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FILED
LOS ANGELES SUPERIOR COURT
MAY 26 2009
JOHN A. CLARKE, CLERK
BY ZONIA D. FEDAK, DEPUTY

4 EVE H. KORFF, STATE BAR NO. 143250

5 Attorneys for Defendant, ADNAN GHALIB

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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES

11 RAM MOSKOWITZ,

12 Plaintiff,

13 v.

14 ADNAN GHALIB, an individual; and
15 DOES 1 through 5, inclusive,

16 Defendants.

NO. LC085114
[Hon. Bert Glennon, Dept. T]

ANSWER TO COMPLAINT FOR
DAMAGES

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18 Defendant, ADNAN GHALIB, hereby answers the Complaint as follows:

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20 1. Pursuant to Code of Civil Procedure § 431.30, Defendant denies each and every allegation
21 in the Complaint and further denies that Plaintiff has been damaged in any sum or sums whatsoever.

22
23 **FIRST AFFIRMATIVE DEFENSE**

24 **CONTRIBUTORY FAULT**

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26 2. If Plaintiff sustained any damage as alleged in the Complaint, that damage was legally
27 caused and contributed to by Plaintiff in failing to conduct himself in a manner ordinarily expected

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1 of reasonably prudent persons in the conduct of their affairs and business. The contributory
2 negligence and fault of Plaintiff diminishes any recovery herein.

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4 **SECOND AFFIRMATIVE DEFENSE**

5 **ASSUMPTION OF THE RISK**

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7 3. At all times material Plaintiff was aware of any inherent danger to his person and property
8 and specifically assumed the risk of this danger by failing to take precautions in the conduct of his
9 person and property. Plaintiff's assumption of the risk bars or diminishes any recovery herein.

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11 **THIRD AFFIRMATIVE DEFENSE**

12 **FAILURE TO MITIGATE DAMAGES**

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14 4. If Plaintiff sustained any damage as alleged in the Complaint, that damage was legally
15 caused and contributed to by Plaintiff in failing to mitigate damages. Plaintiff's failure to mitigate
16 damages diminishes any recovery herein.

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18 **FOURTH AFFIRMATIVE DEFENSE**

19 **FAILURE TO STATE CAUSE OF ACTION**

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21 5. The Complaint fails to state facts sufficient to constitute a cause of action against Defendant.

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23 **FIFTH AFFIRMATIVE DEFENSE**

24 **CONTRIBUTORY NEGLIGENCE OF THIRD PARTIES**

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26 6. If Plaintiff suffered or sustained any damages as alleged in the Complaint, that damage was
27 legally caused and contributed to by third parties, and the negligence of third parties contributed to
28 the incident alleged in Plaintiff's Complaint and this Defendant alleges, therefore, that the damages

1 attributed to this Defendant should be reduced proportionately by the negligence of said third
2 parties.

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4 **SIXTH AFFIRMATIVE DEFENSE**

5 **LACHES AND ESTOPPEL**

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7 7. In bringing any action against this Defendant, Plaintiff delayed and should now be estopped
8 from now asserting any cause of action against Defendant. The laches or estoppel of Plaintiff bars
9 any recovery herein.

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11 **SEVENTH AFFIRMATIVE DEFENSE**

12 **PROPOSITION 51 ALLEGATION**

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14 8. If Plaintiff sustained any damage as alleged in the Complaint, that damage was legally
15 caused and contributed to by persons, entities or parties other than Defendant in failing to conduct
16 themselves in a manner ordinarily expected of reasonably prudent persons in the conduct of their
17 affairs and business. Defendant shall only be liable for the amount of non-economic damages
18 allocated to Defendant in direct proportion to Defendant's percentage of fault pursuant to Civil Code
19 § 1431.2 and other applicable law.

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21 **EIGHTH AFFIRMATIVE DEFENSE**

22 **WRONGFUL DAMAGES**

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24 9. Pursuant to California Civil Code, Section 3294, Plaintiff's request for punitive and exemplary
25 damages is unlawful, improper and wrongfully brought.

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