

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
WEST VIRGINIA BASEBALL, LLC,

Plaintiff,

v.

Civil Action No.: 15-C-1848
Honorable James C. Stucky

MEDICAL WEIGHT LOSS
CLINIC OF CHARLESTON,

Defendants.

DEFENDANT'S ANSWER TO COMPLAINT

COMES NOW, the Defendant, Imagine Medispa, LLC, formerly known as Medical Weight Loss Clinic of Charleston, LLC ("Imagine"), by and through counsel, Scott H. Kaminski, Esq., and respectfully answers the Plaintiff's Complaint as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief may be granted and, therefore, requires dismissal pursuant to W.V.R.C.P. 12(b)(6).

SECOND DEFENSE

In response to the allegations contained in the Complaint, Defendants aver as follows:

1. With respect to Paragraph 1 of the Complaint, the Defendant admits that this action was filed by West Virginia Baseball, LLC ("Plaintiff") by its counsel, Elizabeth G. Kavitz of Kavitz Law PLLC, against Medical Weight Loss Clinic of Charleston, LLC ("Defendant") alleging collection of amounts due and alleging owing Plaintiff from Defendant under a Corporate Sponsorship Agreement, but states that the former name was Medical Weight Loss Clinic of Charleston, LLC.

2. Defendant lacks knowledge sufficient to admit or deny the allegations contained in Paragraphs 2 and 4 of the Complaint

3. Defendant admits the allegations contained in first Paragraph 3 of the Complaint.

4. With respect to Paragraphs 5 of the Complaint, the document referenced speaks for itself and therefore, no response is required of this Defendant.

5. Defendant denies the allegations contained in Paragraphs 6, 7 and 8 of the Complaint.

6. Defendant incorporates herein by reference the responses to those Paragraphs incorporated into Paragraph 9 of the Complaint.

7. Defendant denies the allegations contained in Paragraphs 10, 11, 12 and 13 of the Complaint.

THIRD DEFENSE

Any allegations contained in the Complaint not specifically admitted herein are hereby expressly denied.

FOURTH DEFENSE

Defendant denies that they breached any contract or any other obligation to Plaintiffs.

FIFTH DEFENSE

The damages complained of by the Plaintiff were the result of an intervening and/or superceding cause and/or Plaintiff's own breach.

SIXTH DEFENSE

Not being fully advised of all of the facts and circumstances surrounding the Complaint, Defendant affirmatively asserts any matter which may constitute an avoidance or affirmative defense pursuant to W.V.R.C.P. 8 or 12 which may prove applicable through the course of discovery in this matter.

SEVENTH DEFENSE

Defendant hereby asserts the defense of the statute of limitations so as to asserts the same should it prove applicable through the course of discovery in this matter.

EIGHTH DEFENSE

Defendant denies that Plaintiff is entitled to judgment against them, and further denies that Plaintiff is entitled to recover pre-judgment interest, post judgment interest, attorney's fees, costs or litigation expenses associated with this litigation.

NINTH DEFENSE

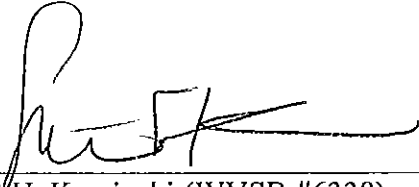
Defendant affirmatively raises and asserts the defenses of laches, estoppel, accord and satisfaction and any other affirmative defenses, the basis for which may come to light through the discovery process.

TENTH DEFENSE

Defendant hereby reserves unto themselves the right to assert such claims, whether they may be counterclaims, cross-claims, third-party claims, or otherwise as investigation and discovery may prove applicable.

WHEREFORE, Imagine Medispa, LLC, f/k/a Medical Weight Loss Clinic of Charleston, LLC, respectfully requests entry of an Order dismissing Plaintiff's Complaint with prejudice, awarding Defendant's costs and attorney's fees expended in connection

with the defense herein, as well as any and all such other relief that this Court deems just and proper.

A handwritten signature in black ink, appearing to read 'Scott H. Kaminski', written over a horizontal line.

Scott H. Kaminski (WVSB #6338)
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**IMAGINE MEDISPA, LLC, F/K/A
MEDICAL WEIGHT LOSS CLINIC OF
CHARLESTON**

By Counsel

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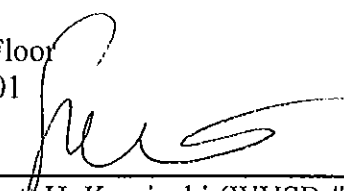
MEDICAL WEIGHT LOSS
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CERTIFICATE OF SERVICE

I Scott H. Kaminski, counsel for Imagine Medispa, LLC, certify that the foregoing *"Defendant's Answer to Complaint"* has been served on this 13th day of October, 2015 by mailing a true and accurate copy to the following:

Beth Kavitz
Kavitz Law, PLLC
22 Capitol Street, 2nd Floor
Charleston, WV 25301



Scott H. Kaminski (WVSB #6338)