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8 Attorneys for Defendants
RAINBERRY, INC. (dba TRON FOUNDATION), YUCHEN JUSTIN SUN,
9 and CONG LI

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

12/16/2019
Clerk of the Court
BY: EDWARD SANTOS
Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION
12

13 RICHARD HALL and LUKASZ
14 JURASZEK

15 PLAINTIFFS,

16 v.

17 RAINBERRY INC., a California corporation
dba TRON aka TRON FOUNDATION,
18 YUCHEN JUSTIN SUN (aka JUSTIN SUN,
aka YUCHEN SUN, aka JUSTIN YUCHEN
19 SUN), CONG LI, and DOES 1-50, inclusive

20 DEFENDANTS.

CASE NO.: CGC-19-580304
[Unlimited Jurisdiction]

**DEFENDANT CONG LI'S ANSWER TO
PLAINTIFFS' COMPLAINT FOR
DAMAGES**

Complaint Filed: October 28, 2019
Trial Date: None Set

21
22 Defendant CONG LI ("Defendant") hereby answers the unverified Complaint of Plaintiffs
23 RICHARD HALL and LUKASZ JURASZEK ("Plaintiffs") as follows:

24 **GENERAL DENIAL**

25 Pursuant to California *Code of Civil Procedure* section 431.30, Defendant, generally and
26 specifically, denies each and every material allegation contained in the Complaint and, further,
27 specifically denies that Plaintiffs have suffered any injury, damage, or loss of any kind or in any
28 sums whatsoever, by reason of any alleged act(s) or omission(s) of Defendant, or any of his

1 employees, agents, or anyone else allegedly acting on his behalf.

2 **AFFIRMATIVE DEFENSES**

3 Defendant further asserts the following affirmative defenses. By asserting these defenses,
4 Defendant does not concede that he has the burden of proof as to any affirmative defense asserted
5 below. Defendant does not presently know all the facts concerning the conduct of Plaintiffs
6 sufficient to state all affirmative defenses at this time. Defendant will seek leave from the Court to
7 amend this Answer should he later discover facts demonstrating the existence of additional
8 affirmative defenses.

9 **FIRST AFFIRMATIVE DEFENSE**

10 As a separate and distinct affirmative defense, Defendant alleges that this Court lacks
11 subject matter jurisdiction to adjudicate this action because all disputes arising out of or related to
12 Plaintiffs' employment, and all the causes of action in their Complaint, are subject to Plaintiffs'
13 agreement to submit such disputes to binding individual contractual arbitration, and any contrary
14 state laws operating to defeat such arbitration are preempted by the Federal Arbitration Act, 9
15 U.S.C. § 1, *et seq.*

16 **SECOND AFFIRMATIVE DEFENSE**

17 As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs' Complaint,
18 and each and every cause of action therein, fails to state facts sufficient to constitute any cause of
19 action against Defendant.

20 **THIRD AFFIRMATIVE DEFENSE**

21 As a separate and distinct affirmative defense, Defendant alleges Plaintiffs' Complaint,
22 and each and every cause of action therein, is barred by the applicable statute of limitations
23 including, but not limited to, California *Civil Procedure Code* sections 335.1, 338, and 340,
24 California *Government Code* sections 12960 and 12965, California *Labor Code* section 1102.5,
25 and California *Business and Professions Code* section 17208.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 As a separate and distinct affirmative defense, Defendant is informed and believes that
28 further investigation and discovery will reveal and, on that basis, alleges that Plaintiffs are estopped

1 by their conduct from recovering any relief sought in the Complaint or in any purported cause of
2 action alleged therein.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 As a separate and distinct affirmative defense, Defendant is informed and believes that further
5 investigation and discovery will reveal and, on that basis, alleges that Plaintiffs have waived any right
6 to recover any relief sought in the Complaint or in any purported cause of action alleged therein.

7 **SIXTH AFFIRMATIVE DEFENSE**

8 As a separate and distinct affirmative defense, Defendant is informed and believes that
9 further investigation and discovery will reveal and, on that basis, alleges that Plaintiffs' claims are
10 barred by the doctrine of unclean hands.

11 **SEVENTH AFFIRMATIVE DEFENSE**

12 As a separate and distinct affirmative defense, Defendant is informed and believes that
13 further investigation and discovery will reveal and, on that basis, alleges that Plaintiffs are guilty
14 of undue delay in filing and prosecuting this suit and, accordingly, this action is barred by laches.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 As a separate and distinct affirmative defense, Defendant alleges that the acts of other
17 persons or entities of which Plaintiffs complain were all undertaken outside the scope of their
18 agency and/or employment with this answering Defendant and without the knowledge or consent
19 of this answering Defendant and this answering Defendant may not be held liable therefor.

20 **NINTH AFFIRMATIVE DEFENSE**

21 As a separate and distinct affirmative defense, Defendant is informed and believes that
22 further investigation and discovery will reveal and, on that basis, alleges that, to the extent Plaintiffs
23 suffered any symptoms of mental or emotional distress or injury, they were the result of a pre-
24 existing psychological disorder or alternate concurrent cause and not the result of any act or
25 omission of Defendant.

26 **TENTH AFFIRMATIVE DEFENSE**

27 As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs' Complaint,
28 and each and every cause of action therein, is barred by the exclusive remedy provisions of the

1 Workers' Compensation Act pursuant to California *Labor Code* section 3601, *et seq.*

2 **ELEVENTH AFFIRMATIVE DEFENSE**

3 As a separate and distinct affirmative defense, Defendant alleges that if Plaintiffs have
4 received or in the future receives workers' compensation or other benefits by reason of the claimed
5 injuries which give rise to this suit, any judgment rendered in favor of Plaintiffs should be reduced
6 by the amount of all benefits paid to or on behalf of Plaintiffs.

7 **TWELFTH AFFIRMATIVE DEFENSE**

8 As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs' claims are
9 barred because Plaintiffs' term of employment was terminable at-will, with or without cause,
10 pursuant to California *Labor Code* section 2922.

11 **THIRTEENTH AFFIRMATIVE DEFENSE**

12 As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs' claims are
13 barred by Plaintiffs' failure to exhaust administrative remedies and/or internal grievance
14 procedures.

15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 As a separate and distinct affirmative defense, Defendant alleges that, without admitting
17 that he engaged in any of the acts, conduct, or statements attributed to him by the Complaint, that
18 good cause existed for each and every action taken by Defendant with respect to Plaintiffs'
19 employment and that such actions were non-discriminatory, non-harassing, non-retaliatory,
20 reasonable, justified, privileged, done in good faith, and for legitimate, and lawful business
21 purposes based on all relevant facts and circumstances known by Defendant at the time he acted.

22 **FIFTEENTH AFFIRMATIVE DEFENSE**

23 As a separate and distinct affirmative defense, Defendant alleges Plaintiffs did not exercise
24 ordinary care on their own behalf, and their own acts and omissions proximately caused and/or
25 contributed to the loss, injury, damage, or detriment alleged by Plaintiffs, and Plaintiffs' recovery
26 from Defendant, if any, should be reduced in proportion to the percentage of Plaintiffs' negligence
27 or fault.

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SIXTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that, without admitting that he engaged in any of the acts, conduct, or statements attributed to him by the Complaint, Defendant did not continue to hire, supervise or retain any employee after Defendant knew or should have known that employee created a particular risk to others.

SEVENTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that at no time did he act maliciously, oppressively, fraudulently, wantonly, with any bad faith toward Plaintiffs or with conscious or reckless disregard of Plaintiffs' rights, or authorize, consent to, or ratify any malicious, oppressive, or fraudulent conduct of any employee or agent of Defendant toward Plaintiffs.

EIGHTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that the alleged acts of which Plaintiffs complain were based on reasonable factors other than Plaintiffs' alleged protected characteristics or protected activities.

NINETEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that, even if there was discrimination, harassment or retaliation against Plaintiffs (which Defendant denies), Plaintiffs are not entitled to recover any damages because the same decision would have been made absent the alleged discrimination, harassment or retaliation. *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203.

TWENTIETH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs' request for equitable relief is barred and/or improper to the extent that Plaintiffs have an adequate remedy at law.

TWENTY-FIRST AFFIRMATIVE DEFENSE

As a separate and distinct defense, Defendant alleges that Plaintiffs' Complaint, and all claims for relief therein, are barred because other named defendants exercise reasonable care to prevent, and promptly correct, any discriminatory, harassing, or retaliatory conduct (if there was

1 any), and Plaintiffs unreasonably failed to take advantage of any preventative or corrective
2 opportunities provided by other named defendants to avoid any harm. Reasonable use of other
3 named defendant's internal procedures and remedies would have prevented all or some of
4 Plaintiffs' claimed injuries and damages.

5 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

6 As a separate and distinct defense, Defendant alleges Plaintiffs are not entitled to recover
7 any compensatory or other monetary damages for any alleged loss of fringe benefits, including
8 medical or retirement benefits, on the ground that the exclusive remedy for such alleged damages
9 is the *Employment Retirement Income Security Act*, 29 U.S.C. section 1001 *et seq.*

10 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

11 As a separate and distinct affirmative defense, Defendant alleges that any recovery on
12 Plaintiffs' Complaint or any purported cause of action alleged therein is barred in whole or in part
13 by Plaintiffs' failure to mitigate their damages.

14 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

15 As a separate and distinct affirmative defense, Defendant alleges that the Complaint and
16 each purported cause of action alleged therein are barred because the damages Plaintiffs allege in
17 their Complaint, if any, are too speculative to be recoverable at law.

18 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

19 As a separate and distinct affirmative defense, Defendant alleges that any recovery on
20 Plaintiffs' Complaint or any purported cause of action alleged therein is barred in whole or in part
21 by after-acquired evidence which independently justified Plaintiffs' terminations.

22 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

23 As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs are not
24 entitled to recover punitive or exemplary damages from Defendant because any award of punitive
25 or exemplary damages would violate Defendant's constitutional rights under the Due Process
26 Clauses of the Fifth and Fourteenth Amendments of the United States Constitution.

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TWENTY-SEVENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that a reasonable opportunity for investigation and discovery will reveal and, on that basis, alleges that Plaintiffs' claims are unreasonable and/or were filed in bad faith and/or are frivolous and, for that reason, justify an award of attorneys' fees and costs against Plaintiffs and their attorneys pursuant to California law including, without limitation, California *Code of Civil Procedure* section 128.5 and/or *Government Code* section 12965(b).

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant is informed and believes that further investigation and discovery will reveal and, on that basis, alleges that Plaintiffs' claims are barred by their own breach of the duties owed to other named defendants pursuant to California *Labor Code* sections 2854, 2856, 2857, 2858, and/or 2859.

TWENTY-NINTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that the Complaint fails to state a claim upon which pre-judgment interest may be granted because the damages claimed are not sufficiently certain to allow an award of pre-judgment interest.

THIRTIETH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs are not entitled to recover emotional distress damages because California's system of emotional distress damages is unconstitutional under *State Farm Mutual Automobile Insurance Co. v. Campbell* (2003) 538 U.S. 408, as well as the United States and California Constitutions.

THIRTY-FIRST AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiffs did not exercise ordinary care on their own behalf, and their own acts and omissions proximately caused and/or contributed to the loss, injury, damage, or detriment alleged by Plaintiffs, and Plaintiffs' recovery from Defendant, if any, should be reduced in proportion to the percentage of Plaintiffs' negligence or fault.

1 THIRTY-SECOND AFFIRMATIVE DEFENSE

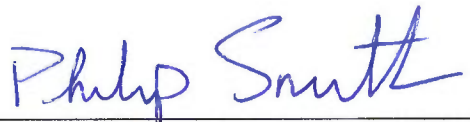
2 Defendant does not presently know all of the facts regarding the conduct of Plaintiffs
3 and the claims alleged in the Complaint sufficient to state all affirmative defenses that may exist at
4 this time. Accordingly, Defendant reserves the right to amend this Answer.

5 WHEREFORE, Defendant prays that:

- 6 1. Plaintiffs' Complaint be dismissed in its entirety with prejudice;
- 7 2. Plaintiffs recovers nothing on the Complaint;
- 8 3. Judgment be entered for Defendant;
- 9 4. Defendant be awarded his costs of suit and attorneys' fees incurred in defending this
10 action; and
- 11 5. The Court grants such other and further relief as it deems just and proper.

12
13 DATE: December 16, 2019

FISHER & PHILLIPS LLP

14
15 By: 
 16 _____
 17 CHERYL L. SCHRECK
 18 PHILIP J. SMITH
 Attorneys for Defendants
 RAINBERRY, INC. (dba TRON
 FOUNDATION), YUCHEN JUSTIN SUN,
 and CONG LI

1 **PROOF OF SERVICE**
2 **(CCP §§ 1011, 1013, 1013(a) and 2015.5; Cal. Rules of Court, rule 2.306 and 2.251)**

3 I, the undersigned, am at least 18 years old and not a party to this action. I am employed
4 in the County of San Francisco with the law offices of Fisher & Phillips LLP and its business
5 address is One Embarcadero Center, Suite 2050, San Francisco, California 94111.

6 On December 16, 2019, I served the foregoing document(s) **DEFENDANT CONG LI'S**
7 **ANSWER TO PLAINTIFFS' COMPLAINT FOR DAMAGES** on the person(s) listed below
8 by placing the original a true copy thereof enclosed in sealed envelope(s) addressed as
9 follows:

10 Norman LaForce
11 Law Offices of Norman LaForce
12 802 Balra Drive
13 El Cerrito, California 94530

Attorney for Plaintiffs

Richard Hall and Lukasz Juraszek

Telephone: (510) 208-7657

Email: LaForceLaw@comcast.net

14 William F. Fitzgerald
15 Fitzgerald Law Offices
16 946 Junipero Serra Boulevard
17 San Francisco, California 94132

Attorney for Plaintiffs

Richard Hall and Lukasz Juraszek

Telephone: (415) 722-0673

Email: FitzgeraldWsi75@yahoo.com

18 [by MAIL] - I enclosed the document(s) in a sealed envelope or package addressed to
19 the person(s) whose address(es) are listed above and placed the envelope for collection
20 and mailing, following our ordinary business practices. I am readily familiar with this
21 business's practice for collecting and processing correspondence for mailing. On the
22 same day that correspondence is placed for collection and mailing, it is deposited in the
23 ordinary course of business with the United States Postal Service in San Francisco
24 California, in a sealed envelope with postage fully prepaid.

25 [by PERSONAL SERVICE] - I delivered the document(s) to the person(s) at the
26 address(es) listed above by (1) (a) personal delivery, or (b) by leaving the documents in
27 an envelope/package with an individual in charge of the office, or (c) by leaving them in
28 a conspicuous place in the office between the hours of 9:00 a.m. and 6:00 p.m., or (2) by
messenger – a copy of the Messenger Declaration is attached.

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

Executed December 16, 2019, at San Francisco, California

Sue Anne Travers

Print Name

By: 

Signature