

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JILL SCHWARTZ,

Plaintiff,

v.

URBAN COMPASS, INC.,

RAY FERRARA,

ALEXANDRA THOMAS SCHWARTZ,

and

DANIELLE SPIRA,

Defendants.

Case No.: 1:19-cv-00340-RC

ALEXANDRA THOMAS SCHWARTZ,

Counter-Plaintiff,

v.

JILL SCHWARTZ,

Counter-Defendant.

ANSWER TO COUNTERCLAIM

COMES NOW Plaintiff/Counter-Defendant Jill Schwartz (“Plaintiff” or “Jill Schwartz”), by counsel, hereby states the following as her Answer to Defendant/Counter-Plaintiff Alexandra Thomas Schwartz (“Defendant” or “Thomas Schwartz”):

PARTIES

70. Upon information and belief, admitted.

JURISDICTION

71. The allegations contained in Paragraph 71 contain legal conclusions to which no response is required. To the extent a response is required, denied.

72. The allegations contained in Paragraph 72 contain legal conclusions to which no response is required. To the extent a response is required, denied.

VENUE

73. The allegations contained in Paragraph 73 contain legal conclusions to which no response is required. To the extent a response is required, denied.

FACTUAL BACKGROUND

74. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 74, and therefore, denied.

75. Admitted to the extent that Thomas Schwartz was formerly associated with the Jill Schwartz Group. Exhibit A speaks for itself. The remaining allegations of Paragraph 75 are denied.

76. The Team Contract and Independent Contractor Agreement (“ICA”) speak for itself. The remaining allegations of Paragraph 76 are denied.

77. Admitted to the extent that on or about August 31, 2018 Counter-Plaintiff/Defendant terminated her affiliation with the Jill Schwartz Group. The remaining allegations of Paragraph 77 are denied.

78. Denied.

79. Denied.

80. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 80, and therefore, denied.

81. Denied.

82. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 82, and therefore, denied.

83. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 83, and therefore, denied.

84. Denied.

85. Denied.

The allegations contained in subparts a) through h) are also denied.

86. Denied.

87. Denied.

88. Denied.

COUNT I
(False Advertising – The Lanham Act 15 U.S.C. § 1125(a))

89. Plaintiff re-alleges each response set forth in all preceding paragraphs as if fully set forth herein.

90. Denied.

91. Denied.

92. Denied.

93. The allegations contained in Paragraph 93 contain legal conclusions to which no response is required. To the extent a response is required, denied.

94. The allegations contained in Paragraph 94 contain legal conclusions to which no response is required. To the extent a response is required, denied.

95. The allegations contained in Paragraph 95 contain legal conclusions to which no response is required. To the extent a response is required, denied.

96. The allegations contained in Paragraph 96 contain legal conclusions to which no response is required. To the extent a response is required, denied.

97. The allegations contained in Paragraph 97 are vague and ambiguous to permit a response. To the extent a response is required, denied.

98. The allegations contained in Paragraph 98 are vague and ambiguous to permit a response. To the extent a response is required, denied.

99. The allegations contained in Paragraph 99 are vague and ambiguous to permit a response. To the extent a response is required, denied.

100. Denied.

101. The allegations contained in Paragraph 101 are Defendant's prayer for relief to which no response is required. To the extent a response is required, denied.

**COUNT II
(Defamation)**

102. Plaintiff re-alleges each response set forth in all preceding paragraphs as if fully set forth herein.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

107. Denied.

108. The allegations contained in Paragraph 108 contain legal conclusions to which no response is required. To the extent a response is required, denied.

109. The allegations contained in Paragraph 109 are Defendant's prayer for relief to which no response is required. To the extent a response is required, denied.

**COUNT III
(Intentional Interference with Prospective Economic Opportunities)**

110. Plaintiff re-alleges each response set forth in all preceding paragraphs as if fully set forth herein.

111. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 111, and therefore, denied.

112. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 112, and therefore, denied.

113. The allegations contained in Paragraph 113 are vague and ambiguous to permit a response. To the extent a response is required, denied.

114. The allegations contained in Paragraph 114 are vague and ambiguous to permit a response. To the extent a response is required, denied.

115. Denied.

116. Denied.

117. Denied.

118. The allegations contained in Paragraph 118 contain legal conclusions to which no response is required. To the extent a response is required, denied.

119. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 119, and therefore, denied.

120. The allegations contained in Paragraph 120 are Defendant's prayer for relief to which no response is required. To the extent a response is required, denied.

**COUNT IV
(Unfair Competition)**

121. Plaintiff re-alleges each response set forth in all preceding paragraphs as if fully set forth herein.

122. Denied.

123. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 123, and therefore, denied.

124. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 124, and therefore, denied.

125. Denied.

126. The allegations contained in Paragraph 126 are vague and ambiguous to permit a response. To the extent a response is required, denied.

127. Denied.

128. Denied.

129. Plaintiff lacks sufficient knowledge and information to admit or deny the allegations contained in Paragraph 129, and therefore, denied.

130. Denied.

131. The allegations contained in Paragraph 131 contain legal conclusions to which no response is required. To the extent a response is required, denied.

132. The allegations contained in Paragraph 132 are Defendant's prayer for relief to which no response is required. To the extent a response is required, denied.

The remaining allegations are Defendant's prayer for relief which no response is required. To the extent a response is required, denied.

Any allegation not expressly admitted herein is hereby DENIED.

AFFIRMATIVE DEFENSES

1. Defendant's claims are barred, in whole or in part, for failure to state a claim.
2. Defendant's Lanham Act claims (Count I) are barred, in whole or in part, because any of the alleged use of Defendant's listings by Plaintiff was *de minimus*.
4. Defendant's defamation claims (Count II) are barred, in whole or in part, by the defense of opinion and fair comment.
5. Defendant's defamation claims (Count II) are barred, in whole or part, by the defense of truth.
6. Defendant's defamation claims (Count II) are barred, in whole or part, by the lack of malice.
7. Defendant's intentional interference with prospective economic opportunities claims and unfair competition claims (Count III and Count IV) are barred, in whole or part, by the absence of Defendant's valid expectancy of prospective economic opportunities.

8. Defendant's intentional interference with prospective economic opportunities claims and unfair competition claims (Count III and Count IV) are barred, in whole or part, by the absence of interference by improper means by Plaintiff.

9. Assuming that valid business expectancy and interference exist, Defendant's intentional interference with prospective economic opportunities claims and unfair competition claims (Count III and Count IV) are barred, in whole or part, because Plaintiff's actions were justified to protect her business.

10. Defendant's claims are barred, in whole or in part, by the doctrine of unclean hands as Defendant improperly acquired Plaintiff's proprietary database and used them for her own benefit.

11. Defendant's claims are barred, in whole or in part, by the doctrine of first material breach.

12. Assuming that Plaintiff's actions constitute wrongful conduct, Defendant's claims are barred, in whole or in part, by the doctrine of *injuria absque damno* ("injury without damage").

13. Defendant's claims are barred, in whole or in part, because her damages are speculative and/or consequential.

14. Defendant's requests to punitive damages are barred by Plaintiff's good faith.

15. Plaintiff reserves the right to amend or add such additional separate affirmative defenses that may become available during discovery or at trial and confirm any such additional defenses that it may have to the evidence as permitted by FRCP 15(b).

WHEREFORE, Plaintiff/Counter-Defendant Jill Schwartz respectfully request that this Court:

(a) Dismiss Defendant/Counter-Plaintiff Alexandra Thomas Schwartz counterclaim with prejudice;

(b) Award Plaintiff/Counter-Defendant the costs and reasonable attorney's fees; and

(c) Award Defendants such other relief as the Court deems just and proper.

Demand for Jury Trial

Plaintiff/Counter-Defendant Jill Schwartz demands a trial by jury.

Jill Schwartz
By Counsel

_____/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of May, 2020, I will electronically file the foregoing with the Clerk of the Court using ECF system, which will notify registered participants as identified on the NEF, and paper copies will be sent to those indicated as non-registered participants.

/s/

J. Chapman Petersen