

Gary S. Saunders, Esq. (SBN 144385)  
[Gary@saunderslawoffice.com](mailto:Gary@saunderslawoffice.com)  
SAUNDERS LAW GROUP  
1891 California Ave., Suite 102  
Corona, CA 92881  
Tel. (951) 272-9114  
Fax (951) 270-5250

Attorney for Defendant,  
Steven Robert Fitzgerald

**FILED**  
Superior Court of California  
County of Riverside  
**12/16/2021**  
**J. Hendrickson**  
Electronically Filed

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF RIVERSIDE**

JANE DOE,

Plaintiff,

vs.

THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah Corporation;  
CORPORATION OF THE PRESIDENT OF  
THE SAN DIEGO CALIFORNIA STAKE  
THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a California  
Corporation; STEVEN ROBERT  
FITZGERALD; KATHLEEN DENISE  
BINGLEY; and DOES 1 through 100,  
Inclusive,

Defendants.

Case No.: CVRI2100419

**ANSWER OF STEVEN ROBERT  
FITZGERALD TO SECOND AMENDED  
COMPLAINT**

[Assigned to Hon. Chad Firetag, Dept. 3]

Complaint Filed: January 28, 2021

Comes now, Defendant Steven Robert Fitzgerald, for himself alone, answers the second  
amended complaint filed by Plaintiff Jane Doe.

**GENERAL DENIAL**

1 Pursuant to Section 431.30(d) of the California *Code of Civil Procedure*, Defendant  
2 Steven Robert Fitzgerald, individually for himself alone, generally, and specifically denies each  
3 and every allegation contained in Plaintiff's second amended complaint. Without limiting the  
4 scope of answering Defendant's, general denial, Steven Robert Fitzgerald denies that Plaintiff  
5 has been damaged or has suffered any injury or loss by reason of any act or omission of Steven  
6 Robert Fitzgerald in any sum whatsoever.  
7

### 8 **AFFIRMATIVE DEFENSES**

9 As separate, and distinct affirmative defenses to the causes of action in Plaintiff's second  
10 amended complaint, Steven Robert Fitzgerald, alleges the affirmative defenses set forth below.  
11 Steven Robert Fitzgerald does not assume the burden of proving any fact or element of a cause  
12 of action where such burden properly belongs to Plaintiff.  
13

#### 14 **FIRST AFFIRMATIVE DEFENSE**

##### 15 **(Failure to State a Claim)**

16 1. As a further, separate, and distinct First Affirmative Defense to the Second Amended  
17 Complaint and each cause of action alleged therein, it is alleged that neither Plaintiff's second  
18 amended complaint, nor the causes of action asserted therein, state facts sufficient to constitute a  
19 cause of action against Steven Robert Fitzgerald.  
20

#### 21 **SECOND AFFIRMATIVE DEFENSE**

##### 22 **(Estoppel)**

23 2. As a further, separate, and distinct Second Affirmative Defense to the Second  
24 Amended Complaint and each cause of action alleged therein, it is alleged that Plaintiff, by her  
25 own affirmative conduct, is estopped from making claims against Defendant.  
26

27 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**THIRD AFFIRMATIVE DEFENSE**

**(Waiver)**

3. As a further, separate, and distinct Third Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that Plaintiff has waived any claim for relief against Defendant.

**FOURTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

4. As a further, separate, and distinct Fourth Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that Plaintiff's claims against Defendant are barred by the doctrine of unclean hands.

**FIFTH AFFIRMATIVE DEFENSE**

**(Bar)**

5. As a further, separate, and distinct Fifth Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that the Second Amended Complaint is barred by the active fault of Plaintiff, precluding recovery.

**SIXTH AFFIRMATIVE DEFENSE**

**(Consent)**

6. As a further, separate, and distinct Sixth Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that Plaintiff consented, explicitly or implicitly, to each and every act or omission Plaintiff now complains of precluding recover.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Apportionment of Fault)**

1           7. As a further, separate, and distinct Seventh Affirmative Defense to the Second  
2 Amended Complaint and each cause of action alleged therein, it is alleged that Plaintiff or DOE  
3 Defendants caused or contributed to the damages Plaintiff claims to have suffered. Therefore,  
4 any award made in favor of Plaintiff must be divided between the parties so that each pays only  
5 his, her or its fair share in relationship to his, her or its amount of fault.  
6

7                           **EIGHTH AFFIRMATIVE DEFENSE**

8                                   **(Failure to Mitigate Damages)**

9           8. As a further, separate, and distinct Eighth Affirmative Defense to the Second  
10 Amended Complaint and each cause of action alleged therein, it is alleged that Plaintiff, by her  
11 conduct and actions, has failed to mitigate her damages.  
12

13                           **NINTH AFFIRMATIVE DEFENSE**

14                                   **(No Damages)**

15           9. As a further, separate, and distinct Ninth Affirmative Defense to the Second  
16 Amended Complaint and each cause of action alleged therein, it is alleged that Defendant's  
17 actions caused no damage to Plaintiff and Plaintiff's loss was *de minimus*; as such, she is not  
18 entitled to any recovery from Defendant .  
19

20                           **TENTH AFFIRMATIVE DEFENSE**

21                                   **(Third-Party Liability)**

22           10. As a further, separate, and distinct Tenth Affirmative Defense to the Second  
23 Amended Complaint and each cause of action alleged therein, it is alleged that any and all  
24 events and happenings in connection with Plaintiff's second amended complaint, and the  
25 resulting injuries and damages suffered by Plaintiff; if any, were legally caused, and contributed  
26 to, by the negligence or actions of third parties, either named or unnamed, and Defendant is  
27  
28

entitled to an apportionment among all such parties according to its responsibility for injuries and damages sustained by Plaintiff, if any there were.

### **ELEVENTH AFFIRMATIVE DEFENSE**

#### **(Statute of Limitations)**

11. As a further, separate, and distinct Eleventh Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that Plaintiff's claims are barred, in whole or in part, by the statute of limitations; to wit §§ 337.1, 338, 339, 340, and 343 of the *California Code of Civil Procedure*.

### **TWELFTH AFFIRMATIVE DEFENSE**

#### **(Assumption of Risk)**

12. As a further, separate, and distinct Twelfth Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that the Plaintiff failed voluntarily and with full knowledge of the matters referred to in said Second Amended Complaint assumed any and all risks, hazards, and perils of the of the circumstances referred to in said Second Amended Complaint and, therefore assumed the risk of any injuries or damages sustained by said Plaintiff, if any at all.

### **THIRTEENTH AFFIRMATIVE DEFENSE**

#### **(Attorney Fees)**

13. As a further, separate, and distinct Thirteenth Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that pursuant to Civil Code §55, in the event Defendant prevails in this action, Defendant shall be entitled to recover reasonable attorneys' fees as and for the defense the defense of this matter, and Defendant hereby alleges entitlement by reason thereof to attorneys' fees and reasonable costs in this action.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Amendment Defense)**

14. As a further, separate, and distinct Fourteenth Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that Defendant had no independent knowledge, as of the filing of this answer, of the facts allegedly constituting the causes of action in Plaintiff's Second Amended Complaint, and based thereon, hereby respectfully requests leave of Court to amend this Answer to include those affirmative defenses that are revealed during the course of Defendant's discovery.

**FIFTHTEENTH AFFIRMATIVE DEFENSE**

**(Unstated Additional Defenses)**

15. As a further, separate, and distinct Fifteenth Affirmative Defense to the Second Amended Complaint and each cause of action alleged therein, it is alleged that, Defendant presently has insufficient knowledge and information on which to form a belief as to whether additional, as yet unstated, affirmative defenses may exist. Defendant therefore reserves the right to assert additional defenses in the event that discovery indicates that such defenses would be appropriate.

WHEREFORE, Defendant prays for judgment as follows:

1. That the Second Complaint and every cause of action alleged therein be dismissed with prejudice;
2. That Plaintiff prayers for relief be denied insofar as they seek relief from Defendant;
3. That judgment be entered in favor of Defendant;
4. That Defendant be awarded costs and attorneys' fees; and
5. For any such other and further relief the Court may deem just and proper.

//

1  
2 Dated: December 16 2021

SAUNDERS LAW GROUP

3  
4  
5 By: 

GARY S. SAUNDERS, ESQ.  
Attorney for Defendant Steven Robert Fitzgerald

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

3 I am employed in the County of Riverside, State of California. I am over the age of 18 and not a party to the within  
4 action. My business address is 1891 California Avenue, Suite 102, Corona, CA 92881.

5 On December 16, 2021, I served the foregoing document described as **ANSWER OF STEVEN ROBERT FITZGERALD**  
6 **TO SECOND AMENDED COMPLAINT** on all interested parties in this action a copy thereof enclosed in a sealed  
7 envelope addressed as follows:

8 DORDICK LAW CORPORATION  
9 509 South Beverly Drive  
10 Beverly Hills, CA 90212

11 Attorney for Plaintiff

12 CROCKETT & ASSOCIATES  
13 23929 Valencia Blvd., # 303  
14 Valencia CA 91355

15 Attorney for Church of Jesus Christ of Latter-Day Saints

16 BOHM WILDISH & MATSEN LLP  
17 695 Town Center Drive, #700  
18 Costa Mesa CA 92626

19 Attorney for Kathleen Denise Bingley

20 [X] BY MAIL – I deposited such envelope in the mail at Corona, California. The envelope was mailed, with postage  
21 thereon fully prepaid. I am “readily familiar” with the firm’s practice of collection and processing correspondence  
22 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that day with postage thereon  
23 fully prepaid at Corona, California in the ordinary course of business. I am aware that on motion of the party  
24 served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after  
25 date of deposit for mailing in affidavit.

26 [X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

27 Executed on December 16, 2021, at Corona, California.

28   
Print Name

  
Signature