

1 SPANOS & GUSTAFSON, LLP
THEODORE G. SPANOS (126354)
2 JAMES D. GUSTAFSON (125772)
21650 W. Oxnard Street, Suite 500
3 Woodland Hills, California 91367
Telephone: (818) 827-9240
4 Facsimile: (818) 337-7107

5 Attorneys for Defendant
HIGHTIMES PRODUCTIONS, INC.

6
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN FRANCISCO**
9

10 RENA WYMAN,

11 Plaintiff,

12 v.

13 HIGHTIMES PRODUCTIONS, INC.,

14 Defendant.
15

Case No. CGC-20-584630

**DEFENDANT HIGHTIMES
PRODUCTIONS INC.'S ANSWER TO
COMPLAINT**

Complaint Filed: June 2, 2020

1 Defendant Hightimes Productions, Inc. (“Defendant”) hereby responds to the Complaint
2 filed on June 2, 2020 (the “Complaint”) by Plaintiff Rena Wyman (“Plaintiff”) as follows:

3 Defendant both generally and specifically denies each and every allegation set forth in the
4 Complaint in accordance with the provisions of California Civil Procedure Code Section
5 431.30(d). Defendant denies that it is liable for any of the conduct as alleged in the Complaint, or
6 otherwise, and further denies that Plaintiff was injured or suffered damages in any amount
7 whatsoever as a result of the conduct alleged in the Complaint as against Defendant or otherwise.

8 **FIRST AFFIRMATIVE DEFENSE**

9 **(Failure to State a Cause of Action)**

10 As a separate and affirmative defense, Defendant alleges that the Complaint, and all of the
11 purported causes of action alleged therein against Defendant, fail to state facts sufficient to
12 constitute any cause of action against Defendant.

13 **SECOND AFFIRMATIVE DEFENSE**

14 **(Res Judicata)**

15 As a separate and affirmative defense, Defendant alleges that Plaintiff’s purported causes
16 of action are barred by the doctrine of res judicata.

17 **THIRD AFFIRMATIVE DEFENSE**

18 **(Collateral Estoppel)**

19 As a separate and affirmative defense, Defendant alleges that Plaintiff is barred by the
20 doctrine of collateral estopped from asserting any causes of action against Defendant.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 **(Settlement Agreement in Prior Action Bars New Action)**

23 As a separate and affirmative defense, Defendant alleges that the settlement agreement (the
24 “Settlement Agreement”) entered into in the civil action styled *Wyman v. Hightimes Productions,*
25 *Inc. et al.*, United States District Court, Eastern District, Case No. 18-cv-02621-TLN-EFB (the
26 “Prior Action”), constitutes a judgment and operates to bar any cause of action against Defendant.

1 **FIFTH AFFIRMATIVE DEFENSE**

2 **(Unclean Hands)**

3 As a separate and affirmative defense, Defendant alleges that Plaintiff's purported causes
4 of action are barred in whole or in part by the doctrine of unclean hands.

5 **SIXTH AFFIRMATIVE DEFENSE**

6 **(Accord and Satisfaction)**

7 As a separate and affirmative defense, Defendant alleges that Plaintiff's purported causes
8 of action are barred in whole or in part because Plaintiff accepted an accord and satisfaction.

9 **SEVENTH AFFIRMATIVE DEFENSE**

10 **(Constitutional Right of Free Speech)**

11 As a separate and affirmative defense, Defendant alleges that Plaintiff's purported cause of
12 action for fraud is barred because it arises from an act in furtherance of Defendant's constitutional
13 right of free speech or petition in connection with civil litigation.

14 **EIGHTH AFFIRMATIVE DEFENSE**

15 **(Cal. Civ. Proc. Code § 425.16)**

16 As a separate and affirmative defense, Defendant alleges that Plaintiff's purported cause of
17 action for fraud is barred because the Settlement Agreement entered into in the Prior Action
18 constitutes a statement or writing "in connection with" litigation because it "relates to the
19 substantive issues" in the Prior Action and is "directed to persons having some interest in the
20 litigation." *See, e.g., Neville v. Chudacoff*, 160 Cal. 4th 1255, 1266 (2008); *Navellier v. Sletten*, 29
21 Cal. 4th 82, 124 (2002); *GeneThera, Inc. v. Troy & Gould Professional Corp.*, 171 Cal. App. 4th
22 901 (2009).

23 **NINTH AFFIRMATIVE DEFENSE**

24 **(Litigation Privilege)**

25 As a separate and affirmative defense, Plaintiff's purported causes of action are barred in
26 whole or in part by the litigation privilege.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

As a separate and affirmative defense, Defendant alleges that Plaintiff's claims are barred in whole or in part to the extent that Plaintiff has failed to exercise reasonable care and diligence to mitigate its alleged injuries.

ELEVENTH AFFIRMATIVE DEFENSE

(Laches)

As a separate and affirmative defense, Defendant alleges that Plaintiff's causes of action are barred or diminished by the doctrine of laches.

TWELFTH AFFIRMATIVE DEFENSE

(Unconstitutionality of Punitive Damages)

As a separate and affirmative defense, Defendant alleges that Plaintiff's purported claim for punitive damages violates the due process clause of the Fifth and Fourteenth Amendments to the United States Constitution, and similar constitutional provisions, because it seeks to punish Defendant based on unconstitutionally vague standards as applied to the conduct in this case. Plaintiff's purported claim for punitive damages also violates the Eighth Amendment to the United States Constitution, and similar Constitutional provisions because it seeks to impose an excessive fine on Defendant, is penal in nature, and seeks to punish Defendant based on unconstitutionally vague standards as applied to the conduct in this case.

ADDITIONAL AFFIRMATIVE DEFENSES

Due to lack of information as to the matters set forth in the Complaint, and the lack of specificity of the purported causes of action against Defendant, Defendant has insufficient knowledge or information on which to form a belief as to whether it has additional, as yet unstated, affirmative defenses available and Defendant therefore reserves the right to assert such additional defenses in the event discovery establishes that they are proper.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by reason of the Complaint;
2. That the Court dismiss the Complaint and each purported cause of action therein stated against Defendant, with prejudice;
3. In the alternative, that judgment be entered against Plaintiff and in favor of Defendant; and
4. For any and all such further relief as the Court may deem just and proper.

DATED: July 28, 2020

SPANOS & GUSTAFSON, LLP
THEODORE G. SPANOS
JAMES D. GUSTAFSON

By: 
Theodore G. Spanos
Attorneys for Defendant
HIGHTIMES PRODUCTIONS, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 21650 W. Oxnard Street, Suite 500, Woodland Hills, California 91367.

On **July 28, 2020**, I served the foregoing document described as “**DEFENDANT HIGHTIMES PRODUCTIONS, INC. ANSWER TO COMPLAINT**” by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

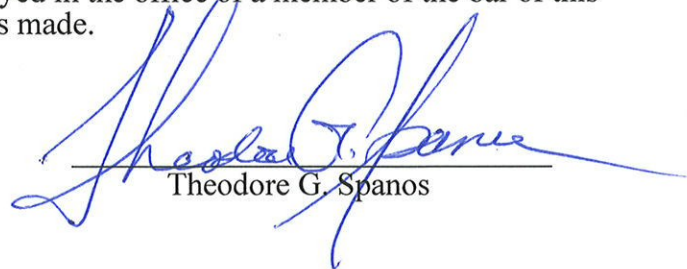
Ernest Galvan
Rosen Bien Galvan & Grunfeld LLP
101 Mission Street, Sixth Floor
San Francisco, CA 94105
Tel: (415) 433-6830

BY MAIL: I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing via U.S. mail. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Woodland Hills, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed **July 28, 2020**, at Woodland Hills, California.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Theodore G. Spanos