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5 Attorneys for Defendant, ZAID ESSAM SALEH ALKURDI, an
individual

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO
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11 LAURA OWENS, an individual,
12 Plaintiff,

13 v.

14 ZAID ESSAM SALEH ALKURDI, an individual;
15 UBER TECHNOLOGIES, INC., a Delaware
16 Corporation; RASIER, LLC, a Delaware limited
liability corporation; RASIER-CA, LLC, a
17 Delaware limited liability corporation;
BRUCE ROBERT BROGDEN, an individual;
18 NU FOREST PRODUCTS, INC., a California
Corporation; and DOES 1 through 20, inclusive.

19 Defendants.
20

Case No. CGC-19-575032

**DEFENDANT ZAID ESSAM SALEH
ALKURDI'S ANSWER TO PLAINTIFF'S
COMPLAINT**

21 COMES NOW the defendant ZAID ESSAM SALEH ALKURDI, an individual and
22 answers the complaint herein, as follows:

23 1. It appearing that the complaint herein is unverified, defendant files his general
24 denial pursuant to California Code of Civil Procedure § 431.30(d).

25 2. Defendant denies generally and specifically, each and every allegation of said
26 complaint, both conjunctively and disjunctively and the whole thereof and further denies that plaintiff
27 has been damaged in the sum alleged or in any other sum or at all.

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AFFIRMATIVE DEFENSES

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2 1. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
3 defendant alleges that plaintiff's complaint and each alleged cause of action therein fails to state facts
4 sufficient to constitute a cause of action as to this answering defendant.

5 2. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
6 defendant alleges that at the times and places mentioned in the complaint, plaintiff was careless, reckless
7 and negligent in and about the matters and things alleged in the complaint, which said carelessness,
8 recklessness and negligence concurred in point of time with the alleged negligence of defendant, if any
9 there may have been, and legally caused and/or contributed to whatever injury and/or damage plaintiff
10 may have sustained, if any, and recovery by plaintiff, if any, should be proportionately reduced
11 according to the percentage of fault of plaintiff.

12 3. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
13 defendant alleges that at the times and places mentioned in the complaint, plaintiff did commit willful
14 misconduct in and about the matters and things alleged in the complaint, which said willful misconduct
15 concurred in point of time with the alleged willful misconduct of defendant, if any there may have been,
16 and legally caused and/or contributed to whatever injury and/or damage plaintiff may have sustained, if
17 any.

18 4. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
19 defendant alleges that in addition to the aforementioned negligence of plaintiff, any injury and/or
20 damage incurred by plaintiff was directly and legally caused and contributed to by the negligence and/or
21 fault of third persons or parties.

22 5. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
23 defendant are informed and believe and thereupon allege that plaintiff did, with full knowledge of the
24 facts, dangers, and consequences of his own actions or inaction, and of the actions or inaction of
25 defendants, expressly, impliedly, and voluntarily accept the risk incident thereto.

26 6. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
27 defendant is informed and believes and upon such information and belief alleges that at the times and
28 places alleged in the complaint plaintiff was engaged in a joint and common enterprise with other

1 persons or parties; that the negligence or fault of plaintiff and each such other person or party is imputed
2 to the other; that plaintiff and each of the other persons or parties was careless, reckless and negligent in
3 and about the matters and things alleged in the complaint, which said carelessness, recklessness and
4 negligence concurred in point of time with the alleged negligence of defendant, if any there may have
5 been, and legally caused and/or contributed to whatever injury and/or damage plaintiff may have
6 sustained, if any.

7 7. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
8 defendant alleges that the events, injuries, losses and damages complained of, if any there were, were the
9 result of an unavoidable accident insofar as this answering defendant is concerned and occurred without
10 any negligence, want of care, default or other breach of duty on the part of said defendant.

11 8. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE to plaintiff's
12 complaint and each alleged cause of action therein, this answering defendant is informed and believes
13 and thereupon alleges that at the time of the accident mentioned in plaintiff's complaint, plaintiff was
14 employed by an employer providing workers' compensation benefits as a result of such accident and any
15 injury sustained thereby; that at the times and places mentioned in plaintiff's complaint said employer
16 was careless, reckless and negligent in and about the matters and things mentioned in the complaint; that
17 the negligence of plaintiff's employer and employees of said employer is imputed to said employer so as
18 to bar and/or limit recovery herein in accordance with the Doctrine of *Witt v. Jackson* (1961) 57 Cal.2d
19 57.

20 9. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
21 defendant is informed and believes and upon such information and belief alleges that plaintiff, by the
22 exercise of reasonable effort and/or care, could have mitigated the damages alleged to have been
23 suffered, but plaintiff has failed, neglected and refused, and continues to fail and refuse to exercise
24 reasonable effort to mitigate the damages, if any.

25 10. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
26 defendant alleges that plaintiff could have avoided damages by reasonable effort or expenditure.

27 11. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, defendant alleges
28 that plaintiff's causes of action and each of them set forth in the complaint herein is barred by the

1 applicable statute of limitation including but not limited to C.C.P. § 335.1.

2 12. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
3 defendant alleges that pursuant to California Civil Code § 1431.2, any liability of defendant for non-
4 economic damages is several only and not joint; that defendant is liable, if at all, only for the amount of
5 non-economic damages allocated to such defendant in direct proportion to defendant's percentage of
6 fault.

7 13. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
8 defendant alleges that plaintiff's complaint and each alleged cause of action therein is barred by the
9 provisions of Civil Code § 3333.3.

10 14. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
11 defendant alleges that pursuant to the "Personal Responsibility Act of 1996" and Civil Code § 3333.4
12 (adopted by Initiative (Proposition 213) at the November 5, 1996 General Election, effective
13 November 6, 1996), plaintiff's complaint and each alleged cause of action therein is barred and plaintiff
14 is precluded from recovery against defendants for any non-economic losses to compensate for pain,
15 suffering, inconvenience, physical impairment, disfigurement or other non-pecuniary damages.

16 15. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
17 defendant is informed and believes and upon such information and belief alleges that the plaintiff has
18 engaged in conduct with respect to the activities and/or property which are the subject of the complaint,
19 and by reason of said activities and conduct, is estopped from asserting any claim or damages or seeking
20 any other relief against these answering defendants.

21 16. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
22 defendant is informed and believes and upon such information and belief alleges that the plaintiff has
23 engaged in conduct and activities sufficient to constitute a waiver of any alleged, negligence or any
24 other conduct, if any, as set forth in the complaint.

25 17. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
26 defendant is informed and believes and upon such information and belief alleges that due to his tardiness
27 in asserting its purported right to recover, plaintiff's claims should be barred by the equitable doctrine of
28 laches.

1 18. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
2 defendant is informed and believes and upon such information and belief alleges that by virtue of
3 plaintiff's unlawful, immoral, careless, negligent and other wrongful conduct, plaintiff should be barred
4 from recovering against this answering defendant by the equitable doctrine of unclean hands.

5 19. FOR A FURTHER, SEPARATE AND DISTINCT DEFENSE, this answering
6 defendant is informed and believes and upon such information and belief alleges that he acted with
7 reasonable care in an emergency situation.

8 Because the Complaint is couched in conclusionary terms, this answering defendant
9 cannot fully anticipate all affirmative defenses that may be applicable to the within action. Accordingly,
10 the right to assert additional affirmative defenses, if and to the extent that such affirmative defenses are
11 applicable, is hereby reserved.


12 WHEREFORE, this answering defendant prays that plaintiff take nothing by way of
13 plaintiff's complaint and defendant goes hence with defendant's costs of suit, and for such other and
14 further relief as the Court deems proper.

15 WHEREFORE, Defendant prays that:

- 16 1. The Complaint be dismissed in its entirety with prejudice;
- 17 2. Plaintiff takes nothing by this action;
- 18 3. Defendant be awarded costs of suit incurred herein;
- 19 4. Defendant be awarded such other and further relief as the Court deems just and
20 proper.

21
22
23 Dated: July 22, 2019

24 BORTON PETRINI, LLP

25
26 By 
27 Mark W. Shem, Esq.,
28 Attorneys for Defendant, ZAID ESSAM
SALEH ALKURDI, an individual

1 **PROOF OF SERVICE (Code Civ. Proc., §§ 1013a)**

2 **OWENS v. ALKURDI**
3 **San Francisco County Superior Court – Case No. CGC-19-575032**

4 STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

5 I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not
6 a party to the within action; my business address is [REDACTED]

7 On **July 22, 2019**, I served the foregoing document described as **DEFENDANT ZAID ESSAM**
8 **SALEH ALKURDI'S ANSWER TO PLAINTIFF'S COMPLAINT** on the other parties in this action
9 by placing the true copies thereof enclosed in sealed envelopes addressed as listed.

9 ***SEE ATTACHED SERVICE LIST***

10 **BY MAIL:** As follows: I am "readily familiar" with the firm's practice of collection and
11 processing correspondence for mailing with the United States Postal Service. Under that practice
12 the envelope would be deposited with U.S. postal service on that same day with postage thereon
13 fully prepaid at San Jose, California in the ordinary course of business.

14 **BY FACSIMILE:** I caused each document to be delivered by electronic facsimile to the listed
15 above. The facsimile machine I used complied with California Rules of Court, Rule 2.301 and
16 no error was reported by the machine. Pursuant to California Rules of Court, Rule 2.306.

17 **BY OVERNIGHT COURIER SERVICE:** I caused each envelope with postage fully prepaid
18 to be sent by overnight.

19 **BY PERSONAL SERVICE:** Pursuant to C.C.P. Section 1011, I caused to be delivered such
20 envelope by hand to the offices of the addressee(s) listed on the attached mailing list.

21 **BY ELECTRONIC SERVICE:** Pursuant to Code of Civil Procedure section 1010.6 and
22 California Rules of Court, Rule 2.251, service shall be completed via electronic transmission to
23 the attached person(s) transmission of such is at the e-mail address(es) indicated on the attached
24 mailing list.

25 **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at
26 whose direction the service was made.

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

Executed on **July 22, 2019**, at San Jose, California.

24 Sharon Wilson
25 Type or Print Name

Sharon Wilson
Signature

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