designers have been worn by countless celebrities over the past 40 years, ranging from Diana Ross in the 1970's, Cher in the 1980's and 1990's to Beyoncé, Jennifer Lopez, Whitney Houston, Lady Gaga, Katy Perry, Taylor Swift, Britney Spears, Selena Gomez, Victoria's Secret models, Kim Kardashian and Kylie Jenner the past decade:



²

See

<http://www.dailymail.co.uk/tvshowbiz/article-1180394/Cher-turns-time-slip-body-suit-wore-17-years-ago--looks-amazing.html>)

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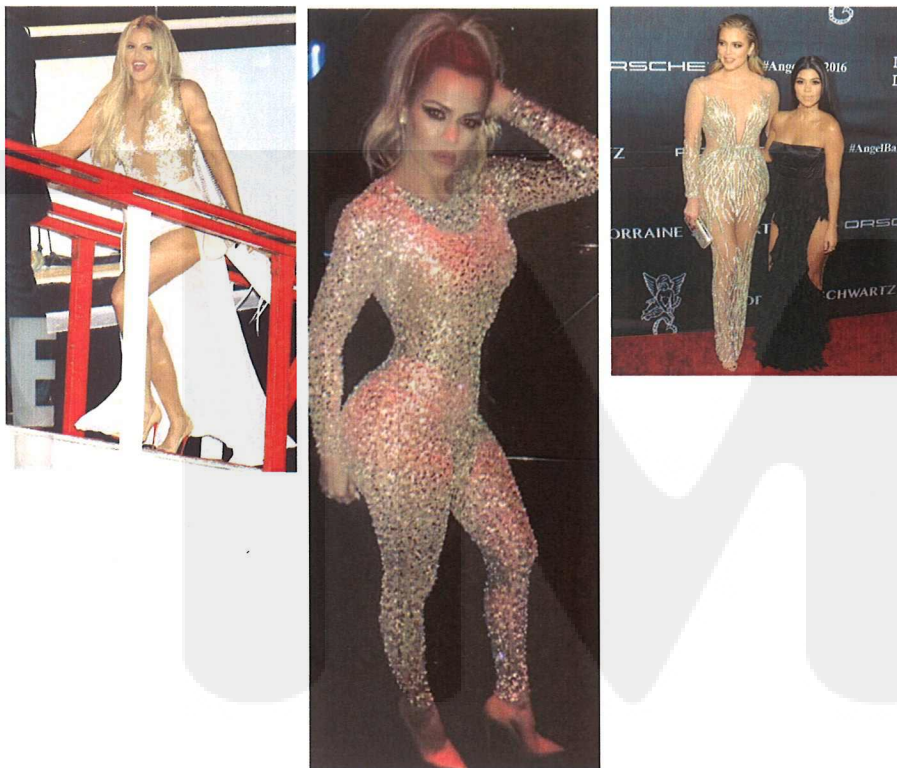
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Therefore, it is laughable for your client to claim that anyone has copied her designs when her designs are so obviously copied from other designers.

Furthermore, both embellished bodysuits and pairing bodysuits with jeans are looks that Ms. Kardashian has favored for years – long before Ms. Kardashian ever heard of your client or her designs – and the Good American body suits worn with its line of jeans reflect Ms. Kardashian’s style as evidenced by the following photographs of Ms. Kardashian:



My clients have sterling reputations for their integrity and professionalism, and they do not take lightly the false and defamatory aspersions your client has cast on their hard-earned reputations. It is for this reason that Mr. Shephard reached out privately to your client in an email to demand that she retract the false and defamatory statements about my clients. So that it is clear, my clients’ seeking to enforce their legal rights by sending a private communication from their legal representative to your client does not constitute “bullying” as it is characterized in your June 8, 2017 letter. Your client’s response, on the other hand, publishing Mr. Shephard’s email and your response online and to the media in order to incite her hundreds of thousands of followers to troll my clients online is the very definition of cyber-bullying.

Your client’s statements that my clients stole and/or copied her designs are completely and utterly false and are defamatory *per se*, exposing her to significant liability for resulting

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harm to my clients' reputation and business. Furthermore, her brazen commercial exploitation of Ms. Kardashian's name and photograph on her social media accounts in order to create publicity and generate sales of her merchandise expose her to substantial liability for misappropriation of Ms. Kardashian's valuable rights of publicity. Accordingly, we demand your client immediately delete the false and defamatory statements about my clients from her social media posts and that she issue a retraction and sincere apology to my clients. Should she refuse to do so, my clients intend to take all necessary and appropriate actions to enforce their rights. If this matter is not resolved to my clients' satisfaction, then your clients proceeds at their peril.

Please govern yourself accordingly.

Nothing contained herein is intended as, nor should it be deemed to constitute, a waiver or relinquishment of any of our client's rights or remedies, whether legal or equitable, all of which are hereby expressly reserved.

Sincerely,



MARTIN D. SINGER

cc: Ms. Emma Grede (*via email*)
Ms. Khloé Kardashian (*via email*)
Ms. Kris Jenner (*via email*)
Ms. Tugba Unkan (*via email*)
Todd Wilson, Esq. (*via email*)
Allison S. Hart, Esq. (*via email*)