

ORIGINAL

BAUTE CROCHETIERE & GILFORD LLP
777 South Figueroa Street, Suite 4900
Los Angeles, CA 90017
Tel (213) 630-5000 • Fax (213) 683-1225

09/25/2015

1 **BAUTE CROCHETIERE & GILFORD LLP**
2 **MARK D. BAUTE (State Bar No. 127329)**
3 **mbaute@bautelaw.com**
4 **777 South Figueroa Street, Suite 4900**
5 **Los Angeles, California 90017**
6 **Telephone: (213) 630-5000**
7 **Facsimile: (213) 683-1225**

8 **Attorneys for Defendant DERRICK ROSE, an**
9 **Individual**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

JANE DOE (A Pseudonym),

Plaintiff,

v.

DERRICK ROSE, an Individual; RANDALL
HAMPTON, an Individual; RYAN ALLEN,
an Individual; and DOES 1-10, Inclusive,

Defendants.

Case No. BC592605

Action Filed: August 26, 2015

**ANSWER AND AFFIRMATIVE
DEFENSES OF DERRICK ROSE TO
UNVERIFIED COMPLAINT OF JANE
DOE (A PSEUDONYM);**

DEMAND FOR JURY TRIAL

Judge: Hon. ~~Teresa~~ A. Beaudet
Dept.: 97

Trial Date: None
FSC Date: None

CIT/CASE: BC592605
LEA/DEF#:
RECEIPT #: CCH195707080
DATE PAID: 09/24/15 03:30 PM
PAYMENT: \$435.00
RECEIVED: 310
CHECK: \$435.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00
Case No. BC592605

230253.2

**ANSWER AND AFFIRMATIVE DEFENSES OF DERRICK ROSE TO UNVERIFIED COMPLAINT OF
JANE DOE (A PSEUDONYM)**

51025260
BAUTECROCHETIERE & GILFORD LLP
777 South Figueroa Street, Suite 4900
Los Angeles, CA 90017
Tel (213) 630-5000 • Fax (213) 683-1225

1 Defendant Derrick Rose ("Mr. Rose" or "Defendant"), for himself and no others, answers the
2 unverified Complaint of Plaintiff Jane Doe (a pseudonym, hereafter, the "Plaintiff") as follows:

3
4 **GENERAL DENIAL**

5 Pursuant to California Code of Civil Procedure Section 431.30(d), Defendant denies generally
6 and specifically each and every allegation of every cause of action pled in Plaintiff's Complaint and
7 specifically denies that Plaintiff has sustained, or is entitled to, damages in any amount as against
8 Defendant. In addition, Defendant alleges the following affirmative defenses:

9
10 **FIRST AFFIRMATIVE DEFENSE**

11 **(Consent)**

12 1. Plaintiff's Complaint is barred because she consented to the actions she now claims
13 were non-consensual.

14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Failure to State a Cause of Action)**

16 2. The Complaint and each and every cause of action contained therein fail to state
17 facts sufficient to constitute any cause of action against this Defendant.

18 **THIRD AFFIRMATIVE DEFENSE**

19 **(No Damages for Which Relief is Available)**

20 3. Plaintiff suffered no economic loss or emotional distress damages for which
21 recovery would be available from any of the defendants.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 **(Defendant Unaware Plaintiff Objected to Any Alleged Wrongful Act)**

24 4. Without admitting any of the allegations in the Complaint, and without admitting
25 any liability to the Plaintiff, none of the defendants, including this answering Defendant, was
26 aware that Plaintiff objected to any of the acts alleged against them.

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1 **FIFTH AFFIRMATIVE DEFENSE**

2 **(Fault of Others)**

3 5. Without admitting any of the allegations in the Complaint, and without admitting
4 any liability to the Plaintiff, Defendant alleges that the claimed injuries or damages upon which
5 Plaintiff bases her claims were legally and proximately caused by other persons, entities and/or
6 forces over which Defendant exerted no control and for which the Defendant has no
7 responsibility.

8 **SIXTH AFFIRMATIVE DEFENSE**

9 **(Contributory/Comparative Negligence)**

10 6. Without admitting any of the allegations in the Complaint, and without admitting
11 any liability to the Plaintiff, Defendant alleges that the Plaintiff contributed to the events that led
12 to the alleged actions, and that her contribution to those events bars the Plaintiff from any
13 recovery.

14 **SEVENTH AFFIRMATIVE DEFENSE**

15 **(Statutes of Limitations)**

16 7. Without admitting any of the allegations in the Complaint, and without admitting
17 any liability to the Plaintiff, Defendant alleges that the Plaintiff's claims are barred by the
18 applicable statutes of limitations.

19 **EIGHTH AFFIRMATIVE DEFENSE**

20 **(Consent)**

21 8. The Plaintiff consented to sexual interaction with more than one co-defendant on
22 more than one occasion, consented to sexual interactions on the day in question, and invited the
23 defendants to her apartment and buzzed them in through security and opened the apartment door
24 to welcome them, and then consented to additional group activities later that evening.

25 **NINTH AFFIRMATIVE DEFENSE**

26 **(Consent)**

27 9. The plaintiff consented to all sexual interaction and was not injured at all, and did
28 not report, show or claim any injuries to anyone, and went to work the next day at her normal time

1 in the morning and worked a full day.

2 **TENTH AFFIRMATIVE DEFENSE**

3 **(Consent)**

4 10. The Plaintiff consented to all sexual interaction and had coffee with her roommate
5 the next morning before heading to work for a full work shift. The Plaintiff became upset a few
6 weeks or months later because she felt she should be reimbursed for one of the sex toys she
7 purchased and used during the day and night in question.

8 **ELEVENTH AFFIRMATIVE DEFENSE**

9 **(Consent)**

10 11. The Plaintiff consented to all sexual interaction and exchanged friendly
11 texts with one or more co-defendants after the day in question. The Plaintiff became upset several
12 weeks or months thereafter, when she felt that the Defendant was not responsive enough to her
13 texts. The plaintiff deleted her Instagram photos which depicted her use of the sex toys in
14 question.

15 **TWELFTH AFFIRMATIVE DEFENSE**

16 **(Intervening Events)**

17 12. Without admitting any of the allegations in the Complaint, and without admitting
18 any liability to the Plaintiff, Defendant alleges that the Plaintiff's injuries, if any, were not
19 proximately caused by any act of the Defendant, but were proximately caused by independent,
20 subsequent events, that Defendant had no part in those subsequent events, and that therefore the
21 Plaintiff is barred from any recovery against Defendant.

22 **THIRTEENTH AFFIRMATIVE DEFENSE**

23 **(Laches)**

24 13. Without admitting any of the allegations in the Complaint, and without admitting
25 any liability to the Plaintiff, Defendant alleges that any recovery is barred, in whole or in part, by
26 the doctrine of laches.

1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 **(Contribution)**

3 14. Without admitting any of the allegations in the Complaint, and without admitting
4 any liability to the Plaintiff, Defendant alleges that he is entitled to a percentage contribution of
5 the total liability from persons, firms, corporations, or entities other than Plaintiff, in accordance
6 with the principles of equitable indemnity and comparative contribution.

7 **FIFTEENTH AFFIRMATIVE DEFENSE**

8 **(Punitive Damages)**

9 15. Without admitting any of the allegations in the Complaint, and without admitting
10 any liability to the Plaintiff, Defendant alleges that Plaintiff has failed to state facts sufficient to
11 state a claim for punitive damages, and will not be able to establish the requisite mental states of
12 malice, fraud or oppression.

13 **SIXTEENTH AFFIRMATIVE DEFENSE**

14 **(Punitive Damages)**

15 16. Without admitting any of the allegations in the Complaint, and without admitting
16 any liability to the Plaintiff, Defendant alleges that Plaintiff's claims for punitive damages are
17 unconstitutional under the Fifth, Eighth and Fourteenth Amendments to the United States
18 Constitution.

19 **SEVENTEENTH AFFIRMATIVE DEFENSE**

20 **(Apportionment)**

21 17. Without admitting any of the allegations in the Complaint, and without admitting
22 any liability to the Plaintiff, this answering Defendant's liability, if any, must be apportioned
23 pursuant to Calif. Civil Code § 1431.2 based on comparative fault of others.

24 **EIGHTEENTH AFFIRMATIVE DEFENSE**

25 **(Implied Consent)**

26 18. Without admitting any of the allegations in the Complaint, and without admitting
27 any liability to the Plaintiff, this answering Defendant alleges that Plaintiff gave implied consent
28 to all of the acts complained of in her Complaint.

1 **NINETEENTH AFFIRMATIVE DEFENSE**

2 **(Additional Defenses)**

3 19. The Defendant presently has insufficient knowledge or information on which to
4 form a belief as to whether he has available additional, as yet unstated, affirmative defenses, and
5 reserves the right to assert additional affirmative defenses in the event discovery indicates that
6 they would be appropriate.

7
8 WHEREFORE, Defendant Derrick Rose prays as follows:

- 9 1. That Plaintiff take nothing by her Complaint;
10 2. That the Complaint be dismissed with prejudice;
11 3. That Defendant recover his costs and attorneys' fees; and
12 4. For such other and further relief as the Court deems just and proper.

13
14 DATED: September 24, 2015

BAUTE CROCHETIERE & GILFORD LLP

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16 By: 

17 MARK D. BAUTE
18 Attorneys for Defendant
19 DERRICK ROSE
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DEMAND FOR JURY TRIAL

Defendant Derrick Rose demands a trial by jury of all claims for which he is entitled to a jury trial.

DATED: September 24, 2015

BAUTE CROCHETIERE & GILFORD LLP

By: _____



MARK D. BAUTE
Attorneys for Defendant
DERRICK ROSE

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Los Angeles, CA 90017
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09/25/2015

1 **PROOF OF SERVICE**

2 **JANE DOE v. DERRICK ROSE**
3 **LASC Case No. BC592605 [2235.1]**

4 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

5 At the time of service, I was over 18 years of age and not a party to this action. I am
6 employed in the County of Los Angeles, State of California. My business address is 777 South
7 Figueroa Street, Suite 4900, Los Angeles, CA 90017.

8 On the date of my signature below, I served true copies of the following document(s)
9 described as **ANSWER AND AFFIRMATIVE DEFENSES OF DERRICK ROSE TO**
10 **UNVERIFIED COMPLAINT OF JANE DOE (A PSEUDONYM); DEMAND FOR JURY**
11 **TRIAL** on the interested parties in this action as follows:

12 **(***SEE ATTACHED SERVICE LIST***)**

13 ☒ **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed
14 to the persons at the addresses listed in the Service List and placed the envelope for collection and
15 mailing, following our ordinary business practices. I am readily familiar with the practice of
16 Baute Crochetiere & Gilford LLP for collecting and processing correspondence for mailing. On
17 the same day that correspondence is placed for collection and mailing, it is deposited in the
18 ordinary course of business with the United States Postal Service, in a sealed envelope with
19 postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The
20 envelope was placed in the mail at Los Angeles, California.

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

23 Executed on September 24, 2015, at Los Angeles, California.

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JULIE DIEP

BAUTE CROCHETIERE & GILFORD LLP
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09/25/2015

SERVICE LIST

JANE DOE v. DERRICK ROSE
LASC Case No. BC592605 [2235.1]

Brandon J. Anand, Esq.
ANAND LAW, PC
5455 Wilshire Blvd., Suite 1812
Los Angeles, CA 90036
Telephone: (323) 325-3389
Facsimile: (323) 488-9659

Attorneys for Plaintiff
JANE DOE

Thaddeus J. Culpepper, Esq.
CULPEPPER LAW GROUPE
710 South Garfield Avenue
Alhambra, CA 91801
Telephone: (626) 786-2779
Facsimile: (626) 380-1577

Attorneys for Plaintiff
JANE DOE

Rev. 9/22/15

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