BENJAMIN TAYLOR (State Bar No. 240636)
btaylor@taylorlawfirmpc.com
DIANE BANI ESRAILI (State Bar No. 321269)
dbani@taylorlawfirmpc.com
THE LAW OFFICES OF BENJAMIN TAYLOR
A Professional Corporation
1880 Century Park East, Suite 714
Los Angeles, California 90067
Telephone: (310) 201-7600
Facsimile: (310) 201-7601

Attorneys for Defendant
DAVID NAJAR

Electronically FILED by
Superior Court of California,
County of Los Angeles
11/15/2023 4:15 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By E. Montagna, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES**

IDEAL LIVING, LLC, a Delaware limited liability company; PETER SPIEGEL, an individual; and KATHLEEN WILLIAMS, an individual,

Plaintiff,

v.

DAVID NAJAR, an individual, and DOES 1 through 10, inclusive,

Defendants.

**Case No.: 23VECV04262**

**ANSWER BY DEFENDANT DAVID NAJAR**

Action filed: September 26, 2023
Trial date: None set.

Defendant DAVID NAJAR ("Defendant") hereby answers the Complaint of IDEAL LIVING, LLC, a Delaware limited liability company; PETER SPIEGEL, an individual; and KATHLEEN WILLIAMS, an individual ("Plaintiffs"), as follows:

**GENERAL DENIAL**

Pursuant to California Code of Civil Procedure section 431.30(d), Defendant answers the Complaint by denying each and every material allegation of the Complaint and each and every purported cause of action contained therein and by denying that Plaintiffs are entitled to any of the relief sought therein.

**AFFIRMATIVE DEFENSES**

Without admitting any of the allegations of the Complaint, Defendant asserts the following affirmative defenses:

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State Facts Sufficient to Constitute a Cause of Action)**

1. The Complaint and each of its purported causes of action fails to state facts sufficient to constitute a cause of action or to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Failure to State a Claim for Relief)**

2. The Complaint and each of its purported causes of action fails to state a claim upon which relief can be granted as to the damages alleged.

**THIRD AFFIRMATIVE DEFENSE**

**(Consent)**

3. The claims alleged in the Complaint are barred by the equitable doctrine of consent.

**FOURTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

4. The claims alleged in the Complaint are barred by the equitable doctrine of estoppel.

**FIFTH AFFIRMATIVE DEFENSE**

**(Complaint is Uncertain)**

5. The Complaint is uncertain, ambiguous, and unintelligible.

**SIXTH AFFIRMATIVE DEFENSE**

**(Waiver)**

6. The claims alleged in the Complaint are barred by the equitable doctrine of waiver.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Laches)**

7. The claims alleged in the Complaint are barred by the equitable doctrine of laches.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Speculative Damages)**

8. The damages alleged in the Complaint are speculative and based on guesswork and conjecture, and they are impossible to ascertain or allocate.

**NINTH AFFIRMATIVE DEFENSE**

**(Damages Resulted from Own Acts)**

9. The damages, if any, suffered by Plaintiffs are the result of their own acts or omissions.

**TENTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate Damages)**

10. Plaintiffs have failed to take appropriate and necessary steps to mitigate damages, if any exist.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

11. The Complaint and each cause of action alleged therein is barred by the doctrine of unclean hands.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Fraud)**

12. Plaintiffs are not entitled to the relief he seeks in the Complaint because the claims contained therein are barred by his own fraudulent acts.

////

////

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Unjust Enrichment)**

13. The Complaint, and each purported cause of action contained therein, is barred, in whole or in part, because it would result in unjust enrichment to Plaintiffs. Namely, Defendant asserts that Plaintiffs are seeking to recover more than Plaintiffs are entitled to recover in this case, and award of the judgment sought by Plaintiffs would unjustly enrich Plaintiffs.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Set-Off)**

14. Plaintiffs' claims are subject to set-off based on their own wrongdoing.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(No Claim for Punitive Damages)**

15. Plaintiffs' claims and prayers for punitive or exemplary damages do not state facts sufficient to enable Plaintiffs to recover such damages under section 3294 of the Civil Code.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

16. The claims in the Complaint are barred by application of the applicable statute of limitations.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Exemplary Damages - Excessive Fines)**

17. Defendant alleges, based on information and belief, that Plaintiffs' Complaint, and each and every cause of action alleged therein that seeks punitive or exemplary damages, violates the rights of Defendant to protection from "excessive fines" as provided in the Eighth Amendment to the United States Constitution and in Article I, Section 17 of the Constitution of the State of California.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Exemplary Damages)**

18. Defendant alleges that no willful, fraudulent or malicious conduct occurred, and therefore, Plaintiffs are not entitled to exemplary damages.

////

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Causation)**

19. Although Defendant denies that Plaintiffs have been damaged in any way, if it is determined that Plaintiffs have been damaged, then Defendant is informed and believes, and based thereon alleges, that the actual cause of such damages was the conduct of Plaintiffs or others for which Defendant was not responsible.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(In Pari Delicto)**

20. Defendant alleges that the claims are barred by reason of the fact that Plaintiffs have engaged in acts and courses of conduct which render him in *pari delicto*.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(Inequitable Conduct by Plaintiff)**

21. The claims alleged in the Complaint are barred, in whole or in part, because of Plaintiffs' inequitable conduct.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(No Damages)**

22. Plaintiffs have not suffered any damages as a result of any conduct or omission attributable to Defendant.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(Offset)**

23. Defendant alleges that she has incurred damages by reason of Plaintiffs' conduct and that he has the right of offset of any amount of monies owed to Plaintiffs by way of damages, if any.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

**(Bad Faith)**

24. Plaintiffs are not entitled to any relief sought by the Complaint because the claims contained therein are barred by Plaintiffs' own acts of bad faith.

////

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

**(Good Faith)**

25. All actions taken by Defendant with respect to Plaintiffs at all times relevant to this action were taken in good faith.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**

**(Deceit and Fraud)**

26. Plaintiffs are guilty of deceit and fraud.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

**(Standing)**

27. Plaintiffs have not sustained any legally cognizable injury, and therefore lack standing.

**TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

**(No Severe Emotional Distress)**

28. The alleged acts of Defendant were not outrageous, intentional or reckless, and Plaintiffs did not suffer severe emotional distress as a result of Defendant's alleged acts.

**TWENTY-NINTH AFFIRMATIVE DEFENSE**

**(Privilege)**

29. The claims alleged in the Complaint are barred, in whole or in part, because Defendant had the privilege to engage in the activity that allegedly caused damage to Plaintiffs.

**Reservation of Additional Affirmative Defenses**

Defendant hereby reserves the right to assert additional affirmative defenses.

**PRAYER**

WHEREFORE, Defendant prays that this Court:

(1) Dismiss the Complaint with prejudice;

(2) Enter judgment in favor of Defendant on all claims;

(3) Award Defendant costs of suit incurred, including attorneys' fees to the extent permitted by law; and

////

(4) Grant Defendant such other and further relief as may be deemed just and proper.

DATED: November 15, 2023

THE LAW OFFICES OF BENJAMIN TAYLOR
A Professional Corporation

By:_____
BENJAMIN TAYLOR
Attorneys for Defendant
DAVID NAJAR

## PROOF OF SERVICE

**STATE OF CALIFORNIA )**
**) ss.**
**COUNTY OF LOS ANGELES )**

At the time of service I was over 18 years of age and not a party to this action. My business address is 1880 Century Park East, Suite 714, Los Angeles, California 90067.

On **November 15, 2023,** I served ☐ the original ☒ a true copy of the within document(s) described as **ANSWER TO COMPLAINT** on all interested parties in this action as follows:

Michael A. Sherman, Esq.
Alexander P. Manglinong, Esq.
Stubbs Alderton & Markiles, LLP
15620 Ventura Blvd., 20th Floor
Sherman Oaks, CA 91403

masherman@stubbsalderton.com
amanglinong@stubbsalderton.com

**Attorneys for Plaintiffs**
**IDEAL LIVING, LLC, PETER SPIEGEL, AND KATHLEEN WILLIAMS**

☒ **BY E-MAIL**: I sent the above document(s) via electronic mail to the recipient(s) listed above at the e-mail address(es) listed above, and I did not receive any notification that the e-mail was not received.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on **November 15, 2023,** at Los Angeles, California.

Benjamin Taylor
Name

Signature