

LAW OFFICES OF

# CARLOS F. NEGRETE

ATTORNEYS AT LAW

27442 CALLE ARROYO  
SAN JUAN CAPISTRANO, CALIFORNIA 92675-2747

Telephone: (949) 493-8115

Fax (949) 493-8170

Email: [cnegrete@negretelaw.com](mailto:cnegrete@negretelaw.com)

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November 22, 2013

Ms. Desiree Devine

a.k.a. [REDACTED]

a.k.a. [REDACTED]

d.b.a. [REDACTED]

d.b.a. [REDACTED]

d.b.a. [REDACTED]

d.b.a. Desiree Divine's Weblog &

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[desireedevine@gmail.com](mailto:desireedevine@gmail.com)

[REDACTED]

RE: Ms. Lisa Marie Garbo / Club Bounce  
Demand for Retraction/Removal of Posting  
Blog Postings: WordPress.Com/Desiree Devine's Weblog/ Blogs &  
Internet  
Website: [www.wordpress.com](http://www.wordpress.com)  
Conduct: Harassment, Internet Piracy, Cyberstalking,  
Cyberharassment, Intimidation, Stalking

Dear Ms. Devine [REDACTED]

Our law firm has the privilege and responsibility of representing Ms. Lisa Marie Garbo

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a.k.a. Lisa Marie Ferguson (“Ms. Garbo”) with regard to legal issues relating to media matters and litigation.

For the reasons discussed below, this letter serves as formal notice that you immediately Cease & Desist from posting statements and content concerning Ms. Garbo. Demand is made that you immediately take action to remove any postings concerning Ms. Garbo.

Please be advised that our law firm has been engaged by Ms. Garbo to, among other things, perform an investigation of your conduct and activities with respect to Ms. Garbo and your inexplicable campaign to discredit her. We are also investigating your activities with respect to posing as a charitable non-profit organization that solicits funds and donations. While our investigation is not yet complete, it has already disclosed very disturbing information that could potentially lead to legal action, including the filing of a lawsuit against you in which damages will be sought against you, including attorney’s fees and costs.

At this time, we have information and evidence that suggest that both you, Ms. Devine and you, [REDACTED], have acted in complicity and as part of a carefully orchestrated common plan and scheme to engage in a public media campaign to discredit Ms. Garbo in a manner that is intentional and malicious. Based on this persistent, malicious and intentional conduct, if such a lawsuit is filed, we will ask that the Court impose punitive damages against you.

The basis for Ms. Garbo’s claims arise from several blogs and internet postings concerning Ms. Garbo (“Article”).

While the Article purports to sometimes be anonymous, our investigation and information indicate that the postings in question were, in fact, authored by you in concert with others and owner of the company that sponsors and operates Desiree Devine’s Weblog hosted at [www.wordpress.com](http://www.wordpress.com).

In most instances the Article was disclosed as being authored by you.

We bring to your attention, and give you notice, of our concerns and issues regarding your posts and reporting of Ms. Garbo’s personal, private, business and financial information. For the reasons stated below, our investigation has revealed that you are not objective because you have a potential financial stake in defaming Ms. Garbo, which taints your ability and/or desire to write a fair, accurate and an objective report with respect to Ms. Garbo.

Your posts are defamatory, cast a false light and has caused damages and losses to Ms.

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Garbo. It is abhorrent and scandalous in nature so as to be obviously cast Ms. Garbo in a false light, disclose private information, defame and inflict emotional distress and damage to Ms. Garbo.

The posts may also be considered as cyberstalking and cyberharassment within the meaning of California, Nevada and United States laws and regulations. If so, they can be actionable against you by Ms. Garbo.

We are very mindful of the history of your attacks directed toward Ms. Garbo over the course of recent months. Indeed, our investigation has disclosed that you operate an illicit pornography enterprise (which has not been fully disclosed in your posts or Articles concerning Ms. Garbo).

Our investigation suggests that the true purpose of you writing and publishing this shameful article is, among other things, to retaliate against Ms. Garbo because of your indignation and remorse toward Ms. Garbo based upon your being banned from a Club Bounce event due to your erratic and disruptive behavior. In addition, our investigation also reveals that you engaged in this campaign to discredit and defame Ms. Garbo in order to optimize your ranking on Google, and other search engines, so that you can increase your personal notoriety and that your questionable pornography business and ventures.

Your conduct is deplorable and will not be tolerated.

It is our understanding that wordpress.com is visited by thousands if not millions, of consumers, professional organizations, colleagues and customers of Club Bounce and Ms. Garbo.

Moreover, we are also informed that you are particularly motivated by a personal animus toward Ms. Garbo based upon your own personal failings and as a result of the personal indiscretions of those that surround you. Apparently, these indiscretions have led you to believe that you can make false and calumnious statements concerning Ms. Garbo so that you can sanitize your own questionable past and present ventures.

Your motives are transparent and are not overlooked. Indeed, it is of general knowledge that you have displayed a proclivity to defaming and attacking Ms. Garbo, and Club Bounce, for the apparent purpose of advancing and enhancing your own personal economic interests as well as those of your company and your dubious career.

Your published postings are often riddled and charged with libelous statements against

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Ms. Garbo.

Libel is defined as “A false and unprivileged publication by writing, printing, picture effigy or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation.” Cal. Civ. Code § 45; *Polygram Records v. Superior Court* (1985) 170 Cal.App.3d 543; 5 *Witkin, Summary of Cal. Law* (9<sup>th</sup> ed. 1988) § 480.

False light is defined as “The wrong inflicted by publicity which puts the (plaintiff) in a false but not necessarily defamatory position in the public eye.” *Werner v. Times-Mirror Co.* (1961) 193 Cal.App.2d 111; 57A.L.R.4th 902.

A careful review of the Article that you have posted leaves no question that the elements of libel and false light exist.

Ms. Garbo is not a public figure and has maintained her untainted impeccable reputation and good standing in the national and international community.

#### Lack of Objectivity and Personal Bias

First of all, we take exception to your failure to acknowledge your personal bias in the reporting of matters concerning Ms. Garbo despite the confirmed fact that you have a direct personal and financial conflict of interest in reporting this story. It has come to our attention that you operate several web sites, which market your products, career and own personal business. You are a public figure

We are also informed that wordpress.com has been paid for the posting of the Articles. In addition, there is little, if any, confirmation or review of accuracy of posted articles.

In publishing the Article, it is our belief that there has been no screening or review of the accuracy of its contents or even adherence to wordpress.com’s own Terms of Use.

As you are surely aware, you obviously have a bias against Ms. Garbo and her personal activities, reputation and opinions.

One can only surmise that your true intent is to further her own position and/or gain personal economic benefit.

You seemingly rely on misinformations and half-truths in order to achieve her defamatory objectives.

You have been known to use the following tactics in postings concerning Ms. Garbo:

- Use of pejorative terms when describing Ms. Garbo or her businesses;
- Failing to disclose your personal animus toward Ms. Garbo;
- Failing to disclose your own personal financial interests and ventures;
- Suggesting that Ms. Garbo is a criminal and/or has engaged in criminal conduct and/or activity;
- Failing to disclose your true identity [REDACTED];
- Suggesting that Ms. Garbo is unethical;
- Use of half-truths and innuendos to create an image of impropriety;
- Refusal to report on positive information provided by the subjects of your reports;
- Misquoting and manipulating quotations;
- Failing to seek objective news' sources and experts;
- Reliance on third party unsubstantiated hearsay rumors as a source of your Article;
- Concocting facts that imply financial ties and interests that do not exist or are completely unsubstantiated;
- Failing to disclose that you are actually promoting your illicit pornography enterprise in posts that attack Ms. Garbo;
- Failing to disclose that you are not a qualified 501(c)(3) non-profit organization.

As part of your own questionable, and potentially criminal, conduct, there are indications that you have been affiliated with a prostitution enterprise. We will investigate this information and the relationship it may have relating to your persistent unauthorized use of Ms. Garbo's name, image and likeness.

The tactics and conduct that you have engaged in constitute internet piracy of Ms. Garbo's fame, notoriety, name, likeness and image.

#### Mis-characterization

One example of your careless reporting is your suggestion, by innuendo and half-truth, that Ms. Garbo committed crimes. It is also suggested that Ms. Garbo is under investigation or

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wanted by governmental agencies. This is absolutely false and malicious. Ms. Garbo is not being investigated or wanted by any governmental agency. The statements and suggestions include, but are not limited to the matters set forth below.

Without any support, in your posts, you state, or suggest, the following:

1. Ms. Garbo is the subject of investigation;
2. Ms. Garbo is a fraud;
3. Ms. Garbo has committed crimes;
4. Ms. Garbo has embezzled money;
5. Ms. Garbo is of questionable moral character;
6. Ms. Garbo is a criminal;

Ironically, and as evidence of your bias and malicious intent, you fail to disclose any indication that you attempted to the false nature of your statements. You did not contact Ms. Garbo prior to your publication to investigate the accuracy (inaccuracy) of your careless and libelous statements.

The statements set forth above are false and malicious, seemingly designed to shift consumers, affiliates, colleagues, friends, acquaintances and potential investors to your own publications and web sites for your own personal gain and self-promotion.

You, Ms. Devine, provide no support for your irresponsible statements or accusations.

#### Use of Pejorative Terms

Your Article is also replete with pejorative terms such as the use of the term “fraud.”

The use of the phrase “white collar” and is “wanted” implies that could be, or has been, committing a crime. The charge of commission of a crime is libel per se, and is actionable without proof of special damages. 50 Am.Jur.2d; Boyich v. Howell (1963) 221 Cal.App.2d 801; Witkin, Summary of Cal. Law (9<sup>th</sup> ed. 1988) §§ 481, 482.

Moreover, you misuse this term in order to suggest that Ms. Garbo is criminal. This suggestion has been denied and is without basis.

It should also be noted that trade libel [the intentional disparagement of the quality of practice] in these articles concerning business activities is also actionable. Trade libel can

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consist of only false statements of fact or opinion. Disparagement of property or services, which implies business dishonesty is also recoverable on the theory of libel per se. *Erllich v. Etner* (1964) 224 Cal.App.2d 69, 73.

### Blatant Misrepresentation of Facts

Another example of the maliciousness and falsity of these articles is your practice of reporting comments out-of-context and blatantly misrepresenting facts in your attempt to “spice up” the article.

As a self-proclaimed “consumer advocate,” you should be more cognizant of your obligations to report comments that are accurate, truthful and not taken out-of-context.

### Violation of Terms of Use - WordPress.com (Automattic, Inc.)

In addition to the concerns set forth above, your Article clearly violation wordpress.com’s own published Terms of Use.

The Terms of Use set forth in <http://en.wordpress.com/tos/> expressly set forth the following:

#### Terms of Service:

“The following terms and conditions govern all use of the WordPress.com website and all content, services and products available at or through the website, including, but not limited to, Jetpack by WordPress.com (“Jetpack”) and the WordPress.com VIP hosting service (“VIP Service”), (taken together, the Website). The Website is owned and operated by Automattic, Inc. (“Automattic”). The Website is offered subject to your acceptance without modification of all of the terms and conditions contained herein and all other operating rules, policies (including, without limitation, Automattic’s Privacy Policy) and procedures that may be published from time to time on this Site by Automattic (collectively, the “Agreement”).

Please read this Agreement carefully before accessing or using the Website. By accessing or using any part of the web site, you agree to become bound by the terms and conditions of this agreement. If you do not agree to all the terms and conditions of this agreement, then you may not access the Website or use any

services. If these terms and conditions are considered an offer by Automattic, acceptance is expressly limited to these terms. The Website is available only to individuals who are at least 13 years old.

1. **Your WordPress.com Account and Site.** If you create a blog on the Website, you are responsible for maintaining the security of your account and blog, and you are fully responsible for all activities that occur under the account and any other actions taken in connection with the blog. You must not describe or assign keywords to your blog in a misleading or unlawful manner, including in a manner intended to trade on the name or reputation of others, and Automattic may change or remove any description or keyword that it considers inappropriate or unlawful, or otherwise likely to cause Automattic liability. You must immediately notify Automattic of any unauthorized uses of your blog, your account or any other breaches of security. Automattic will not be liable for any acts or omissions by You, including any damages of any kind incurred as a result of such acts or omissions.
2. **Responsibility of Contributors.** If you operate a blog, comment on a blog, post material to the Website, post links on the Website, or otherwise make (or allow any third party to make) material available by means of the Website (any such material, "Content"), You are entirely responsible for the content of, and any harm resulting from, that Content. That is the case regardless of whether the Content in question constitutes text, graphics, an audio file, or computer software. By making Content available, you represent and warrant that:
  - the downloading, copying and use of the Content will not infringe the proprietary rights, including but not limited to the copyright, patent, trademark or trade secret rights, of any third party;
  - if your employer has rights to intellectual property you create, you have either (i) received permission from your employer to post or make available the Content, including but not limited to any software, or (ii) secured from your employer a waiver as to all rights in or to the Content;
  - you have fully complied with any third-party licenses relating to the Content, and have done all things necessary to successfully pass through to end users any required terms;
  - the Content does not contain or install any viruses, worms, malware, Trojan horses or other harmful or destructive content;
  - the Content is not spam, is not machine- or randomly-generated, and does not contain unethical or unwanted commercial content designed to drive

traffic to third party sites or boost the search engine rankings of third party sites, or to further unlawful acts (such as phishing) or mislead recipients as to the source of the material (such as spoofing);

- the Content is not pornographic, does not contain threats or incite violence, and does not violate the privacy or publicity rights of any third party;
- your blog is not getting advertised via unwanted electronic messages such as spam links on newsgroups, email lists, other blogs and web sites, and similar unsolicited promotional methods;
- your blog is not named in a manner that misleads your readers into thinking that you are another person or company. For example, your blog's URL or name is not the name of a person other than yourself or company other than your own; and
- you have, in the case of Content that includes computer code, accurately categorized and/or described the type, nature, uses and effects of the materials, whether requested to do so by Automattic or otherwise.

By submitting Content to Automattic for inclusion on your Website, you grant Automattic a world-wide, royalty-free, and non-exclusive license to reproduce, modify, adapt and publish the Content solely for the purpose of displaying, distributing and promoting your blog. If you delete Content, Automattic will use reasonable efforts to remove it from the Website, but you acknowledge that caching or references to the Content may not be made immediately unavailable.

Without limiting any of those representations or warranties, Automattic has the right (though not the obligation) to, in Automattic's sole discretion (i) refuse or remove any content that, in Automattic's reasonable opinion, violates any Automattic policy or is in any way harmful or objectionable, or (ii) terminate or deny access to and use of the Website to any individual or entity for any reason, in Automattic's sole discretion. Automattic will have no obligation to provide a refund of any amounts previously paid."

You further agreed to:

- "18. **General Representation and Warranty.** You represent and warrant that (i) your use of the Website will be in strict accordance with the Automattic Privacy Policy, with this Agreement and with all applicable laws and regulations (including without limitation any local laws or regulations in

your country, state, city, or other governmental area, regarding online conduct and acceptable content, and including all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside) and (ii) your use of the Website will not infringe or misappropriate the intellectual property rights of any third party.

19. Indemnification. You agree to indemnify and hold harmless Automatic, its contractors, and its licensors, and their respective directors, officers, employees and agents from and against any and all claims and expenses, including attorneys' fees, arising out of your use of the Website, including but not limited to your violation of this Agreement." [Emphasis Added]

These terms have been shamelessly violated by you as set forth herein. At the least, you should request the immediate removal of the Article, forthwith, on this basis alone.

#### Demand for Retraction and Removal of Article

We believe that your fury and indignation of Ms. Garbo stem from your own personal ambitions and goals. It has nothing to do with fair and objective reporting, whatsoever.

Since the postings and Article, Ms. Garbo has suffered losses, damages and injuries to her reputation and practice. She has been subjected to ridicule and scorn. The damages and losses have not yet been calculated, but are rapidly escalating and will continue unless and until the Article is removed.

#### FORMAL DEMAND TO CEASE & DESIST:

Accordingly, at this time, on behalf of Ms. Garbo, we hereby demand that you immediately Cease and Desist from continued publication and posting of anything concerning Ms. Garbo on the internet. There is a strong and actual likelihood your postings will cause irreparable harm and losses that are actionable.

Demand is hereby made that you immediately request removal of any postings from wordpress.com website and any and all other websites and/or media outlets that contain your postings.

Further, demand is hereby made, on behalf of Ms. Garbo, that you Cease and Desist

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from any further commentary, through media, internet, personal contact of third parties, business, internet or any means of third party communication, concerning and/or relating to Ms. Garbo including, but not limited to, her person, business, private information, activities or work that can potentially lead to injury, damages, losses, harm, ridicule or defamation.

DEMAND TO PROVIDE INSURANCE INFORMATION:

At this time we also hereby make demand that you notify any and all insurance carriers that have issued you a policy and provide them with a copy of this letter, which should be considered a formal claim. We also request that you provide us with the following information:

1. Name of any and all insurance providers that you had a policy issued within the past five (5) years;
2. Policy Numbers;
3. Policy limits;
4. Claim Contact information;

As you are certainly aware, our firm has been dedicated to providing representation to professional individuals and companies that have come under attack. Our firm enjoys a special relationship with our clients. Not only do we support their philosophies and objectives, but we also stand in front of them when they are the subjects of vicious attacks such as the articles and postings that have been written by you. We are confident that you understand that our firm is not reluctant to take cases to trial to correct an injustice that has been perpetrated against our clients. This situation would be no exception.

While we do believe in the strength and freedoms granted by the First Amendment of the Constitution of the United States, we also believe that there is no place for the publication of false and misleading information. Defamation has nothing to do with freedom of press or protected speech. It is not protected by First Amendment rights. Both you and wordpress.com have an obligation to provide objective and balanced reporting.

501(c)(3) Representations:

Also as part of our investigation we have observed that you solicit contributions of money, used items and time on your website: <http://doggydoovers.com>. As part of your solicitation campaign, you also represent that you "...are a pending 501(c)(3) non-profit organization that provides quality pre-owned pet products at a fraction of the cost of standard retail stores while simultaneously helping people in financial hardship get their pets the medical

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services they need.”

We believe the statement concerning 501(c)(3) is untrue and potentially unlawful. We hereby request that you provide a copy of your corporate charter and application so that we can review it. Request is also made that you provide information concerning your reporting of funds and/or property that you have obtained and a list of the members of your organization and their respective contact information. What State is your non-profit organization established in and maintains its office?

DEADLINE FOR RESPONSE:

Accordingly, as set forth above, demand is hereby made that you address the points herein, forthwith.

At this time, it is requested that you, or your counsel, provide a written response to this letter no later than 5:00 p.m. on November 23, 2013 to my office. In such response, we expect that you will address the statements that have been made in this letter and an acknowledgment that a retraction will be published on [www.wordpress.com](http://www.wordpress.com) and posted on your website along with an apology in conjunction with the immediate removal of any and all postings concerning Ms. Garbo.

While we do not believe that a retraction or removal of the Article will completely restore the harm that has been performed upon my clients, it certainly would serve to mitigate damages and be the right thing to do. Hopefully, you will understand and appreciate this request.

We also make demand upon you to provide the documents requested concerning the 501(c)(3) status of your organization within the time set forth above.

Please be advised that the consequences of your conduct and actions are serious and will not be overlooked or allowed to continue. If you have counsel, you should notify him/her immediately.

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We await your immediate written response to this letter.

Very truly yours,

LAW OFFICES OF CARLOS F. NEGRETE

A handwritten signature in black ink, appearing to read 'CFN', enclosed within a large, loopy oval stroke.

CARLOS F. NEGRETE

Attorney at Law

CFN/me

cc: Ms. Lisa Marie Garbo

[www.wordpress.com](http://www.wordpress.com)