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 12 UNITED STATES DISTRICT COURT
 13 EASTERN DISTRICT OF CALIFORNIA

14	ERIC GRANT,)	No. 2:08-cv-00672-FCD-KJM
15	Plaintiff,)	
16	v.)	PLAINTIFF AND COUNTER-DEFENDANT
17	KAMEHAMEHA SCHOOLS/BERNICE)	ERIC GRANT'S ANSWER TO COUNTER-
18	PAUAHI BISHOP ESTATE; J. DOUGLAS)	CLAIMS OF DEFENDANTS JOHN DOE
19	ING, NAINOA THOMPSON, DIANE J.)	AND JANE DOE
20	PLOTTS, ROBERT K.U. KIHUNE, and)	DEMAND FOR JURY TRIAL
21	CORBETT A.K KALAMA, in their)	
22	capacities as Trustees of the Kamehameha)	
23	Schools/Bernice Pauahi Bishop Estate;)	
24	JOHN DOE; and JANE DOE,)	
25	Defendants.)	
26	JOHN DOE and JANE DOE,)	
27	Counter-Claimants,)	
28	v.)	
29	KAMEHAMEHA SCHOOLS/BERNICE)	
30	PAUAHI BISHOP ESTATE, et al.,)	
31	Counter-Defendants.)	

1 In response to the complaint filed by Plaintiff and Counter-Defendant Eric Grant (“Grant”),
2 Defendants John Doe and Jane Doe (“the Does”) have asserted counter-claims against Grant toge-
3 ther with their cross-claims against other Defendants (“Doe Counter-Claim,” doc. 13, filed Apr. 3,
4 2008). Grant hereby answers those counter-claims as follows:

5 **JURISDICTION AND VENUE**

6 1. Grant admits the allegations in Paragraphs 1-3 of the Doe Counter-Claim.

7 **ANSWER TO THIRD CLAIM FOR RELIEF**

8 (Counter-Claim Against Grant for Equitable Indemnity)

9 2. Grant admits the allegations in Paragraphs 4-6 (as incorporated by Paragraph 21) of
10 the Doe Counter-Claim.

11 3. Grant admits the allegations in the first sentence of Paragraph 7 (as incorporated by
12 Paragraph 21) of the Doe Counter-Claim. With respect to the remaining allegations in that para-
13 graph, Grant responds that the document speaks for itself.

14 4. Grant admits the allegations in Paragraph 8 (as incorporated by Paragraph 21) of the
15 Doe Counter-Claim.

16 5. Grant admits the allegations in Paragraph 9 (as incorporated by Paragraph 21) of the
17 Doe Counter-Claim only insofar as they allege that John Goemans disclosed (and the *Honolulu*
18 *Advertiser* printed) what Goemans *alleged* to be the terms of the settlement. Otherwise, Grant de-
19 nies the allegations in that paragraph.

20 6. With respect to the allegations in Paragraph 10 (as incorporated by Paragraph 21)
21 of the Doe Counter-Claim, Grant responds that the document speaks for itself.

22 7. Grant admits the allegations in the first sentence of Paragraph 11 (as incorporated
23 by Paragraph 21) of the Doe Counter-Claim. Grant is without sufficient information or belief to
24 admit or deny the remaining allegations in that paragraph and on that basis denies such allegations.

25 8. Grant is without sufficient information or belief to admit or deny the allegations in
26 Paragraphs 12-20 (as incorporated by Paragraph 21) of the Doe Counter-Claim and on that basis
27 denies such allegations.

28 9. Grant denies the allegations in Paragraphs 22-24 of the Doe Counter-Claim.

1 **ANSWER TO FOURTH CLAIM FOR RELIEF**

2 (Counter-Claim Against Grant for Implied Indemnity)

3 10. Grant incorporates by reference his answers and responses in Paragraphs 1-9 above
4 as though fully set forth herein.

5 11. Grant denies the allegations in Paragraphs 26-28 of the Doe Counter-Claim.

6 **ANSWER TO FIFTH CLAIM FOR RELIEF**

7 (Counter-Claim Against Grant for Express Indemnity)

8 12. Grant incorporates by reference his answers and responses in Paragraphs 1-11 above
9 as though fully set forth herein.

10 13. Grant denies the allegations in Paragraphs 30-31 of the Doe Counter-Claim.

11 **FIRST AFFIRMATIVE DEFENSE**

12 (Failure to State a Claim)

13 14. As a separate affirmative defense, Grant alleges that the Doe Counter-Claim fails to
14 state a claim upon which relief can be granted.

15 **SECOND AFFIRMATIVE DEFENSE**

16 (Failure to Mitigate)

17 15. As a separate affirmative defense, Grant is informed and believes, and on such basis
18 alleges, that the Does' injuries, losses, or damages (if any) were aggravated by the Does' failure to
19 use reasonable diligence to mitigate the same, which failure to mitigate bars the Does' recovery to
20 the extent that such injuries, losses, or damages could have been mitigated.

21 **THIRD AFFIRMATIVE DEFENSE**

22 (Negligence)

23 16. As a separate affirmative defense, Grant alleges that the Does (or third parties un-
24 named in the Doe Counter-Claim) were guilty of negligence or other acts or omissions in the mat-
25 ters in controversy, which conduct proximately caused or contributed to the Does' injuries, losses,
26 or damages (if any), and Grant requests that the Court determine and allocate the percentage of
27 negligence attributable to the Does and third parties.

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1 **FOURTH AFFIRMATIVE DEFENSE**

2 (Estoppel)

3 17. As a separate affirmative defense, Grant alleges that the Does are estopped by their
4 own conduct from asserting any breach of contract (whether express or implied) by Grant and have
5 themselves breached the terms and conditions of the alleged contract(s).

6 **FIFTH AFFIRMATIVE DEFENSE**

7 (Waiver)

8 18. As a separate affirmative defense, Grant alleges that the Does' counter-claims are
9 barred by the doctrine of waiver.

10 **SIXTH AFFIRMATIVE DEFENSE**

11 (Impossibility or Impracticability)

12 19. As a separate affirmative defense, Grant alleges that it was impossible or impracti-
13 cable for him to prevent the harm to the Does alleged in their counter-claims.

14 **SEVENTH AFFIRMATIVE DEFENSE**

15 (Uncertainty)

16 20. As a separate affirmative defense, Grant alleges that the claims alleged in the Doe
17 Counter-Claim fail for uncertainty, as it cannot be ascertained from the face of that pleading what
18 actions or omissions by Grant are the basis of the Does' claims.

19 **ADDITIONAL AFFIRMATIVE DEFENSES**

20 21. Grant alleges that he has insufficient knowledge or information on which to form a
21 belief as to whether he may have additional affirmative defenses. Grant reserves the right to assert
22 additional affirmative defenses as discovery indicates they are appropriate.

23 **PRAYER FOR RELIEF**

24 Wherefore, Grant prays for judgment on the Does' counter-claims as follows:

25 (a) for a declaration that the Does are not entitled to any kind of indemnity (equitable,
26 implied, or express) from Grant either (1) for any sum the Does may pay to Kamehameha Schools/
27 Bernice Pauahi Bishop Estate, or (2) for any costs, expenses, or attorneys' fees the Does have in-
28 curred or will incur in this or any other action;

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1 (b) for all reasonable costs, expenses, and attorneys' fees incurred as a result of defend-
2 ing against the Does' counter-claims;

3 (c) for costs of suit herein; and

4 (d) for such other and further relief as the Court may deem proper.

5 **DEMAND FOR JURY TRIAL**

6 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a jury trial of
7 all issues triable of right by a jury.

8 Dated: April 23, 2008.

9 Respectfully submitted,

10 /s/ Eric Grant
11 ERIC GRANT

12 Counsel for Plaintiff and
13 Counter-Defendant ERIC GRANT

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