

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00091-RM-MJW

TONYA SMITH, individually and as next friend and parent of
K.S. and I.S., minor children;

JOSEPH SMITH, a/k/a RACHEL SMITH, individually and as
next friend and parent of K.S. and I.S., minor children;

K.S., a minor child; and,

I.S., a minor child,

Plaintiffs,

v.

DEEPIKA AVANTI,

Defendant.

DEFENDANT'S ANSWER TO PLAINTIFFS' COMPLAINT

Defendant Deepika Avanti, by and through her undersigned counsel Jason T. Pink and
Melanie B. Lewis, hereby answers the Plaintiffs' Complaint for Declaratory, Injunctive and
Other Relief (the "Complaint") as follows:

INTRODUCTION

1. Defendant is without sufficient information and knowledge to form a belief
regarding the truth of the allegations of Paragraph 1 of the Complaint and therefore denies the
same.

2. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 2 of the Complaint and therefore denies the same.

3. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 3 of the Complaint and therefore denies the same.

4. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 4 of the Complaint and therefore denies the same.

5. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 5 of the Complaint and therefore denies the same.

6. Defendant admits the allegation of Paragraph 6 of the Complaint that Plaintiffs contacted her on or about April 24, 2015, about the rental of property and that she met Plaintiffs on that date to show them properties. Defendant denies the remaining allegations of Paragraph 6 of the Complaint.

7. Defendant admits the allegation of Paragraph 7 of the Complaint that she declined to rent property to the Plaintiffs but denies the remaining allegations of Paragraph 7.

8. Defendant denies the allegations of Paragraph 8 of the Complaint.

9. Defendant admits the allegations of Paragraph 9 of the Complaint to the extent that they allege that during the visit to Defendant's property the Smiths' children disrupted a couple living on Defendant's property. Defendants deny the remaining allegations of Paragraph 9.

10. Defendant denies the allegations of Paragraph 10 of the Complaint.

11. Defendant denies the allegations of Paragraph 11 of the Complaint.

12. Paragraph 12 of the Complaint states the Plaintiffs' theory of relief and does not contain factual allegations warranting a response from Defendant. To the extent Paragraph 12 is interpreted as requiring a response, however, it is denied.

JURISDICTION AND VENUE

13. Defendant admits the allegation in Paragraph 13 that the Court has subject matter jurisdiction over the Plaintiffs' claims brought under the Fair Housing Act, 42 U.S.C. § 3604.

14. Defendant admits the allegation in Paragraph 14 of the Complaint that venue is proper but denies the allegations of Paragraph 14 to the extent they allege that unlawful discrimination occurred.

15. Defendant admits the allegations of Paragraph 15 of the Complaint to the extent that they allege this Court has the discretion to exercise supplemental jurisdiction over Plaintiffs' claims brought under Colorado law.

PARTIES

16. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 16 of the Complaint and therefore denies the same.

17. Paragraph 17 of the Complaint does not contain factual allegations warranting a response from Defendant. To any extent Paragraph 17 is construed as requiring a response, however, Defendant denies the same.

18. Defendant denies the allegations of Paragraph 18 of the Complaint.

19. Defendant denies the allegations of Paragraph 19 of the Complaint.

20. Defendant admits the allegations of Paragraph 20 of the Complaint that she resides in Boulder County, Colorado, but denies the remaining allegations of Paragraph 20.

21. Defendant denies the allegations of Paragraph 21 of the Complaint.

22. Defendant admits the allegations of Paragraph 22 of the Complaint.

23. Defendant denies the allegations of Paragraph 23 of the Complaint.

24. Defendant denies the allegations of Paragraph 24 of the Complaint.

STATEMENT OF FACTS

25. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 25 of the Complaint and therefore denies the same.

26. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 26 of the Complaint and therefore denies the same.

27. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 27 of the Complaint and therefore denies the same.

28. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 28 of the Complaint and therefore denies the same.

29. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 29 of the Complaint and therefore denies the same.

30. Paragraph 30 of the Complaint purports to describe the contents of a posting on Craigslist. Defendant answers the allegations of Paragraph 30 by stating that the Craigslist posting speaks for itself, and any allegation that attempts to paraphrase or describe the contents of the Craigslist posting is denied.

31. Paragraph 31 of the Complaint purports to describe the contents of a posting on Craigslist. Defendant answers the allegations of Paragraph 31 by stating that the Craigslist posting speaks for itself, and any allegation that attempts to paraphrase or describe the contents of the Craigslist posting is denied.

32. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 32 of the Complaint regarding the Plaintiffs' reaction to the Craigslist posting and therefore denies the same. The remaining allegations of Paragraph 32 concern the contents of an e-mail communication; Defendant answers those allegations by stating that the e-mail speaks for itself and Defendant denies any allegations that attempt to paraphrase or characterize the contents of the e-mail.

33. Defendant answers the allegations of Paragraph 33 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

34. Defendant answers the allegations of Paragraph 34 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

35. Defendant answers the allegations of Paragraph 35 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

36. Defendant admits the allegation of Paragraph 36 of the Complaint that Plaintiffs met with Defendant at 698 Dixon Road on or about April 24, 2015 to view property at that location and that Plaintiffs met another couple living on the property. Defendant denies the remaining allegations of Paragraph 36.

37. Defendant admits the allegations of Paragraph 37 of the Complaint to the extent that they allege that Defendant and Plaintiffs discussed Plaintiffs renting the garage on Defendant's property and getting a friend to split rent with them for the garage.

38. Defendant answers the allegations of Paragraph 38 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

39. Defendant answers the allegations of Paragraph 39 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

40. Defendant answers the allegations of Paragraph 40 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

41. Defendant answers the allegations of Paragraph 41 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

42. Defendant denies the allegations of Paragraph 42 of the Complaint.

43. Defendant denies the allegations of Paragraph 43 of the Complaint.

44. Defendant answers the allegations of Paragraph 44 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

45. Defendant denies the allegations of Paragraph 45 of the Complaint.

46. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 46 of the Complaint and therefore denies the same.

47. Defendant answers the allegations of Paragraph 47 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

48. Defendant denies the allegations of Paragraph 48 of the Complaint.

49. Defendant answers the allegations of Paragraph 49 of the Complaint by stating that the e-mail communications speak for themselves and any attempt to paraphrase from or characterize the contents of those communications is denied.

50. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 50 of the Complaint and therefore denies the same.

51. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 51 of the Complaint and therefore denies the same.

52. Defendant is without sufficient information and knowledge to form a belief regarding the truth of the allegations of Paragraph 52 of the Complaint and therefore denies the same.

**COUNT I – SEX DISCRIMINATION IN VIOLATION
OF THE FAIR HOUSING ACT, 42 U.S.C. § 3604**

53. Defendant answers Paragraph 53 of the Complaint by adopting and incorporating by reference her responses in Paragraphs 1 through 52 of this Answer.

54. Paragraph 54 of the Complaint recites language from the Fair Housing Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 54 is interpreted as requiring a response, however, Defendant states that the Fair Housing Act speaks for itself and to the extent Paragraph 54 alleges that Defendant violated that act, such allegation is denied.

55. Defendant denies the allegations of Paragraph 55 of the Complaint.

56. Defendant denies the allegations of Paragraph 56 of the Complaint.

57. Defendant denies the allegations of Paragraph 57 of the Complaint.

58. Defendant denies the allegations of Paragraph 58 of the Complaint.

59. Defendant denies the allegations of Paragraph 59 of the Complaint.

**COUNT II – DISCRIMINATION BASED ON FAMILIAL STATUS
IN VIOLATION OF THE FAIR HOUSING ACT, 42 U.S.C. § 3604**

60. Defendant answers Paragraph 60 of the Complaint by adopting and incorporating by reference her responses in Paragraphs 1 through 59 of this Answer.

61. Paragraph 61 of the Complaint recites language from the Fair Housing Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 61 is interpreted as requiring a response, however, Defendant states that the Fair Housing Act speaks for itself and to the extent Paragraph 61 alleges that Defendant violated that act, such allegation is denied.

62. Paragraph 62 of the Complaint recites language from the Fair Housing Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 62 is interpreted as requiring a response, however, Defendant states that the Fair Housing Act speaks for itself and to the extent Paragraph 62 alleges that Defendant violated that act, such allegation is denied.

63. Defendant denies the allegations of Paragraph 63 of the Complaint.

64. Defendant denies the allegations of Paragraph 64 of the Complaint.

65. Defendant denies the allegations of Paragraph 65 of the Complaint.

66. Defendant denies the allegations of Paragraph 66 of the Complaint.

**COUNT III – SEX DISCRIMINATION UNDER THE COLORADO ANTI-
DISCRIMINATION ACT, C.R.S. § 24-34-502**

67. Defendant answers Paragraph 67 of the Complaint by adopting and incorporating by reference her responses in Paragraphs 1 through 66 of this Answer.

68. Paragraph 68 of the Complaint recites language from the Colorado Anti-Discrimination Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 68 is interpreted as requiring a response, however, Defendant states that the CADA speaks for itself and to the extent Paragraph 68 alleges that Defendant violated CADA, such allegation is denied.

69. Defendant denies the allegations of Paragraph 69 of the Complaint.

70. Defendant denies the allegations of Paragraph 70 of the Complaint.

71. Defendant denies the allegations of Paragraph 71 of the Complaint.

72. Defendant denies the allegations of Paragraph 72 of the Complaint.

73. Defendant denies the allegations of Paragraph 73 of the Complaint.

COUNT IV – SEXUAL ORIENTATION IN VIOLATION OF THE COLORADO ANTI-DISCRIMINATION ACT, C.R.S. § 24-34-502

74. Defendant answers Paragraph 74 of the Complaint by adopting and incorporating by reference her responses in Paragraphs 1 through 73 of this Answer.

75. Paragraph 75 of the Complaint recites language from the Colorado Anti-Discrimination Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 75 is interpreted as requiring a response, however, Defendant states that the CADA speaks for itself and to the extent Paragraph 75 alleges that Defendant violated CADA, such allegation is denied.

76. Paragraph 76 of the Complaint recites language from the Colorado Anti-Discrimination Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 76 is interpreted as requiring a response, however,

Defendant states that the CADA speaks for itself and to the extent Paragraph 76 alleges that Defendant violated CADA, such allegation is denied.

77. Defendant denies the allegations of Paragraph 77 of the Complaint.

78. Defendant denies the allegations of Paragraph 78 of the Complaint.

79. Defendant denies the allegations of Paragraph 79 of the Complaint.

80. Defendant denies the allegations of Paragraph 80 of the Complaint.

COUNT V – DISCRIMINATION BASED ON FAMILIAL STATUS IN VIOLATION OF THE COLORADO ANTI-DISCRIMINATION ACT, C.R.S. § 24-34-502

81. Defendant answers Paragraph 81 of the Complaint by adopting and incorporating by reference her responses in Paragraphs 1 through 80 of this Answer.

82. Paragraph 82 of the Complaint recites language from the Colorado Anti-Discrimination Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 82 is interpreted as requiring a response, however, Defendant states that the CADA speaks for itself and to the extent Paragraph 82 alleges that Defendant violated CADA, such allegation is denied.

83. Paragraph 83 of the Complaint recites language from the Colorado Anti-Discrimination Act and does not contain factual allegations warranting a response from Defendant. To the extent that Paragraph 83 is interpreted as requiring a response, however, Defendant states that the CADA speaks for itself and to the extent Paragraph 83 alleges that Defendant violated CADA, such allegation is denied.

84. Defendant denies the allegations of Paragraph 84 of the Complaint.

85. Defendant denies the allegations of Paragraph 85 of the Complaint.

86. Defendant denies the allegations of Paragraph 86 of the Complaint.

87. Defendant denies the allegations of Paragraph 87 of the Complaint.

GENERAL DENIAL

Defendant denies any allegation that is not expressly admitted in this Answer.

DEFENSES AND AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief may be granted.
2. All actions taken by Defendant with respect to Plaintiffs were for legitimate and non-discriminatory reasons.
3. Defendant is exempt from Plaintiffs' claims brought under the Fair Housing Act under 42 U.S.C. § 3603.
4. Defendant is exempt from Plaintiffs' claims brought under the Colorado Anti-Discrimination Act under C.R.S. § 24-34-502.
5. Defendant would have made the same decisions with respect to Plaintiffs notwithstanding their sex, sexual orientation or familial status.
6. Plaintiffs' claim for punitive damages is barred as a matter of law.
7. Plaintiffs' injuries, if any, were the result of the actions of Plaintiffs or third parties over whom Defendant had no control or right to control.
8. Defendant is entitled to an award of her reasonable attorney's fees and costs under 42 U.S.C. § 3613.
9. Defendant reserves the right to amend and/or add applicable affirmative defenses as they become known during disclosure and discovery.

DEFENDANT REQUESTS A TRIAL TO A JURY ON ALL ISSUES.

Respectfully submitted this 23rd day of February, 2016.

BERG HILL GREENLEAF RUSCITTI LLP

s/ Melanie B. Lewis

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February, 2016, I electronically filed the foregoing **DEFENDANT'S ANSWER TO PLAINTIFFS' COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification to such filing to the following e-mail addresses,

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s/ Cheryl Stasiak

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