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7 Attorneys for Defendant Steven Victor Tallarico  
aka Steven Tyler

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11 This Matter Relates to:

12 JULIA MISLEY, formerly known as JULIA  
13 HOLCOMB, an individual,

14 Plaintiff,

15 vs.

16 STEVEN VICTOR TALLARICO A/K/A  
STEVEN TYLER, an individual; and DOES 2  
17 through DOE 50, inclusive,

18 Defendant.

Case No. 22TRCV01604

Assigned to Hon. Gary Tanaka, Dept. B

**ANSWER OF DEFENDANT STEVEN  
VICTOR TALLARICO aka STEVEN  
TYLER TO PLAINTIFF'S FIRST  
AMENDED COMPLAINT**

Action Filed:

December 27, 2022

Trial Date:

None Set

1 Under the provisions of Section 431.30 of the California Code of Civil Procedure,  
2 Defendant Steven Victor Tallarico aka Steven Tyler (“Defendant”) denies, generally and  
3 specifically, each and every allegation and cause of action contained in the First Amended  
4 Complaint (“Complaint”) of Plaintiff Julia Misley fka Julia Holcomb (“Plaintiff”), and Defendant  
5 denies that Plaintiff is entitled to any relief whatsoever. Defendant further denies that Plaintiff has  
6 sustained any injury or loss by reason of any act or omission on the part of Defendant, and  
7 Defendant denies that Plaintiff has been damaged in any amount whatsoever or is entitled to any  
8 relief against Defendant.

9

10

**AFFIRMATIVE DEFENSES**

11

Defendant pleads the following separate defenses. Defendant reserves the right to assert  
12 additional affirmative defenses that discovery indicates are proper.

13

**FIRST AFFIRMATIVE DEFENSE**

14

**(Failure to State a Claim)**

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1. The Complaint and each purported cause of action therein fails to state facts  
16 sufficient to constitute a cause of action.

17

**SECOND AFFIRMATIVE DEFENSE**

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**(Lack of Intent)**

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2. Plaintiff’s claims against Defendant are barred in whole or in part because  
20 Defendant lacked the required element of intent.

21

**THIRD AFFIRMATIVE DEFENSE**

22

**(Lack of Injury)**

23

3. Plaintiff’s claims against Defendant are barred in whole or in part because Plaintiff  
24 has not suffered any injury or damage as a result of any action by Defendant.

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**FOURTH AFFIRMATIVE DEFENSE**

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**(No Causation)**

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4. Plaintiff’s claims are barred in whole or in part because Defendant did not cause  
28 Plaintiff any damages.

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**FIFTH AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

5. Plaintiff’s claims are barred in whole or in part by the applicable statute of limitations, including but not limited to California Code of Civil Procedure sections 335.1, 338, 339, 340.1, 340.16 and 343.

**SIXTH AFFIRMATIVE DEFENSE**

**(Comparative Negligence)**

6. Plaintiff’s claims are barred or reduced in whole or in part by Plaintiff’s negligence.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Laches)**

7. Plaintiff’s claims are barred in whole or in part by the doctrine of laches.

**EIGHTH AFFIRMATIVE DEFENSE**

**(No Punitive Damages)**

8. Plaintiff’s request for an award of punitive damages against Defendant violates Defendant’s right to due process under the California and United States Constitutions.

**NINTH AFFIRMATIVE DEFENSE**

**(No Attorneys’ Fees)**

9. Plaintiff’s recovery is barred in whole or in part because Plaintiff cannot state and prove a claim that entitles Plaintiff to recover attorneys’ fees.

**TENTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

10. Plaintiff’s claims are barred in whole or in part by the doctrine of estoppel.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Waiver/Release)**

11. Plaintiff has waived and/or released any right to obtain the relief on her claims.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Unjust Enrichment)**

12. Plaintiff’s claims are barred in whole or in part because Plaintiff would be unjustly

1 enriched if she were allowed to recover on any part of the damages alleged in her claims.

2 **THIRTEENTH AFFIRMATIVE DEFENSE**

3 **(Superseding/Intervening Cause)**

4 13. Plaintiff's claims are barred in whole or in part by superseding and/or intervening  
5 cause.

6 **FOURTEENTH AFFIRMATIVE DEFENSE**

7 **(Failure to Mitigate)**

8 14. As a result of Plaintiff's knowledge, conduct, words, actions, and/or failure to act,  
9 Plaintiff's claims are barred or limited because Plaintiff failed to exercise reasonable care and  
10 diligence to mitigate her alleged damages.

11 **FIFTEENTH AFFIRMATIVE DEFENSE**

12 **(Failure to Satisfy/Exhaust Administrative Remedies)**

13 15. Plaintiff's claims are barred in whole or in part because Plaintiff failed to  
14 satisfy/exhaust her administrative remedies and/or Plaintiff failed to comply with the statutory  
15 prerequisites to the bringing of this action.

16 **SIXTEENTH AFFIRMATIVE DEFENSE**

17 **(First Amendment)**

18 16. Plaintiff's claims are barred in whole or in part as Defendant's alleged conduct is  
19 protected under the First Amendment of the United State Constitution.

20 **SEVENTEENTH AFFIRMATIVE DEFENSE**

21 **(Standing)**

22 17. Plaintiff's claims are barred in whole or in part because Plaintiff lacks standing to  
23 bring her claims.

24 **EIGHTEENTH AFFIRMATIVE DEFENSE**

25 **(Good Faith)**

26 18. Plaintiff's claims are barred in whole or in part because Defendant's actions were  
27 legitimate, good faith, justified, nondiscriminatory, and/or non-retaliatory.

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1 **NINETEENTH AFFIRMATIVE DEFENSE**

2 **(Consent)**

3 19. Plaintiff's claims are barred in whole or in part by Plaintiff's consent.

4 **TWENTIETH AFFIRMATIVE DEFENSE**

5 **(Immunity)**

6 20. Plaintiff's claims are barred in whole or in part because of immunity or qualified  
7 immunity to Defendant as caregiver and/or guardian.

8 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

9 **(Comparative Fault by Third Parties)**

10 21. Defendant denies that Plaintiff suffered any damages, but if it is determined that  
11 Plaintiff has been damaged, then any such damages were not caused by Defendant.

12 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

13 **(Unclean Hands)**

14 22. As a result of Plaintiff's knowledge, conduct, words and/or actions, Plaintiff's  
15 claims against Defendant are barred in whole or in part by unclean hands.

16 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

17 **(Speculative Damages)**

18 23. Plaintiff cannot recover any of the damages alleged because such damages, if any,  
19 are too speculative to be recoverable.

20 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

21 **(Reservation of Other Defenses)**

22 24. Defendants reserve the right to assert other affirmative defenses as this action  
23 proceeds up to and including the time of trial.

24  
25 WHEREFORE, Defendant prays for relief as follows:

26 1. That the Complaint be dismissed with prejudice and in its entirety;

27 2. That Plaintiff take nothing by reason of her Complaint and that judgment be  
28 entered against Plaintiff and in favor of Defendant;

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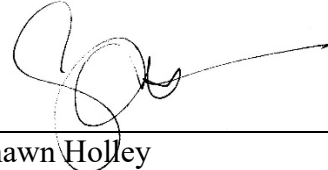
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3. That Defendant be awarded his costs and attorneys' fees incurred in defending this  
action; and  
4. That Defendant be granted such other and further relief as the Court may deem just  
and proper.

DATED: March 28, 2023

KINSELLA WEITZMAN ISER KUMP HOLLEY LLP

By:   
Shawn Holley  
Attorneys for Defendant Steven Victor Tallarico  
aka Steven Tyler

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 11766 Wilshire Boulevard, Suite 750, Los Angeles, CA 90025.

On March 28, 2023, I served true copies of the following document(s) described as **ANSWER OF DEFENDANT STEVEN VICTOR TALLARICO aka STEVEN TYLER TO PLAINTIFF'S FIRST AMENDED COMPLAINT** on the interested parties in this action as follows:

Michael Reck, Esq.  
[mreck@andersonadvocates.com](mailto:mreck@andersonadvocates.com)  
JEFF ANDERSON & ASSOCIATES PA  
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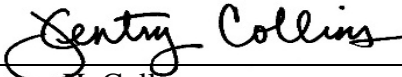
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**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Kinsella Weitzman Iser Kump Holley LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address [jcollins@kwikhlaw.com](mailto:jcollins@kwikhlaw.com) to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 28, 2023, at Los Angeles, California.

  
\_\_\_\_\_  
Jentry H. Collins