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9 Attorneys for Defendant  
10 INTERNET CORPORATION FOR ASSIGNED  
NAMES AND NUMBERS  
11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF LOS ANGELES, UNLIMITED**

14 JENNIFER GORE, an individual,

15 Plaintiff,

16 vs.

17 INTERNET CORPORATION OF  
18 ASSIGNED NAMES AND NUMBERS, a  
corporation, and DOES 1 through 25,  
19 inclusive,

20 Defendants.

**CASE NO. 19STCV06989**

Assigned for all purposes to:  
J. Barbara M. Scheper, Dept. 30

**DEFENDANT'S ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S UNVERIFIED COMPLAINT  
FOR DAMAGES**

Complaint Filed: February 28, 2019

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**GENERAL DENIAL**

Defendant, Internet Corporation for Assigned Names and Numbers (“Defendant”),<sup>1</sup> hereby answers the unverified complaint filed by plaintiff Jennifer Gore (“Plaintiff”) for disability discrimination, failure to engage in the interactive process, failure to reasonably accommodate, gender discrimination, retaliation, and failure to prevent discrimination (“Complaint”).

Pursuant to California Code of Civil Procedure Section 431.30(d), Defendant generally denies each and every allegation, statement, matter, and purported cause of action in Plaintiff’s Complaint and, without limiting the generality of the foregoing, denies that Plaintiff has been damaged in the manner or sums alleged, or in any way at all, by any acts or omissions of Defendant.

**AFFIRMATIVE DEFENSES**

In further answer to Plaintiff’s Complaint, Defendant alleges the following distinct affirmative defenses, without conceding that Defendant bears the burden of proof or persuasion as to any of them:

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

Plaintiff’s Complaint and each cause of action alleged therein are barred to the extent that they fail to state facts sufficient to constitute a claim upon which relief may be granted against Defendant.

**SECOND AFFIRMATIVE DEFENSE**

**(Waiver)**

Plaintiff has waived the right, if any, to pursue any of the causes of action alleged in the Complaint by reason of her own actions and course of conduct.

**THIRD AFFIRMATIVE DEFENSE**

**(Estoppel)**

Plaintiff’s Complaint and each cause of action alleged therein are barred, in whole or in part, by the doctrine of estoppel.

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<sup>1</sup> Sued erroneously as Internet Corporation of Assigned Names and Numbers.

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**FOURTH AFFIRMATIVE DEFENSE**

**(Laches)**

Plaintiff's Complaint and each cause of action alleged therein are barred by the doctrine of laches to the extent Plaintiff unreasonably delayed in bringing her claims.

**FIFTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

Plaintiff's Complaint and each cause of action alleged therein are barred by the doctrine of unclean hands because Plaintiff engaged in conduct that proximately caused or contributed to any injuries allegedly suffered.

**SIXTH AFFIRMATIVE DEFENSE**

**(Legitimate Business Interest/Non-Discriminatory Reasons)**

Plaintiff's Complaint and each cause of action alleged therein are barred because the acts about which Plaintiff complains were undertaken in the ordinary course of business for legitimate business purposes that were not discriminatory, retaliatory, or otherwise illegal.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Performance of Duties)**

Plaintiff's Complaint and each cause of action alleged therein are barred because Defendant fully performed all contractual, statutory, and other duties owed to Plaintiff under applicable law.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

Plaintiff's Complaint and each cause of action alleged therein are barred to the extent Plaintiff seeks to recover damages for acts occurring beyond the applicable statute of limitations, including but not limited to the limitation period(s) contained in California Code of Civil Procedure §§ 338 and 340, and California Government Code §§ 12960(d) and 12965(b).

**NINTH AFFIRMATIVE DEFENSE**

**(Arbitration)**

Plaintiff's Complaint and each cause of action alleged therein are barred because they are

1 subject to a binding arbitration agreement. Plaintiff signed an arbitration agreement in which she  
2 agreed that the proper forum for disputes related to her employment would be arbitration.

3 **TENTH AFFIRMATIVE DEFENSE**

4 **(Failure to Exhaust Administrative Remedies)**

5 Plaintiff's Complaint and each cause of action alleged therein are barred to the extent  
6 Plaintiff failed to exhaust her administrative remedies or failed to timely exhaust such remedies,  
7 and to the extent Plaintiff's causes of action exceed the scope of charges she filed, if any, with  
8 appropriate governmental agencies.

9 **ELEVENTH AFFIRMATIVE DEFENSE**

10 **(Failure to Engage in the Interactive Process)**

11 Plaintiff's Complaint and each cause of action alleged therein are barred to the extent that  
12 Plaintiff failed to engage in a timely, good faith, interactive process to determine effective  
13 reasonable accommodations for her alleged disabilities.

14 **TWELFTH AFFIRMATIVE DEFENSE**

15 **(Failure to Request Accommodation)**

16 Plaintiff's Complaint and each cause of action alleged therein are barred to the extent that  
17 Plaintiff failed to request accommodations for her alleged disabilities.

18 **THIRTEENTH AFFIRMATIVE DEFENSE**

19 **(Not Disabled)**

20 Plaintiff's Complaint and each cause of action alleged therein are barred to the extent that  
21 Plaintiff does not suffer from a disability as defined by the California Fair Employment and  
22 Housing Act.

23 **FOURTEENTH AFFIRMATIVE DEFENSE**

24 **(Not Qualified)**

25 Plaintiff's Complaint and each cause of action alleged therein are barred to the extent that  
26 Plaintiff was not qualified to perform essential job duties.

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**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Undue Burden)**

Plaintiff's Complaint and each cause of action alleged therein are barred because Plaintiff's requested accommodations, if any, were unreasonable and would have imposed an undue burden on Defendant.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(Not a Member of the Class)**

Plaintiff's Complaint and each cause of action alleged therein are barred to the extent that Plaintiff is not a member of the class that the California Fair Employment and Housing Act is designed to protect.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

Plaintiff's Complaint and each cause of action alleged therein are barred, or should be reduced, to the extent that Plaintiff failed to mitigate her damages as required by law.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Offset)**

Defendant is entitled to an offset against any alleged lost income for any amounts earned or which could have been earned, and/or other income received, by Plaintiff following the termination of her employment from Defendant.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Alleged Misconduct Not Attributable to Defendant)**

Any improper acts or statements were outside the scope of the actor's employment and cannot be imputed to Defendant.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(Avoidable Consequences)**

Plaintiff's recovery under the Complaint is barred, or should be reduced, to the extent Plaintiff failed to avoid harm that she could have avoided with reasonable effort. Defendant at all material times had a suitable anti-discrimination policy in effect. Plaintiff's Complaint is barred

1 because she unreasonably failed to take advantage of preventative and corrective opportunities  
2 provided to her, including but not limited to Defendant's anti-discrimination policies. Plaintiff  
3 also failed to "otherwise avoid harm."

4 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

5 **(Lack of Malice)**

6 Defendant's actions with regard to Plaintiff were conducted in good faith and without  
7 fraud, oppression, or malice toward Plaintiff and her legal rights, thereby precluding any claims  
8 for special, exemplary, or punitive damages.

9 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

10 **(Unconstitutionality of Punitive Damages)**

11 Any award of punitive damages against Defendant in this action would be barred to the  
12 extent that it violates the due process and equal protection provisions of the United States and  
13 California Constitutions. Defendant does not admit that Plaintiff is entitled to recover any  
14 punitive damages whatsoever in this action.

15 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

16 **(After-Acquired Evidence)**

17 Plaintiff's Complaint and each cause of action alleged therein are barred to the extent that  
18 evidence discovered by Defendant after Plaintiff's termination bars her claims.

19 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

20 **(No Ratification or Approval)**

21 Plaintiff's Complaint and each purported cause of action set forth therein are barred to the  
22 extent that Defendant did not have knowledge of, ratify, or approve any of the unlawful conduct  
23 alleged in Plaintiff's Complaint.

24 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

25 **(Lack of Causation)**

26 Plaintiff's Complaint and each purported cause of action alleged therein are barred  
27 because Plaintiff has not suffered any damages as a result of any acts or omissions by Defendant.  
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1 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

2 **(Bad Faith)**

3 Plaintiff's Complaint and each cause of action alleged therein were brought by Plaintiff in  
4 bad faith and are frivolous. By reason of the conduct stated herein, Defendant is entitled to, and  
5 will seek, reasonable expenses, including attorneys' fees, incurred in defending this action  
6 pursuant to California Code of Civil Procedure Code section 128.6.

7 **RESERVATION OF RIGHTS**

8 Defendant has not knowingly or intentionally waived any applicable affirmative defense  
9 and reserves the right to assert and rely on such other applicable affirmative defenses as may later  
10 become available or apparent. Defendant further reserves the right to amend its answer and/or  
11 affirmative defenses accordingly and/or to delete affirmative defenses that it determines are not  
12 applicable during the course of subsequent discovery. Nothing stated herein constitutes a  
13 concession as to whether or not Plaintiff bears the burden of proof on any issue.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Defendant prays that:

- 16 1. Plaintiff take nothing by reason of the Complaint;
- 17 2. The Complaint be dismissed in its entirety with prejudice;
- 18 3. Judgment be entered for Defendant and against Plaintiff;
- 19 4. Defendant be awarded its costs of suit and attorneys' fees incurred in this action;
- 20 and
- 21 5. Defendant be awarded such other and further relief as the Court deems just and
- 22 proper.

23 Dated: May 9, 2019

JONES DAY

24  
25 By: /s/ Liat L. Yamini  
26 Liat L. Yamini

27 Attorneys for Defendant  
28 INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS

1 **PROOF OF SERVICE**

2 I, Sandra Altamirano, declare:

3 I am a citizen of the United States and employed in San Francisco County, California. I  
4 am over the age of eighteen years and not a party to the within-entitled action. My business  
5 address is 555 California Street, 26th Floor, San Francisco, California 94104. On **May 9, 2019**, I  
6 served a copy of the within document(s):

7 **DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES**  
8 **TO PLAINTIFF'S UNVERIFIED COMPLAINT FOR**  
9 **DAMAGES**

- 10  by placing the document(s) listed above in a sealed envelope with postage thereon  
11 fully prepaid, in the United States mail at San Francisco, California addressed as  
12 set forth below.
- 13  by placing the document(s) listed above in a sealed United Postal Service envelope  
14 and affixing a pre-paid air bill, and causing the envelope to be delivered to a  
15 United Postal Service agent for delivery.
- 16  by personally delivering the document(s) listed above to the person(s) at the  
17 address(es) set forth below.
- 18  by transmitting via e-mail or electronic transmission the document(s) listed above  
19 to the person(s) at the e-mail address(es) set forth below.
- 20  by Electronic Service via One Legal transmitting to the recipients designated on  
21 the Transaction Receipt located on the One Legal website and listed below. To the  
22 best of my knowledge, at the time of transmission, the transmission was reported  
23 as complete and without error.

24 J. Bernard Alexander, III  
25 Christopher M. Lee  
26 ALEXANDER KRAKOW + GLICK LLP  
27 1900 Avenue of the Stars, Suite 900  
28 Los Angeles, CA 90067  
Phone: 310-394-0888  
Fax: 310-394-0811  
Email: balexander@akgllp.com  
Email: clee@akgllp.com

29 I am readily familiar with the firm's practice of collection and processing correspondence  
30 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same



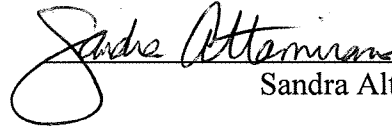
1 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
2 motion of the party served, service is presumed invalid if postal cancellation date or postage  
3 meter date is more than one day after date of deposit for mailing an affidavit.

4 I declare under penalty of perjury under the laws of the State of California that the above  
5 is true and correct.

6 Executed on **May 9, 2019**, at San Francisco, California.

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Sandra Altamirano

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