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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
06/01/2016 at 08:00:00 AM
Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk

7 Attorneys for DEFENDANT
8 WALTER SOLOMON

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

12 MICHELLE S., an individual,) CASE NO. 37-2016-00004683-CU-PO-CTL
13)
14 PLAINTIFF,)
15) ANSWER TO COMPLAINT
16 v.)
17)
18 WALTER M. SOLOMON, et al.)
19)
20 DEFENDANTS.) JURY TRIAL DEMANDED
21)
22)
23)

24 Defendant Walter Solomon (hereafter, "Defendant," "this Defendant" or "this answering
25 Defendant"), an individual, hereby Answers the Complaint filed in this action as follows: Defendant
26 generally denies each and every averment in the unverified pleading pursuant to Cal. Code Civ.
27 proc. §431.30(d) and asserts the following affirmative defenses.

28
29 **FIRST AFFIRMATIVE DEFENSE**
30 **(Failure to State a Cause of Action)**

31 As a first, separate and distinct affirmative defense, Defendant alleges that the Complaint, and each
32 and every cause of action contained therein, fails to state facts sufficient to constitute a cause of
33 action against this Defendant.

34
35 **SECOND AFFIRMATIVE DEFENSE**
36 **(Statute of Limitations)**

37 As a second, separate and distinct affirmative defense, this answering Defendant alleges that the
38 causes of action set forth in the Complaint are each barred by the applicable Statute of Limitations.

1 **THIRD AFFIRMATIVE DEFENSE**

2 **(Third Party Liability)**

3 As a third, separate and distinct affirmative defense, this answering Defendant alleges that the
4 damages suffered by Complainant, if any, were the direct and proximate result of the negligence of
5 parties, persons, corporations, or entities other than this answering Defendant, and that the liability
6 of this answering Defendant, if any, is limited in direct proportion to the percentage of fault actually
7 attributed to this answering Defendant.

8 **FOURTH AFFIRMATIVE DEFENSE**

9 **(Laches)**

10 As a fourth, separate and distinct affirmative defense, this answering Defendant alleges that
11 Complainant is barred by the equitable doctrine of laches.

12 **FIFTH AFFIRMATIVE DEFENSE**

13 **(Waiver and Estoppel)**

14 As a fifth, separate and distinct affirmative defense, this answering Defendant alleges that
15 Complainant has waived and is otherwise estopped from pursuing the allegations contained in Its
16 Complaint.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 **(Unclean Hands)**

19 As a sixth, separate and distinct affirmative defense, this answering Defendant alleges that the
20 Complainant has "unclean hands" with respect to the events alleged in the Complaint, and,
21 therefore, is barred from maintaining said Complaint.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 **(Vagueness)**

24 As a seventh, separate and distinct affirmative defense, this answering Defendant alleges that the
25 complaint is vague, uncertain, and unintelligible with regard to this answering Defendant.

26 **EIGHTH AFFIRMATIVE DEFENSE**

27 **(Assumption of the Risk)**

28 As an eighth, separate and distinct affirmative defense, this answering Defendant alleges that at the
times and places of the occurrences alleged in the Complaint, Complainant assumed the risk of injury,
if any. This assumption of the risk caused the injuries and damages, if any, Complainant sustained.
Consequently, Complainant's right to recover is negated and/or reduced in light of its assumption of
the risk during the subject incidents.

1 **NINTH AFFIRMATIVE DEFENSE**

2 **(Failure to Mitigate Damages)**

3 As a ninth, separate and distinct affirmative defense, this answering Defendant alleges, that
4 Complainant has failed to exercise reasonable care and diligence to avoid loss and to minimize
5 damages and, therefore, Complainant may not recover for losses which could have been prevented by
6 reasonable efforts on its own part, or by expenditures that might reasonably have been made and,
7 therefore, Complainant's recovery, if any, should be reduced by the failure of the Complainant to
mitigate its damages, if there be any.

8 **TENTH AFFIRMATIVE DEFENSE**

9 **(Intervening/ Superseding Actions)**

10 As a tenth, separate and distinct affirmative defense, this answering Defendant alleges that the injuries
11 and damages of which the Complainant complains were proximately caused or contributed to by the
12 acts of other Defendants, persons, and/or entities, and that said acts were an intervening and
13 superseding cause of the injuries and damages, if any, of which the Complainant complains, thus
barring Complainant from any recovery against this answering Defendant.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 **(Comparative Fault)**

16 As an eleventh, separate and distinct affirmative defense, this answering Defendant
17 alleges that whatever damages Complainant suffered or will suffer by reason of the allegations
18 in the complaint, were proximately caused or contributed to by the negligence and
19 comparative fault of Complainant. The negligence and comparative fault of Complainant
20 bars any recovery by Complainant against this Defendants; in the alternative, any recovery
21 obtained by Complainant should be reduced and diminished in proportion to the extent of
such negligence and comparative fault.

22 **TWELFTH AFFIRMATIVE DEFENSE**

23 **(Indemnification)**

24 As a twelfth, separate and distinct affirmative defense, this answering Defendant alleges
25 that the damages suffered by the Complainant, if any, were the direct and proximate result of the
26 acts and omissions of Complainant, and Complainant should indemnify and hold harmless this
27 Defendant from any and all damages, claims, costs, judgments, or any and all liabilities that may be
28 recovered against Defendant by Complainant.

1 **THIRTEENTH AFFIRMATIVE DEFENSE**

2 **(Subject Mater Jurisdiction)**

3 As a thirteenth, separate and distinct affirmative defense, this answering Defendant alleges that
4 this Court has no subject matter jurisdiction over the affairs of Complainant.

5 **FOURTEENTH AFFIRMATIVE DEFENSE**

6 **(Lack of Standing)**

7 As a fourteenth, separate and distinct affirmative defense, this answering Defendant alleges that
8 Complainant lacks standing to sue herein.

9 **FIFTEENTH AFFIRMATIVE DEFENSE**

10 **(Lack of Capacity)**

11 As a fifteenth, separate and distinct affirmative defense, this answering Defendant alleges that
12 Complainant lacks the capacity to prosecute this action.

13 **SIXTEENTH AFFIRMATIVE DEFENSE**

14 **(Failure to Join Indispensable Party)**

15 As a sixteenth, separate and distinct affirmative defense, this answering Defendant alleges that
16 Complainant has failed to join an indispensable party hereto.

17 **SEVENTEENTH AFFIRMATIVE DEFENSE**

18 **(Punitive Damages)**

19 As a seventeenth, separate and distinct affirmative defense, this answering Defendant alleges that the
20 Complaint fails to allege facts sufficient to support an award of punitive damages against Defendant.
21 All of Defendant's actions with regard to the Complainant were conducted in good faith and without
22 fraud, oppression, or malice toward the Complainant and the Complainant's rights, thereby
23 precluding any and all claims for special, exemplary, or punitive damages.

24 **EIGHTEENTH AFFIRMATIVE DEFENSE**

25 **(Additional Affirmative Defenses Reserved Pending Discovery)**

26 Defendant alleges that he may have additional affirmative defenses available that are not now fully
27 known. Defendant has not knowingly or intentionally waived any applicable defenses and reserves
28 the right to assert such other applicable affirmative defenses as may later become available or
apparent. Defendant further reserves the right to amend his answer and/or defenses accordingly.

JURY DEMAND

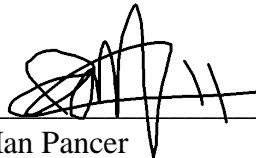
Defendant hereby demands a trial by jury.

1 WHEREFORE, Defendant prays:

- 2 1. That the Complainant take nothing by way of the Complaint and that said Complaint be
3 dismissed with prejudice;
4 2. That judgment be entered in favor of Defendant and against the Complainant on all causes of
5 action;
6 3. For the costs of the suit herein incurred; and
7 4. For such other and further relief as the Court deems just and proper
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12 DATED: May 31, 2016

THE LAW OFFICE OF IAN PANCER

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15 Ian Pancer
16 Attorneys for DEFENDANT
17 WALTER M. SOLOMON
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