

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

<p>Disability Support Alliance, on behalf of its members; and Zach Hillesheim,</p> <p style="text-align: right;">Plaintiffs,</p> <p>vs.</p> <p>KAH 20 2nd Avenue LLC, and Kahler Hotels LLC,</p> <p style="text-align: right;">Defendants.</p>	<p style="text-align: right;">Civil File No. 15-CV-1491 MJD/SER</p> <p style="text-align: center;">DEFENDANTS' ANSWER AND COUNTER-CLAIM</p> <p style="text-align: center;">JURY TRIAL DEMANDED</p>
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Defendants, KAH 20 2nd Avenue LLC, and Kahler Hotels, LLC, for their combined Answer to Plaintiffs' Complaint, state and allege as follows:

I.

Defendants generally deny each and every material allegation contained in plaintiffs' Complaint except as hereinafter admitted, qualified, or otherwise answered.

II.

Defendants specifically deny the allegations set forth in paragraphs 1, 2, 3, 4, 5, 15, 19, 26, 27, 39, 40, 41, 42, 44, 45, 49, 50, 51, 52, 53, 57, 58, 59, 60, 61 and 67 of Plaintiffs' Complaint.

III.

Defendants admit the allegations set forth in paragraphs 11, 12,

IV.

With respect to paragraph 6 of the Complaint, Defendants admit personal jurisdiction exists in this court, but denies there were any violations of the identified laws or there is subject matter jurisdiction.

V.

With respect to paragraph 7 of the Complaint, Defendants admit venue is proper, but denies there were any acts or omissions.

VI.

With respect to paragraph 13 of the Complaint, Defendants admit a room was booked on February 16, 2015, but is without sufficient knowledge or information to admit or deny the allegations in the remaining paragraph.

VII.

With respect to paragraph 14 of the Complaint, Defendants are without sufficient knowledge or information with which to admit or deny the allegations with the exception that it admits it has 660 guest rooms available.

VIII.

With respect to paragraph 17 of the Complaint, Defendants room number 807 occupied on March 2, 2015, but is without sufficient knowledge or information with which to admit or deny the remaining allegations of said paragraph.

IX.

With respect to paragraphs 54 and 63 of the Complaint, Defendants admit Plaintiffs appear to have retained the counsel signing the Complaint, but deny the remaining allegations of said paragraph.

X.

Defendants are without sufficient knowledge or information with which to form a belief as to the truth of the allegations set forth in paragraphs 8, 9, 10, 16, 18, 20, 21, 22, 23, 24, and 25 and puts Plaintiffs to their strict proof thereof.

XI.

With respect to the allegations contained in paragraphs 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 43, 47, 48, 56, 57, 62, 65, and 66 of Plaintiffs' Complaint, the terms of the applicable documents speak for themselves, and the answering Defendants deny all allegations inconsistent therewith.

XII.

As a first affirmative defense to Plaintiffs' Complaint, Defendants state and allege failure to state a claim upon which relief may be granted.

XIII.

As a second affirmative defense to Plaintiffs' Complaint, Defendants state and allege lack of legal standing.

XIV.

As a third affirmative defense to Plaintiffs' Complaint, Defendants state and allege misjoinder of parties.

XV.

As a fourth affirmative defense to Plaintiffs' Complaint, Defendants state and alleges unclear hands.

XVI.

As a fifth affirmative defense to Plaintiffs' Complaint, Defendants state and allege unclean hands.

XVII.

As a sixth affirmative defense to Plaintiffs' Complaint, Defendants state and allege waiver and/or estoppel.

XVIII.

As a seventh affirmative defense to Plaintiffs' Complaint, Defendants state and allege a failure to request a reasonable accommodation and all reasonable accommodations were available.

XIX.

As an eighth affirmative defense to Plaintiffs' Complaint, Defendants state and allege undue hardship.

XX.

As a ninth affirmative defense to Plaintiffs' Complaint, Defendants state and allege lack of subject matter jurisdiction.

COUNTER-CLAIM

Defendants KAH 20 2nd Avenue LLC, and Kahler Hotels, LLC, for their Counter-Claims against Plaintiffs Disability Support Alliance and Zach Hillesheim, state and allege as follows:

COUNT I - ABUSE OF PROCESS

1.

Defendants are owners of real property located in Rochester, Minnesota.

2.

Plaintiffs filed and served the instant action alleging violations of the Americans with Disabilities Act, violation of the Minnesota Human Rights Act and unfair discrimination.

3.

Plaintiffs have an ulterior purpose in pursuing the claims set forth in their Complaint.

4.

Plaintiffs' Complaint misuses and perverts the purpose of a civil action.

5.

As a direct and proximate result of Plaintiffs' abuse of process, Defendants have sustained damages in excess of \$50,000.

COUNT II - CIVIL CONSPIRACY

6.

Defendants incorporate in this paragraph the allegations set forth in Paragraphs 1 through 5 as though they were fully set forth herein.

7.

The Plaintiffs are engaged in a civil conspiracy to accomplish some concerted action, which injures Defendants.

8.

The Plaintiffs did commit, and executed certain acts in pursuance of certain torts as previously delineated against the Defendants.

9.

That as a result of the Plaintiffs' tortious conduct alleged herein, Plaintiffs did conspire and agree to commit such acts.

10.

As a direct and proximate result thereof, Defendants have sustained damages in excess of \$50,000.

WHEREFORE, Defendants pray for entry of judgment as follows:

1. Plaintiffs take nothing by their Complaint as alleged;
2. Defendants are awarded damages in excess of \$50,000 together with interest, costs, disbursements and attorney's fees; and
3. The court order such further relief as it deems just and equitable.

Dated: April 2, 2015.

DUNLAP & SEEGER, P.A.

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