



Legal Document

Superior Court of California, County of San Francisco
Case No. CGC 13 529410
Alba Ingram v. Country Market Et Al

Document 11



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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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ANSWER

ALBA INGRAM VS. COUNTRY MARKET et al

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

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11 ALBA INGRAM,

12 Plaintiff,

13 vs.

14 CANYON MARKET, and DOES 1-25,
15 inclusive,

16 Defendants.

CASE NO. CGC-13-529410

**ANSWER TO FIRST AMENDED
COMPLAINT**

Action Filed: March 11, 2013
Trial Date: None Set

17 Defendant CANYON MARKET ("defendant"), answering the First Amended Complaint
18 of plaintiff ALBA INGRAM ("plaintiff"), denies generally and specifically, each and every, all
19 and singular, the allegations of said Complaint, and each cause of action thereof, and further
20 denies that plaintiff has been damaged in any sum or sums or at all.

21 WHEREFORE, defendant prays for judgment as hereinafter set forth.

22 **FIRST AFFIRMATIVE DEFENSE**

23 (Comparative Negligence)

24 Defendant alleges that plaintiff was partially, if not wholly, negligent or otherwise at fault
25 on her own part and should be barred from recovery of that portion of the damages directly
26 attributable to her proportionate share of the negligence or fault, pursuant to the doctrine of
27 comparative negligence.

28 ///

4837-8166-0437-1

ANSWER TO FIRST AMENDED COMPLAINT

LEWIS
BRISBOIS
BISGAARD
& SMITH LLP
ATTORNEYS AT LAW

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SECOND AFFIRMATIVE DEFENSE

(Negligence of Third Parties)

Defendant alleges that the damages sustained by plaintiff, if any, were caused, in whole or in part, by the negligence or fault of third parties for which defendant is not liable or responsible.

THIRD AFFIRMATIVE DEFENSE

(Not Responsible for Acts of DOES)

Defendant is not responsible for the acts and/or omissions of those defendants named herein as Does 1 to 25.

FOURTH AFFIRMATIVE DEFENSE

(Statute of Limitations - General)

Defendant alleges that plaintiff's First Amended Complaint and all causes of action therein are barred by the applicable statute of limitations, including but not limited to C.C.P. § 335.1.

FIFTH AFFIRMATIVE DEFENSE

(Failure to State Sufficient Facts/Cause of Action)

Defendant alleges that the First Amended Complaint fails to state facts sufficient to constitute a cause of action against defendant.

SIXTH AFFIRMATIVE DEFENSE

(Several Liability of Non-Economic Damages)

The provisions of the "Fair Responsibility Act of 1986" (commonly known as Proposition 51, Civil Code Sections 1430, 1431, 1431.1, 1431.2, 1431.3, 1431.4, 1431.5 and 1432) are applicable to this action to the extent that plaintiff's injuries, if any, were legally caused or contributed to by the negligence or fault of persons or entities other than defendant. Based upon principles of comparative fault, the liability, if any, of defendant for non-economic damages shall be several only, and shall not be joint. Defendant, if liable at all, shall be liable only for the amount of non-economic damages allocated to defendant in direct proportion to defendant's percentage of fault, and a separate and several judgment shall be rendered against defendant for non-economic damages, if any.

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SEVENTH AFFIRMATIVE DEFENSE

(Failure to Join All Necessary Parties)

Defendant alleges that plaintiff failed to join all persons necessary for a full and just adjudication of the purported causes of action asserted in the First Amended Complaint.

EIGHTH AFFIRMATIVE DEFENSE

(Superseding Causes)

Defendant alleges that plaintiff is barred from asserting any claims against defendant because her alleged damages were the result of one or more unforeseeable intervening and superseding causes.

NINTH AFFIRMATIVE DEFENSE

(Estoppel)

Defendant alleges that by virtue of her own conduct, plaintiff is estopped from recovering from defendant for the claims alleged in the First Amended Complaint.

TENTH AFFIRMATIVE DEFENSE

(Assumption of Risk)

Plaintiff conducted herself in such a manner at the time and place referred to in the First Amended Complaint which implies that plaintiff reasonably assumed the risk of harm or injury because plaintiff had actual knowledge of the particular dangers involved in such conduct, knew and understood the degree of risk involved and thereafter, in spite of such knowledge, freely and voluntarily chose to and did expose herself to that particular known danger which resulted in the injuries of which plaintiff now complains.

ELEVENTH AFFIRMATIVE DEFENSE

(Not a Substantial Factor)

Defendant alleges that the First Amended Complaint and each cause of action therein is barred on the grounds that the products, conduct, materials or premises of defendant as referred to in plaintiff's First Amended Complaint, if any, were not a substantial factor in bringing about the injuries and damages complained of by plaintiff and did not increase the risk that plaintiff would suffer the injuries and damages complained of.

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TWELFTH AFFIRMATIVE DEFENSE

(Waiver)

Defendant alleges that plaintiff has waived any and all claims which she seeks to assert in this action.

THIRTEENTH AFFIRMATIVE DEFENSE

(Contribution and Indemnification)

Defendant allege that it is entitled to a right of indemnification by apportionment and to a right of contribution from any person or entity whose negligence proximately contributed to the happening of the alleged injuries of plaintiff if plaintiff should receive a verdict against defendant.

FOURTEENTH AFFIRMATIVE DEFENSE

(Compliance with Law)

At all times relevant herein, the conduct of defendant alleged in the First Amended Complaint conformed to all applicable statutes, governmental regulations and industry standards applicable thereto.

FIFTEENTH AFFIRMATIVE DEFENSE

(Actual or Constructive Knowledge)

Defendant alleges that it lacked actual or constructive knowledge of a dangerous condition.

SIXTEENTH AFFIRMATIVE DEFENSE

(Dangerous Condition)

Defendant alleges that it did not create a dangerous condition and further alleges that no dangerous condition existed.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Avoidable Consequences)

Defendant alleges that each and every cause of action set forth in plaintiff's First Amended Complaint is barred, and plaintiff may not recover damages due to the failure of plaintiff to take actions to avoid the injuries alleged and damages, if any, as set forth in the Complaint.

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EIGHTEENTH AFFIRMATIVE DEFENSE

(Laches and Unclean Hands)

Plaintiff's claims are barred by the doctrine of laches and unclean hands.

NINETEENTH AFFIRMATIVE DEFENSE

(Plaintiff Had Knowledge of Particular Dangers Involved.)

Plaintiff conducted herself in such a manner at the time and place referred to in the Complaint which implies that plaintiff reasonably assumed the risk of harm or injury because plaintiff had actual knowledge of the particular dangers involved in such conduct, knew and understood the degree of risk involved and thereafter, in spite of such knowledge, freely and voluntarily chose to and did expose herself to that particular known danger which resulted in the injuries of which plaintiff now complains.

TWENTIETH AFFIRMATIVE DEFENSE

(Intervening Actions)

Defendant is informed and believes, and upon that basis alleges, that the losses, injuries or damages, if any, incurred by plaintiff were the result of superseding intervening causes arising from negligent or willful acts or omissions by parties defendant neither controlled nor had the right to control, and thereby plaintiff's claims against defendant are barred.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Unwarranted Claim)

Defendant is informed and believes, and upon that basis alleges, that the First Amended Complaint filed by plaintiff was brought without reasonable cause and without a good faith belief that there was a justifiable controversy under the facts or the law which warranted the filing of the First Amended Complaint. Plaintiff should therefore be responsible for all of defendant's necessary and reasonable defense costs, as more particularly set forth in the California Code of Civil Procedure.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Avoidance)

Plaintiff failed to take precautions which would have avoided and/or diminished her

1 injuries and damages, if any.

2 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

3 (No Breach of Duty)

4 Defendant alleges that it did not breach any duty owed to plaintiff and that, at all relevant
5 times, defendant's conduct was reasonable.

6 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

7 (Complete Performance)

8 Defendant has appropriately, completely and fully performed and discharged any and all
9 obligations and/or legal duties arising out of the matters alleged in plaintiff's First Amended
10 Complaint.

11 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

12 (Insufficient Information or Knowledge/Unknown Defenses)

13 Defendant presently has insufficient knowledge or information with which to form a belief
14 as to whether defendant may have additional, and as of yet unstated, defenses available.
15 Defendant hereby reserves the right to assert additional defenses which become necessary based
16 upon information acquired during the course of discovery.

17 WHEREFORE, defendant prays for judgment as follows:

- 18 (1) That plaintiff take nothing by reason of the First Amended Complaint on file
19 herein;
20 (2) For costs of suit herein; and
21 (3) For such other and further relief as the court deems just and proper.

22
23 DATED: August 7, 2013

LEWIS BRISBOIS BISGAARD & SMITH LLP

24
25 By: 

26 Irene Takahashi

27 Cherie J. Edson

28 Attorneys for Defendant CANYON MARKET

1 **CALIFORNIA STATE COURT PROOF OF SERVICE**

2 Ingram v. Canyon Market – San Francisco Superior Court Case No. CGC-13-259410

3 STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

4 At the time of service, I was over 18 years of age and not a party to the action. My
5 business address is 333 Bush Street, Suite 1100, San Francisco, CA 94104-2872.

6 On August 7, 2013, I served the following document:

7 **ANSWER TO FIRST AMENDED COMPLAINT**

8 I served the document on the following person at the following address (including fax
9 number and e-mail address, if applicable):


10 Steven J. Brady, Esq.
11 Brady Law Group
12 1015 Irwin Street
13 San Rafael, CA 94901
14 Telephone: (415) 459-7300
Facsimile: (415) 459-7303
Email: mail@bradylawgroup.com
Attorneys for Plaintiff ALBA INGRAM

15 The document was served by the following means:

16 ☒ (BY U.S. MAIL) I enclosed the document in a sealed envelope addressed to the person at
17 the address listed above and placed the envelope for collection and mailing, following our
18 ordinary business practices. I am readily familiar with the firm's practice for collection
19 and processing correspondence for mailing. Under that practice, on the same day that
correspondence is placed for collection and mailing, it is deposited in the ordinary course
of business with the U.S. Postal Service, in a sealed envelope with the postage fully
prepaid.

20 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

21 Executed on August 7, 2013, at San Francisco, California.

22 
23 Sharon Greene
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