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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

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**RACHEL ANN NUNES,**

Plaintiff,

v.

**TIFFANIE RUSHTON**

Defendant.

**ANSWER TO COMPLAINT**

Civil No. 2:14-cv-00627-EJF

Magistrate Judge Evelyn J. Furse

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Defendant, Tiffanie Rushton, by and through counsel, hereby answers Plaintiff's  
Complaint and states as follows:

**FIRST DEFENSE**

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Defendant asserts that many of the paragraphs of Plaintiff's Complaint contain multiple factual claims and legal conclusions. In such an event, if any of the facts alleged are disputed or Defendant lacks sufficient knowledge to admit or deny same, the entire paragraph will be denied.

If any of the legal conclusions made within any paragraph are disputed, the entire paragraph will be denied. With that in mind, Defendant replies to the specific allegations contained in the Complaint as follows:

1. In response to paragraphs 3, 4, and 11 Defendant admits the allegations therein.
2. In response to paragraphs 1, 2, 5, 6, 7, 8, 9, 12, 16, 18, 19, 23, 24, 25, 26, 27, 29 (a) – (k); 31, 32, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 (a) – (k), 59, 60, 61, 62, 63, 64, 65, 66, 67, 69 (a) – (k), 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 82, 83, 84, 85, 86, 88, 89, 90, 91, 92, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, 119, 120, Defendant asserts that she lacks sufficient knowledge regarding the facts of the legal conclusions to admit or deny the factual claim(s), so she denies same.
3. In response Defendant denies paragraph 20, 21, 22 Defendant asserts that the referenced documents speak for themselves and denies all other allegations contained therein.
4. Defendant denies each and every other allegation contained in Plaintiff's Complaint which is not specifically admitted.
5. No response is required for paragraphs 35, 46, 57, 68, 78, 87, 94, 107, and 116 as these are merely references to other enumerated paragraphs. Defendant incorporates by reference, her responses to the other paragraphs as outlined in numbers 1, 2, and 3 above.

### **THIRD AFFIRMATIVE DEFENSE**

Some or all of Plaintiff's claims are barred by the equitable doctrine of unclean hands.

### **FOURTH AFFIRMATIVE DEFENSE**

Some or all of Plaintiff's Claims are barred because any damages were caused, in whole or in part, by the Plaintiff, whose fault exceeds any alleged fault of the Defendant.

**FIFTH AFFIRMATIVE DEFENSE**

Some or all of Plaintiff's damages are barred because she has filed this action in bad faith.

**SIXTH AFFIRMATIVE DEFENSE**

Some or all of Plaintiff's damages are barred because she has failed to mitigate damages.

**SEVENTH AFFIRMATIVE DEFENSE**

Some or all of Plaintiff's claims are barred by the doctrine of estoppel.

**EIGHTH AFFIRMATIVE DEFENSE**

Some or all of Plaintiff's claims are barred by laches.

**NINTH AFFIRMATIVE DEFENSE**

Defendant incorporates any other affirmative defenses set forth in Rule 8 of the Federal Rules of Civil Procedure and reserves the right to plead other affirmative defenses as they become known through discovery or otherwise.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed, that Plaintiff take nothing by its claims.

DATED this 29th day of September 2014.

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/s/ Brennan H. Moss

**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of September, 2014, a true and correct copy of the foregoing **ANSWER TO COMPLAINT** was filed via CM/ECF and notice of such filing will be sent to:

Clinton E. Duke  
Durham Jones & Pinegar, P.C.  
111 East Broadway, Suite 900  
Salt Lake City, UT 84111

/s/ Brennan H. Moss