

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

CHARMAINE JOHNSON,	§	
	§	
Plaintiff,	§	Civil Action File Number
	§	
v.	§	15EV001816
	§	
FITNESS INTERNATIONAL, LLC,	§	
FITNESS INTERNATIONAL, LLC	§	
D/B/A LA FITNESS AND	§	
CHRISTOPHER McDANIEL,	§	
	§	
Defendants.	§	

ANSWER OF DEFENDANT FITNESS INTERNATIONAL, LLC

COMES NOW Fitness International, LLC d/b/a LA Fitness (“LAF”) and hereby responds to plaintiff’s complaint.

**First Defense**

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

**Second Defense**

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

**Third Defense**

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

### **Fourth Defense**

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

1.

LAF 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.

In response to paragraph 2 of the complaint, LAF admits that it is a limited liability company organized under the laws of California and that its registered agent is in Fulton County, Georgia. LAF admits further that it operates a health and fitness club at 5295 Stone Mountain Highway in Gwinnett County, Georgia. Except as herein admitted, LAF denies the allegations set forth in paragraph 2 of the complaint.

3.

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

4.

In response to paragraph 4 of the complaint, LAF 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, LAF denies the allegations set forth in paragraph 4 of the complaint.

5.

In response to paragraph 5 of the complaint, LAF admits that on February 17, 2015 plaintiff entered LAF's Stone Mountain club at approximately 5:09 a.m.

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

6.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF 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.

LAF incorporates by reference its 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, LAF admits that it 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. LAF denies that it breached any duty owed to plaintiff and denies all remaining allegations set forth in paragraph 18 of the complaint.

19.

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

20.

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

21.

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

22.

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

23.

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

24.

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

## **Count II**

25.

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

26.

LAF admits the allegations set forth in paragraph 26 of the complaint.

27.

In response to paragraph 27 of the complaint, LAF admits that on February 17, 2015 it operated the LA Fitness club located at 5295 Stone Mountain Highway in Gwinnett County, Georgia. LAF 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.

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

29.

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

30.

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

31.

In response to paragraph 31 of the complaint, LAF admits that it 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. LAF denies that it breached any duty owed to plaintiff and denies all remaining allegations set forth in paragraph 31 of the complaint.

32.

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

33.

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

34.

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

35.

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

**Count III**

36.

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

37.

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

38.

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

39.

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

40.

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

41.

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

42.

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

43.

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

44.

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

45.

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

46.

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

**Count IV**

47.

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

48.

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

49.

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

50.

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

**Count V**

51.

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

52.

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



53.

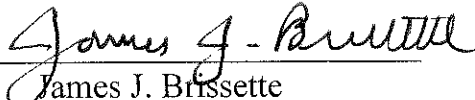
LAF denies all allegations in the complaint to which it has not otherwise specifically responded.

WHEREFORE, LAF prays that:

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

proper.

McGee & Oxford, LLP

By:   
James J. Brissette  
Georgia Bar Number 083125  
Attorney for Defendants

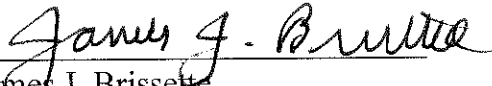
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CERTIFICATE OF SERVICE

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