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Attorneys for Defendant Steven Victor Tallarico
aka Steven Tyler

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

This Matter Relates to:

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

Plaintiff,

vs.

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

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

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

AFFIRMATIVE DEFENSES

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

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

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

SECOND AFFIRMATIVE DEFENSE

(Lack of Intent)

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

THIRD AFFIRMATIVE DEFENSE

(Lack of Injury)

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

FOURTH AFFIRMATIVE DEFENSE

(No Causation)

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

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

THIRTEENTH AFFIRMATIVE DEFENSE

(Superseding/Intervening Cause)

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

FOURTEENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

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

FIFTEENTH AFFIRMATIVE DEFENSE

(Failure to Satisfy/Exhaust Administrative Remedies)

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

SIXTEENTH AFFIRMATIVE DEFENSE

(First Amendment)

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

SEVENTEENTH AFFIRMATIVE DEFENSE

(Standing)

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

EIGHTEENTH AFFIRMATIVE DEFENSE

(Good Faith)

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

NINETEENTH AFFIRMATIVE DEFENSE

(Consent)

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

TWENTIETH AFFIRMATIVE DEFENSE

(Immunity)

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

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Comparative Fault by Third Parties)

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

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Unclean Hands)

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

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Speculative Damages)

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

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Reservation of Other Defenses)

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

WHEREFORE, Defendant prays for relief as follows:

1. That the Complaint be dismissed with prejudice and in its entirety;
2. That Plaintiff take nothing by reason of her Complaint and that judgment be entered against Plaintiff and in favor of Defendant;

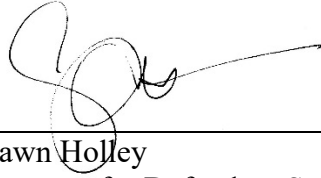
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3. That Defendant be awarded his costs and attorneys' fees incurred in defending this action; and
4. That Defendant be granted such other and further relief as the Court may deem just and proper.

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.
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JEFF ANDERSON & ASSOCIATES PA
12011 San Vicente Boulevard, Suite 700
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Tel: 310-357-2425
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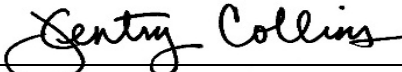
Karen Barth Menzies, Esq.
kbm@kbmlaw.com
KBM Law Corp.
6701 Center Drive West, Suite 1400
Los Angeles, California, 90045
Tel: (310) 363-0030
Fax: (310) 861-0168

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 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