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Consumer Safety Technology, LLC  
d.b.a. Intoxalock

ELECTRONICALLY FILED  
Merced Superior Court  
7/27/2022 4:34 PM  
Amanda Toste  
Clerk of the Superior Court  
By: Brandon Chow, Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF MERCED  
UNLIMITED JURISDICTION

LISA HAGGERTY and CHRIS  
SWEARENGIN, on behalf of themselves and  
all other similarly situated,

Plaintiffs,

vs.

CONSUMER SAFETY TECHNOLOGY,  
LLC d/b/a INTOXALOCK and DOES 1  
through 10,

Defendants.

Case No. 22cv-01414

**DEFENDANT CONSUMER SAFETY  
TECHNOLOGY, LLC'S ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFFS' UNVERIFIED  
COMPLAINT**

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1 Defendant Consumer Safety Technology, LLC d.b.a. Intoxalock (“Intoxalock”), by and  
2 through its undersigned counsel, hereby answers Plaintiffs’ unverified Complaint and asserts  
3 affirmative defenses to the single cause of action set forth in the Complaint.

4 **GENERAL DENIAL**

5 Pursuant to California Code of Civil Procedure Section 431.30(d), Intoxalock generally  
6 denies each and every material allegation in the Complaint.

7 **INTOXALOCK’S AFFIRMATIVE DEFENSES**

8 Pursuant to California Code of Civil Procedure Section 431.30(g), Intoxalock alleges and  
9 asserts the following defenses in response to the allegations in the Complaint, undertaking the  
10 burden of proof only as to those defenses that are deemed affirmative defenses by law, regardless of  
11 how such defenses are denominated herein. In addition to the affirmative defenses described below,  
12 Intoxalock specifically reserves all rights to allege additional affirmative defenses that become  
13 known through the course of discovery or further investigation in this action.

14 **First Affirmative Defense**

15 **(Failure to State a Cause of Action)**

16 The Complaint and each purported cause of action therein, fails to state facts sufficient to  
17 constitute a cause of action against Intoxalock.

18 **Second Affirmative Defense**

19 **(Statute of Limitations)**

20 Some or all of Plaintiffs’ claims are barred by the applicable statutes of limitations,  
21 including, without limitation, California Code of Civil Procedure section 340.

22 **Third Affirmative Defense**

23 **(Laches)**

24 Plaintiffs’ Complaint, and each cause of action therein, is barred by the doctrine of laches in  
25 that Plaintiffs unreasonably delayed bringing this action and such delay causes prejudice to  
26 Intoxalock.

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**Fourth Affirmative Defense**

**(Waiver and Estoppel)**

Plaintiffs, both expressly and through their conduct, waived their right to complain of the conduct alleged in the Complaint and is estopped to do so by reason of Intoxalock’s reliance on such waiver.

**Fifth Affirmative Defense**

**(Assumption of Risk)**

Plaintiffs acted with full knowledge and understanding of the relevant facts and circumstances surrounding the transactions and relations at issue in this litigation and assumed any and all risks associated therewith. Plaintiffs are therefore barred from obtaining the relief sought in the Complaint.

**Sixth Affirmative Defense**

**(Consent)**

Plaintiffs consented to and approved all of the acts and omissions about which Plaintiffs now complain. Accordingly, Plaintiffs are barred from obtaining the relief sought in the Complaint.

**Seventh Affirmative Defense**

**(Ratification)**

Plaintiffs are barred from asserting the alleged cause of action contained in the Complaint, or from otherwise asserting any other right to relief against Intoxalock, because Plaintiffs and/or their agents, at all times, ratified the alleged acts, omissions and conduct alleged.

**Eighth Affirmative Defense**

**(Failure to Mitigate Damages)**

In the exercise of reasonable diligence, Plaintiffs could have mitigated, but failed to mitigate, their alleged damages, if any there are. For that reason, Plaintiffs are barred from obtaining the relief sought in the Complaint.

**Ninth Affirmative Defense**

**(Justification)**

The acts and omissions alleged in the Complaint, if any there were, were justified by the information and facts available to Intoxalock at the time such acts and omissions, if any, occurred.

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**Tenth Affirmative Defense**

**(Good Faith / Conformance with Applicable Standards)**

With respect to the matters alleged in the Complaint, Intoxalock at all times acted in good faith and in conformance with all applicable government and industry standards, thus precluding any recovery by Plaintiffs.

**Eleventh Affirmative Defense**

**(Mistake / Bona Fide Error)**

Any alleged acts or omissions of Intoxalock, which are alleged to give rise to Plaintiffs' cause of action, are the result of innocent mistake or bona fide error, despite reasonable procedures implemented to prevent the same.

**Twelfth Affirmative Defense**

**(Compliance with Law)**

At all times relevant to the Complaint, Intoxalock's conduct and activities were in compliance with applicable federal, state and local law.

**Thirteenth Affirmative Defense**

**(Class Action Improper)**

Plaintiffs' action is not proper for class certification because class action treatment is inferior to individual resolution of the putative class's claims, Plaintiffs' claims are not typical of the purported class members, questions of law and/or fact common to the purported class do not predominate over questions affecting individual members of the purported class, and/or because Plaintiffs and/or their counsel are not an adequate class representative.

**Fourteenth Affirmative Defense**

**(Res Judicata)**

Intoxalock alleges as a defense the doctrine of res judicata to the extent that it is applicable to the Complaint and/or the alleged claims of some putative class members alleged therein.

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**Fifteenth Affirmative Defense**

**(Collateral Estoppel)**

Intoxalock alleges as a defense the doctrine of collateral estoppel to the extent that it is applicable to the Complaint and/or the alleged claims of some putative class members alleged therein.

**Sixteenth Affirmative Defense**

**(Compliance with Law)**

At all times relevant to the Complaint, Intoxalock’s conduct and activities were in compliance with applicable federal, state and local law.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant Intoxalock prays as follows:

1. That Plaintiffs take nothing by way of the Complaint;
2. That no class be certified in this action;
3. That the Court refuse to grant such other relief as Plaintiffs have requested;
4. That the Court enter judgment in favor of Intoxalock and dismiss the Complaint with prejudice;
5. That Intoxalock be awarded attorneys’ fees and costs incurred herein; and
6. That the Court award Intoxalock such other and further relief as is deemed just and proper.

Dated: July 27, 2022

**Holland & Knight LLP**

Ashley L. Shively  
Attorneys for Defendant