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Attorneys for Defendants
HILLEL HEBREW ACADEMY,
MOREY LEVOVITZ and Y. BORUCH SUFRIN

FILED
LOS ANGELES SUPERIOR COURT
MAR 28 2006
JOHN A. CLARKE, CLERK
Nancy Alvarez
BY NANCY ALVAREZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

AVIVA EBNER,)
)
Plaintiff,)
)
vs.)
)
HILLEL HEBREW ACADEMY, a)
California corporation; MOREY)
LEVOVITZ, Y. BORUCH SUFRIN and)
DOES 1-100, inclusive,)
)
Defendants.)

Case No. BC362150
Hon. Michael L. Stern
Dept. 62
**ANSWER OF DEFENDANTS TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT**
Complaint Filed: 11/20/06

Fees Paid on 12/19/06 DS

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COME NOW DEFENDANTS HILLEL HEBREW ACADEMY ("Hillel"), MOREY LEVOVITZ and Y. BORUCH SUFRIN and answer the First Amended Complaint ("FAC") of Plaintiff Aviva Ebner as follows:

GENERAL DENIAL

1. Pursuant to the provisions of Code of Civil Procedure section 431.30, Defendants deny generally each and every allegation of the FAC and further deny that Plaintiff was damaged in the sums alleged, or in any sums, or at all.

AFFIRMATIVE DEFENSES

Defendants assert the following affirmative defenses based on information and belief:

2. As a first, separate and affirmative defense, Defendants allege that the FAC and each cause of action set forth therein fail to state a claim against them upon which relief can be granted.

3. As a second, separate and affirmative defense, Defendants allege that, by reason of the exclusive remedies provided by the California Workers' Compensation Act, Labor Code section 3600 et seq., this Court lacks subject matter jurisdiction over Plaintiff's claims and/or lacks the power to grant certain remedies available only under the Workers' Compensation Act.

4. As a third, separate and affirmative defense, Defendants allege that Plaintiff's claims are barred by the doctrines of estoppel, waiver, unclean hands and/or laches.

5. As a fourth, separate and affirmative defense, Defendants allege that Plaintiff has failed to mitigate her damages, if any, and that, to the extent of such failure to mitigate, any damages awarded to Plaintiff should be reduced.

6. As a fifth, separate and affirmative defense, Defendants allege that the provisions of

1 California law allowing for the award of punitive damages and the substantive rules, procedures and
2 standards for determining whether or not to award them and, if so, in what amount, violate
3 Defendants' right to due process and equal protection under the law, under the United States and
4 California constitutions.

5 7. As a sixth, separate and affirmative defense, Defendants allege that Plaintiff is not
6 entitled to any punitive damages because (1) Plaintiff failed to plead facts sufficient to support the
7 recovery of punitive damages; (2) Defendants committed no acts justifying an award of punitive
8 damages; (3) Defendant Hillel had no advance knowledge of the unfitness of any of its employees;
9 and (4) Defendant Hillel did not supervise its employees with conscious disregard for the rights and
10 safety of others.

11
12 8. As a seventh, separate and affirmative defense, Defendants allege that they acted
13 in accordance with their responsibilities under all applicable laws and have not engaged in any
14 willful and/or negligent misconduct with respect to Plaintiff.

15
16 9. As an eighth, separate and affirmative defense, Defendants allege that Plaintiff
17 failed to exercise reasonable and ordinary care, caution or prudence for her own safety to avoid the
18 alleged injuries. The negligence of Plaintiff proximately caused and contributed to the resulting
19 injuries and damages, if any, sustained by Plaintiff.

20
21 10. As a ninth, separate and affirmative defense, Defendants allege that all conduct
22 toward Plaintiff was undertaken by reason of business necessity and/or for lawful business reasons.

23 11. As a tenth, separate and affirmative defense, Defendants allege that their conduct was
24 justified and privileged under the circumstances.

25 12. As an eleventh, separate and affirmative defense, Defendants allege that at all times
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1 they have acted reasonably and in good faith, based upon all relevant facts and circumstances known
2 by Defendants at the time they acted.

3 13. As a twelfth, separate and affirmative defense, Defendants allege that Plaintiff's
4 claims are barred by the doctrine of managerial immunity.

5 14. As a thirteenth, separate and affirmative defense, Defendants allege that Plaintiff's
6 claims are unreasonable and/or were filed in bad faith and/or are frivolous and, for those reasons,
7 justify an award of attorney's fees and costs against Plaintiff.
8

9 15. As a fourteenth, separate and affirmative defense, Defendants allege that the
10 agreements alleged by Plaintiff are void for uncertainty.

11 16. As a fifteenth, separate and affirmative defense, Defendants allege that Plaintiff's
12 claims are barred by the statute of frauds.

13 WHEREFORE, Defendants pray for relief as follows:
14

15 1. That Plaintiff take nothing and that her FAC be dismissed in its entirety
16 with prejudice;

17 2. That judgment be entered in favor of said Defendants;

18 3. That Plaintiff recover no costs and that said Defendants be awarded
19 attorney's fees and costs of suit herein; and
20

21 4. That said Defendants be awarded such other and further relief as the Court
22

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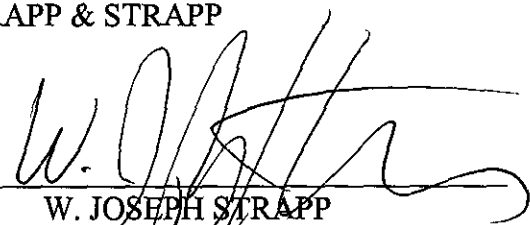
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deems just and proper.

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Dated: March 28, 2007

STRAPP & STRAPP

By: 

W. JOSEPH STRAPP
Attorneys for Defendants
HILLEL HEBREW ACADEMY,
MOREY LEVOVITZ and Y. BORUCH SUFRIN

PROOF OF SERVICE BY MAIL

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 11355 W. Olympic Boulevard, Suite 400 West, Los Angeles, California 90064.

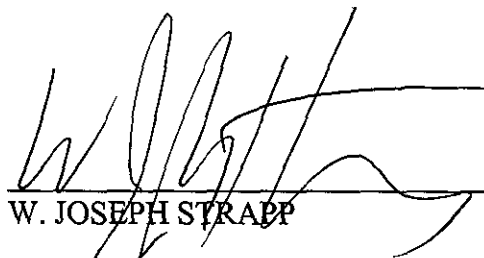
On March 28, 2007, I served the foregoing document described as: **ANSWER OF DEFENDANTS TO PLAINTIFF'S FIRST AMENDED COMPLAINT** on the parties to this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Los Angeles, California addressed as follows:

Eric S. Mintz, Esq.
Wendy Kingston, Esq.
KINGSTON MINTZ
12450 Burbank Blvd., Ste.P-172
Valley Village, CA 91607
T: (818)972-4460
F: (818)623-8301
Attorneys for Plaintiff
AVIVA EBNER

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 28, 2007, at Los Angeles, California.

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


W. JOSEPH STRAPP