

1 LEON J. GLADSTONE (SBN 70967)
lgladstone@bergerkahn.com
2 DONALD L. MABRY (SBN 187750)
dmabry@bergerkahn.com
3 BERGER KAHN
A Law Corporation
4 Mail Service:
Post Office Box 92621
5 Los Angeles, CA 90009-9998
Location:
6 4551 Glencoe Avenue, Suite 300
Marina del Rey, CA 90292-7925
7 Tel: (310) 821-9000 • Fax: (310) 775-8775

FILED
Los Angeles Superior Court

MAY 13 2009

John A. Clarke, Executive Officer/Clerk
By SHAUNYA WESLEY Deputy

8 Attorneys for Defendant JAMES PARNELL SPEARS,
9 individually

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12
13 SAM LUTFI, an individual,
14 Plaintiff,

CASE NO.: BC 406904

Assigned to: Hon. Zaven V. Sinanian,
Dept. 23

15 vs.

**DEFENDANT JAMES PARNELL
SPEARS' ANSWER TO PLAINTIFF'S
FIRST AMENDED COMPLAINT**

16 LYNNE IRENE SPEARS, an
individual, JAMES PARNELL
17 SPEARS, an individual; BRITNEY
JEAN SPEARS, an individual; and
18 DOES 1 through 25, inclusive,

DATE ACTION FILED: February 3, 2009
TRIAL DATE: March 8, 2010

19 Defendants.
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21

22 COMES NOW defendant James Parnell Spears ("J. Spears"), individually, and
23 answers plaintiff's unverified First Amended Complaint as follows:

24 **GENERAL DENIAL**

25 1. Pursuant to California Code of Civil Procedure § 431.30, defendant J.
26 Spears denies generally each and every allegation of plaintiff's unverified First Amended
27 Complaint, and denies that plaintiff has been injured or damaged in any degree, amount,
28 or sums, or is entitled to any relief at all.

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Los Angeles, CA 90009-9998

Fees paid on 3-18-09 of \$930.00

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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(California Civil Code § 50 – Right to Use Force)

1. Without admitting the truth of any of the allegations contained in plaintiff's First Amended Complaint ("FAC"), each cause of action alleged against defendant J. Spears in the FAC is barred because defendant J. Spears was privileged to use force in and about the matters complained of in the FAC, if any force was used, under California Civil Code § 50, which states: "Any necessary force may be used to protect from wrongful injury the person or property of oneself, or of a wife, husband, child, parent, or other relative, or member of one's family, or of a ward, servant, master, or guest."

SECOND AFFIRMATIVE DEFENSE

(Provocation)

2. Without admitting the truth of any of the allegations contained in the FAC, each cause of action alleged against defendant J. Spears in the FAC is barred because defendant J. Spears was privileged to use force in and about the matters complained of in the FAC, if any force was used, because he was provoked by plaintiff through his words or conduct.

THIRD AFFIRMATIVE DEFENSE

(Privilege)

3. Without admitting the truth of any of the allegations contained in the FAC, each cause of action alleged against defendant J. Spears in the FAC is barred because defendant J. Spears was privileged under law in and about the matters complained of in the FAC.

FOURTH AFFIRMATIVE DEFENSE

(Justification)

4. Without admitting the truth of any of the allegations contained in the FAC, each cause of action alleged against defendant J. Spears in the FAC is barred because each and every act of defendant J. Spears, of which plaintiff complains in the FAC, was

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1 justified, proper, legal, fair, and not done in degradation of the rights or legal interests of
2 plaintiff.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 **(Consent)**

5 5. Without admitting the truth of any of the allegations contained in the FAC,
6 each cause of action alleged against defendant J. Spears in the FAC is barred because
7 plaintiff consented to the conduct alleged against defendant J. Spears in the FAC.

8 **SIXTH AFFIRMATIVE DEFENSE**

9 **(Unclean Hands)**

10 6. Without admitting the truth of any of the allegations contained in the FAC,
11 each cause of action alleged against defendant J. Spears in the FAC is barred by the
12 doctrine of unclean hands, in that the plaintiff acted wrongfully in and about the matters
13 complained of in the FAC.

14 **SEVENTH AFFIRMATIVE DEFENSE**

15 **(Estoppel)**

16 7. Without admitting the truth of any of the allegations contained in the FAC,
17 each cause of action alleged against defendant J. Spears in the FAC is barred by the
18 doctrine of estoppel.

19 **EIGHTH AFFIRMATIVE DEFENSE**

20 **(Waiver)**

21 8. Without admitting the truth of any of the allegations contained in the FAC,
22 each cause of action alleged against defendant J. Spears in the FAC is barred by the
23 doctrine of waiver, in that plaintiff, by his words or conduct, has waived any and all
24 rights in and about the matters complained of in the FAC.

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1 **NINTH AFFIRMATIVE DEFENSE**

2 **(Laches)**

3 9. Without admitting the truth of any of the allegations contained in the FAC,
4 each cause of action alleged against defendant J. Spears in the FAC is barred by the
5 doctrine of laches.

6 **TENTH AFFIRMATIVE DEFENSE**

7 **(Failure to Mitigate)**

8 10. Without admitting the truth of any of the allegations contained in the FAC,
9 each cause of action alleged against defendant J. Spears in the FAC is barred, or any
10 recovery thereunder must be reduced, because plaintiff failed to mitigate his damages in
11 and about the matters complained of in the FAC.

12 **ELEVENTH AFFIRMATIVE DEFENSE**

13 **(Additional Affirmative Defenses Reserved)**

14 11. Defendant J. Spears reserves the right to assert additional affirmative
15 defenses based on facts and information he may discovery during the course of discovery
16 and investigation of the matters about which plaintiff complains in his FAC.

17 **PRAYER**

18 WHEREFORE, defendant J. Spears prays for relief as follows:

- 19 1. That plaintiff take nothing by way of his First Amended Complaint, that
- 20 judgment be entered in favor of defendant J. Spears and against plaintiff,
- 21 and that plaintiff's action against defendant J. Spears be dismissed with
- 22 prejudice;
- 23 2. That defendant J. Spears be awarded his costs of suit incurred in defending
- 24 this action; and
- 25 3. For such other and further relief as the Court may deem just and proper.

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