

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

CHARMAINE JOHNSON,

Plaintiff,

v.

FITNESS INTERNATIONAL, LLC,
FITNESS INTERNATIONAL, LLC
D/B/A LA FITNESS AND
CHRISTOPHER McDANIEL,

Defendants.

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Civil Action File Number

15EV001816

ANSWER OF DEFENDANT CHRISTOPHER McDANIEL

COMES NOW Defendant Christopher McDaniel (“McDaniel”) and hereby responds to plaintiff’s complaint.

First Defense

Plaintiff’s complaint fails to state a claim against McDaniel upon which relief may be granted.

Second Defense

Venue as to McDaniel is improper in Fulton County.

Third Defense

This court lacks jurisdiction over McDaniel.

Fourth Defense

Plaintiff has waived all claims she might assert against defendants arising from her use of LAF’s facilities.

Fifth Defense

Plaintiff has released defendants from all liability arising from her use of LAF's facilities.

Sixth Defense

Plaintiff assumed the risk of any injury she might sustain arising from her use of LAF's facilities.

Seventh Defense

McDaniel responds to the separate paragraphs of plaintiff's complaint as follows:

1.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the complaint.

2.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the complaint.

3.

McDaniel denies the allegations set forth in paragraph 3 of the complaint.

4.

In response to paragraph 4 of the complaint, McDaniel admits that at all times material to this action, plaintiff was a member of LAF and made use of LAF's Stone Mountain club. Except as herein admitted, McDaniel denies the allegations set forth in paragraph 4 of the complaint.

5.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the complaint.

6.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the complaint.

7.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the complaint.

8.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the complaint.

9.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of the complaint.

10.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 10 of the complaint.

11.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the complaint.

12.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 of the complaint.

13.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 of the complaint.

14.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 of the complaint.

15.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the complaint.

16.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of the complaint.

Count I

17.

McDaniel incorporates by reference his responses to paragraphs 1 through 16 of the complaint and repeats them as if set forth fully herein.

18.

In response to paragraph 18 of the complaint, McDaniel admits that LAF had a duty to keep its premises reasonably safe and to warn of hidden dangers or defects

not observable to invitees who were exercising ordinary care for their own safety. McDaniel denies that he or LAF breached any duty owed to plaintiff and denies all remaining allegations set forth in paragraph 18 of the complaint.

19.

McDaniel denies the allegations set forth in paragraph 19 of the complaint.

20.

McDaniel denies the allegations set forth in paragraph 20 of the complaint.

21.

McDaniel denies the allegations set forth in paragraph 21 of the complaint.

22.

McDaniel denies the allegations set forth in paragraph 22 of the complaint.

23.

McDaniel denies the allegations set forth in paragraph 23 of the complaint.

24.

McDaniel denies the allegations set forth in paragraph 24 of the complaint.

Count II

25.

McDaniel incorporates by reference his responses to paragraphs 1 through 16 of the complaint and repeats them as if set forth fully herein.

26.

McDaniel is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 of the complaint.

27.

In response to paragraph 27 of the complaint, McDaniel admits that on February 17, 2015 defendant Fitness International, LLC, operated the LA Fitness club located at 5295 Stone Mountain Highway in Gwinnett County, Georgia. McDaniel is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 27 of the complaint.

28.

McDaniel denies the allegations set forth in paragraph 28 of the complaint.

29.

McDaniel denies the allegations set forth in paragraph 29 of the complaint.

30.

McDaniel denies the allegations set forth in paragraph 30 of the complaint.

31.

In response to paragraph 31 of the complaint, McDaniel admits that LAF had a duty to keep its premises reasonably safe and to warn of hidden dangers or defects not observable to invitees who were exercising ordinary care for their own safety. McDaniel denies that he or LAF breached any duty owed to plaintiff and denies all remaining allegations set forth in paragraph 31 of the complaint.

32.

McDaniel denies the allegations set forth in paragraph 32 of the complaint.

33.

McDaniel denies the allegations set forth in paragraph 33 of the complaint.

34.

McDaniel denies the allegations set forth in paragraph 34 of the complaint.

35.

McDaniel denies the allegations set forth in paragraph 35 of the complaint.

Count III

36.

McDaniel incorporates by reference his responses to paragraphs 1 through 16 of the complaint and repeats them as if set forth fully herein.

37.

McDaniel denies the allegations set forth in paragraph 37 of the complaint.

38.

McDaniel denies the allegations set forth in paragraph 38 of the complaint.

39.

McDaniel denies the allegations set forth in paragraph 39 of the complaint.

40.

McDaniel denies the allegations set forth in paragraph 40 of the complaint.

41.

McDaniel denies the allegations set forth in paragraph 41 of the complaint.

42.

McDaniel denies the allegations set forth in paragraph 42 of the complaint.

43.

McDaniel denies the allegations set forth in paragraph 43 of the complaint.

44.

McDaniel denies the allegations set forth in paragraph 44 of the complaint.

45.

McDaniel denies the allegations set forth in paragraph 45 of the complaint.

46.

McDaniel denies the allegations set forth in paragraph 46 of the complaint.

Count IV

47.

McDaniel incorporates by reference his responses to paragraphs 1 through 16 of the complaint and repeats them as if set forth fully herein.

48.

McDaniel denies the allegations set forth in paragraph 48 of the complaint.

49.

McDaniel denies the allegations set forth in paragraph 49 of the complaint.

50.

McDaniel denies the allegations set forth in paragraph 50 of the complaint.

Count V

51.

McDaniel incorporates by reference his responses to paragraphs 1 through 50 of the complaint and repeats them as if set forth fully herein.

52.

McDaniel denies the allegations set forth in paragraph 52 of the complaint.

53.

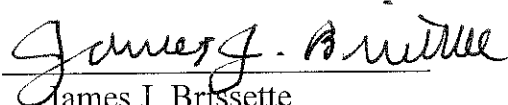
McDaniel denies all allegations in the complaint to which he has not otherwise specifically responded.

WHEREFORE, McDaniel prays that:

- (a) Judgment be entered in his favor and against plaintiff;
- (b) All costs of court be cast against plaintiff; and
- (c) He be granted such other and further relief as the court deems meet

and proper.

McGee & Oxford, LLP

By: 
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CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same, with adequate postage thereon, addressed as follows:

Jesse C. Kent
The Kent Law Group
154 Stone Mountain Street
Suite 204
Lawrenceville, GA 30046-5694

This 7th day of August, 2015.


James J. Brissette