

FROM : BLUMBERG LORBER NELSON

FAX NO. : 858.509.0699

Jun. 20 2005 04:37PM P2/18

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ORIGINAL FILED

JUN 21 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ROBERT A. BROWN, an individual,

Plaintiff,

v.

GOOGLE, INC.; PAYROLLING.COM;
MARISSA MAYER; and DOES 1 through
20, TRUST, AND DOES 1-10,
INCLUSIVE,

Defendants.

Case No. C05 01779 RMW

**DEFENDANT, PAYROLLING.COM'S FIRST
AMENDED ANSWER TO PLAINTIFF,
ROBERT A. BROWN'S COMPLAINT**

COMES NOW Defendant, Payrolling.com ("Payrolling") and hereby files its first amended Answer to the complaint filed by Plaintiff, Robert A. Brown ("Plaintiff"):

INTRODUCTION

1. Payrolling admits that Plaintiff alleges to have brought this Complaint. Except as expressly so admitted, however, Payrolling denies each and every other allegation in Paragraph 1 of the Complaint.

DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT

FILED BY FAX

THE PARTIES

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2. Payrolling admits that Plaintiff is a natural person. Payrolling alleges, however, that it has insufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 2 of the Complaint and therefore it denies each and every other allegation contained in paragraph 2 of the Complaint.

3. Because Paragraph 3 is nothing more than a legal conclusion, no response is required, and none will be provided. To the extent that Paragraph 3 requires a response, however, Defendant denies each and every allegation contained therein.

4. Because Paragraph 4 is nothing more than a legal conclusion, no response is required, and none will be provided. To the extent that Paragraph 4 requires a response, however, Payrolling alleges that it has insufficient knowledge or information to form a belief as to the truth of the allegations and therefore it denies each and every allegation contained in Paragraph 4 of the complaint.

5. Payrolling admits that Google is a corporation that is qualified to do business in California and that it maintains its principal executive offices at 1600 Amphitheatre Parkway, in Mountain View, California. Payrolling alleges that it has insufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 5 of the Complaint and therefore it denies each and every other allegation contained in paragraph 5 of the Complaint.

6. Payrolling admits it is a duly organized business, association, or corporation authorized to exist and operate within the State of California and County of San Diego and maintains an office at 8333 Clairemont Mesa Blvd., No. 203, in San Diego, California. Except as expressly so admitted, however, Payrolling denies each and every other allegation in Paragraph 6 of the Complaint.

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1 7. Payrolling admits that Mayer is a natural person. Payrolling alleges,
2 however, that it has insufficient knowledge or information to form a belief as to the truth of
3 the remaining allegations contained in Paragraph 7 of the Complaint and therefore it denies
4 each and every other allegation contained in Paragraph 7 of the Complaint

5 8. Because Paragraph 8 is nothing more than a legal conclusion, no response is
6 required, and none will be provided. To the extent that Paragraph 8 requires a response,
7 however, Payrolling denies each and every allegation contained therein.

8 9. Payrolling denies each and every allegation contained in Paragraph 9 of the
9 Complaint.

10 10. Payrolling denies each and every allegation contained in Paragraph 10 of
11 the Complaint.

12 11. Payrolling denies each and every allegation contained in Paragraph 11 of
13 the Complaint.

14 12. Payrolling denies each and every allegation contained in Paragraph 12 of
15 the Complaint.

16 13. Payrolling denies each and every allegation contained in Paragraph 13 of
17 the Complaint.

18 **BACKGROUND**

19 14. Payrolling alleges it is without sufficient knowledge or information to form
20 a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint and
21 therefore it denies each and every allegation contained therein.

22 15. Payrolling alleges it is without sufficient knowledge or information to form
23 a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint and
24 therefore it denies each and every allegation contained therein.

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1 16. Payrolling alleges it is without sufficient knowledge or information to form
2 a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint and
3 therefore it denies each and every allegation contained therein.

4 17. Not knowing to what "new hire paperwork" Plaintiff refers, Payrolling is
5 without sufficient knowledge or information to form a belief as to the truth of this
6 allegation. Payrolling is without sufficient knowledge or information to form a belief as to
7 the truth of the remaining allegations contained in Paragraph 17 of the Complaint and
8 therefore it denies each and every other allegation contained therein.

9 18. Payrolling alleges it is without sufficient knowledge or information to form
10 a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint and
11 therefore it denies each and every allegation contained therein.

12 19. Payrolling admits that Plaintiff was an "at-will" employee, and that
13 Plaintiff was paid at an hourly wage. Except as expressly so admitted, Payrolling is without
14 sufficient knowledge or information to form a belief as to the truth of the remaining
15 allegations and therefore denies each and every other allegation contained in Paragraph 19
16 of the Complaint.

17 20. Payrolling admits that Plaintiff began his assignment at Google on or about
18 September 3, 2002, and that he was paid \$17.00 per hour. Except as expressly so admitted,
19 Payrolling is without sufficient knowledge or information to form a belief as to the truth of
20 the remaining allegations and therefore denies each and every other allegation contained in
21 Paragraph 20 of the Complaint.

22 21. Payrolling alleges it is without sufficient knowledge or information to form
23 a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint and
24 therefore it denies each and every allegation contained therein.

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1 22. Payrolling admits that Plaintiff received a wage increase on or about April
2 21, 2003 to \$21.00 per hour. Except as expressly so admitted, Payrolling is without
3 sufficient knowledge or information to form a belief as to the truth of the remaining
4 allegations and therefore denies each and every other allegation contained in Paragraph 22
5 of the Complaint.

6 23. Payrolling admits that Plaintiff's assignment at Google ended on or about
7 May 14, 2004. Except as expressly so admitted, Payrolling is without sufficient knowledge
8 or information to form a belief as to the truth of the remaining allegations and therefore
9 denies each and every other allegation contained in Paragraph 23 of the Complaint.

10 24. Payrolling admits that it was Plaintiff's "general" employer. Except as
11 expressly so admitted, Payrolling is without sufficient knowledge or information to form a
12 belief as to the truth of the remaining allegations and therefore denies each and every other
13 allegation contained in Paragraph 24 of the Complaint.

14 **FIRST CAUSE OF ACTION**

15 25. Payrolling repleads and incorporates by reference herein to the same extent
16 as previously pled Paragraphs 1 through 24 of its Answer, above.

17 26. Payrolling admits that Google forwarded Plaintiff's time sheets to
18 Payrolling, but is without sufficient knowledge or information to form a belief as to the
19 truth of the other aspect of this particular allegation. To the extent the allegations in
20 Paragraph 26 of the Complaint purport to state the contents of the time sheets referenced
21 therein, Payrolling is unable to attest to their contents which should speak for themselves.
22 Except as expressly so admitted, Payrolling is without sufficient knowledge or information
23 to form a belief as to the truth of the remaining allegations and therefore denies each and
24 every other allegation contained in Paragraph 26 of the Complaint.

25 27. Payrolling denies each and every allegation contained in Paragraph 27 of
26 the Complaint.

1 28. Payrolling denies each and every allegation contained in Paragraph 28 of
2 the Complaint.

3 29. Payrolling denies each and every allegation contained in Paragraph 29 of
4 the Complaint.

5 **SECOND CAUSE OF ACTION**

6 30. Payrolling repleads and incorporates by reference herein to the same extent
7 as previously pled Paragraphs 1 through 24 of its Answer, above.

8 31. Payrolling denies each and every allegation contained in Paragraph 31 of
9 the Complaint.

10 32. Payrolling denies each and every allegation contained in Paragraph 32 of
11 the Complaint.

12 33. Payrolling denies each and every allegation contained in Paragraph 33 of
13 the Complaint.

14 34. Payrolling denies each and every allegation contained in Paragraph 34 of
15 the Complaint.

16 35. Payrolling denies each and every allegation contained in Paragraph 35 of
17 the Complaint.

18 **THIRD CAUSE OF ACTION**

19 36. Payrolling repleads and incorporates by reference herein to the same extent
20 as previously pled Paragraphs 1 through 24 of its Answer, above.

21 37. Payrolling alleges it is without sufficient knowledge or information to form
22 a belief as to the truth of the allegations contained in Paragraph 37 of the Complaint and
23 therefore it denies each and every allegation contained therein.

24 38. Payrolling admits that Google forwarded Plaintiff's time sheets to
25 Payrolling. Except as expressly so admitted, Payrolling is without sufficient knowledge or
26 information to form a belief as to the truth of the remaining allegations and therefore denies
27

1 each and every other allegation contained in Paragraph 38 of the Complaint.

2 39. Payrolling alleges it is without sufficient knowledge or information to form
3 a belief as to the truth of the allegations contained in Paragraph 39 of the Complaint and
4 therefore it denies each and every allegation contained therein.

5 40. Payrolling alleges it is without sufficient knowledge or information to form
6 a belief as to the truth of the allegations contained in Paragraph 40 of the Complaint and
7 therefore it denies each and every allegation contained therein.

8 41. Payrolling alleges it is without sufficient knowledge or information to form
9 a belief as to the truth of the allegations contained in Paragraph 41 of the Complaint and
10 therefore it denies each and every allegation contained therein.

11 42. Payrolling denies each and every allegation contained in Paragraph 42 of
12 the Complaint.

13 43. Payrolling denies each and every allegation contained in Paragraph 43 of
14 the Complaint.

15 **FOURTH CAUSE OF ACTION**

16 44. Payrolling repleads and incorporates by reference herein to the same extent
17 as previously pled Paragraphs 1 through 24 of its Answer, above.

18 45. Because Paragraph 45 is nothing more than a legal conclusion, no response
19 is required, and none will be provided. To the extent that Paragraph 45 requires a response,
20 however, Payrolling denies each and every allegation contained therein.

21 46. Payrolling admits that Plaintiff's assignment at Google ended on or about
22 May 14, 2004. Except as expressly so admitted, Payrolling is without sufficient knowledge
23 or information to form a belief as to the truth of the remaining allegations and therefore
24 denies each and every other allegation contained in Paragraph 46 of the Complaint.

25 47. Payrolling denies each and every allegation contained in Paragraph 47 of
26 the Complaint.

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1 48. Payrolling denies each and every allegation contained in Paragraph 48 of
2 the Complaint.

3 **FIFTH CAUSE OF ACTION**

4 49. Payrolling repleads and incorporates by reference herein to the same extent
5 as previously pled Paragraphs 1 through 24 of its Answer, above.

6 50. Payrolling admits that it was Plaintiff's "general" employer. Except as
7 expressly so admitted, Payrolling is without sufficient knowledge or information to form a
8 belief as to the truth of the remaining allegations and therefore denies each and every other
9 allegation contained in Paragraph 50 of the Complaint.

10 51. Payrolling denies each and every allegation contained in Paragraph 51 of
11 the Complaint.

12 52. Payrolling denies each and every other allegation contained in Paragraph
13 52 of the Complaint.

14 53. Payrolling denies each and every allegation contained in Paragraph 53 of
15 the Complaint.

16 54. Payrolling denies each and every allegation contained in Paragraph 54 of
17 the Complaint.

18 55. Payrolling denies each and every allegation contained in Paragraph 55 of
19 the Complaint.

20 56. Payrolling denies each and every allegation contained in Paragraph 56 of
21 the Complaint.

22 57. Payrolling denies each and every allegation contained in Paragraph 57 of
23 the Complaint.

24 **SIXTH CAUSE OF ACTION**

25 58. Payrolling repleads and incorporates by reference herein to the same extent
26 as previously pled Paragraphs 1 through 24 of its Answer, above.

27 **DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT**

1 59. Payrolling alleges it is without sufficient knowledge or information to form
2 a belief as to the truth of the allegations contained in Paragraph 59 of the Complaint and
3 therefore it denies each and every allegation contained therein.

4 60. Payrolling alleges it is without sufficient knowledge or information to form
5 a belief as to the truth of the allegations contained in Paragraph 60 of the Complaint and
6 therefore it denies each and every allegation contained therein.

7 61. Payrolling alleges it is without sufficient knowledge or information to form
8 a belief as to the truth of the allegations contained in Paragraph 61 of the Complaint and
9 therefore it denies each and every allegation contained therein.

10 62. Payrolling alleges it is without sufficient knowledge or information to form
11 a belief as to the truth of the allegations contained in Paragraph 62 of the Complaint and
12 therefore it denies each and every allegation contained therein.

13 63. Payrolling alleges it is without sufficient knowledge or information to form
14 a belief as to the truth of the allegations contained in Paragraph 63 of the Complaint and
15 therefore it denies each and every allegation contained therein.

16 64. Payrolling alleges it is without sufficient knowledge or information to form
17 a belief as to the truth of the allegations contained in Paragraph 64 of the Complaint and
18 therefore it denies each and every allegation contained therein.

19 65. Payrolling denies each and every allegation contained in Paragraph 65 of
20 the Complaint.

21 66. Payrolling denies each and every allegation contained in Paragraph 66 of
22 the Complaint.

23 67. Payrolling denies each and every allegation contained in Paragraph 67 of
24 the Complaint.

25 68. Payrolling denies each and every allegation contained in Paragraph 68 of
26 the Complaint.

27 **DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT**

1 69. Payrolling denies each and every allegation contained in Paragraph 69 of
2 the Complaint.

3 70. Payrolling alleges it is without sufficient knowledge or information to form
4 a belief as to the truth of the allegations contained in Paragraph 70 of the Complaint and
5 therefore it denies each and every allegation contained therein.

6 71. Payrolling alleges it is without sufficient knowledge or information to form
7 a belief as to the truth of the allegations contained in Paragraph 71 of the Complaint and
8 therefore it denies each and every allegation contained therein.

9 72. Payrolling alleges it is without sufficient knowledge or information to form
10 a belief as to the truth of the allegations contained in Paragraph 72 of the Complaint and
11 therefore it denies each and every allegation contained therein.

12 73. Payrolling alleges it is without sufficient knowledge or information to form
13 a belief as to the truth of the allegations contained in Paragraph 73 of the Complaint and
14 therefore it denies each and every allegation contained therein.

15 74. Payrolling alleges it is without sufficient knowledge or information to form
16 a belief as to the truth of the allegations contained in Paragraph 74 of the Complaint and
17 therefore it denies each and every allegation contained therein.

18 75. Payrolling denies each and every allegation contained in Paragraph 75 of
19 the Complaint.

20 76. Payrolling denies each and every allegation contained in Paragraph 76 of
21 the Complaint.

22 77. Payrolling denies each and every allegation contained in Paragraph 77 of
23 the Complaint.

24 78. Payrolling denies each and every allegation contained in Paragraph 78 of
25 the Complaint.

26 79. Payrolling denies each and every allegation contained in Paragraph 79 of
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DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT

1 the Complaint.

2 80. Payrolling denies each and every allegation contained in Paragraph 80 of
3 the Complaint.

4 81. Payrolling denies each and every allegation contained in Paragraph 81 of
5 the Complaint.

6 82. Payrolling denies each and every allegation contained in Paragraph 82 of
7 the Complaint.

8 83. Payrolling denies each and every allegation contained in Paragraph 83 of
9 the Complaint.

10 84. Payrolling denies each and every allegation contained in Paragraph 84 of
11 the Complaint.

12 **SEVENTH CAUSE OF ACTION**

13 85. Payrolling repleads and incorporates by reference herein to the same extent
14 as previously pled Paragraphs 1 through 24 of its Answer, above.

15 86. Payrolling denies each and every allegation contained in Paragraph 86 of
16 the Complaint.

17 87. Payrolling denies each and every allegation contained in Paragraph 87 of
18 the Complaint.

19 88. Payrolling denies each and every allegation contained in Paragraph 83 of
20 the Complaint.

21 89. Payrolling denies each and every allegation contained in Paragraph 89 of
22 the Complaint.

23 90. Payrolling denies each and every allegation contained in Paragraph 90 of
24 the Complaint.

25 **EIGHTH CAUSE OF ACTION**

26 91. Payrolling has filed a Joinder to Co-Defendant Google's Motion to Dismiss

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DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT

1 Plaintiff's Eighth Cause of Action because it fails to state a claim upon which relief can be
2 granted under Federal Rules of Civil Procedure, Rule 12(b)(6) and because Plaintiff failed
3 to exhaust the applicable administrative remedies. Accordingly, Payrolling is not required
4 to respond to Paragraphs 91-106 of the Complaint at this time, and therefore provides no
5 substantive response herein.

6 **NINTH CAUSE OF ACTION**

7 92. Payrolling repleads and incorporates by reference herein to the same extent
8 as previously pled Paragraphs 1 through 24 of its Answer, above.

9 93. Payrolling alleges it is without sufficient knowledge or information to form
10 a belief as to the truth of the allegations contained in Paragraph 108 of the Complaint and
11 therefore it denies each and every allegation contained therein.

12 94. Payrolling alleges it is without sufficient knowledge or information to form
13 a belief as to the truth of the allegations contained in Paragraph 109 of the Complaint and
14 therefore it denies each and every allegation contained therein.

15 95. Payrolling alleges it is without sufficient knowledge or information to form
16 a belief as to the truth of the allegations contained in Paragraph 110 of the Complaint and
17 therefore it denies each and every allegation contained therein.

18 96. Payrolling alleges it is without sufficient knowledge or information to form
19 a belief as to the truth of the allegations contained in Paragraph 111 of the Complaint and
20 therefore it denies each and every allegation contained therein.

21 97. Payrolling denies each and every allegation contained in Paragraph 112 of
22 the Complaint.

23 98. Payrolling denies each and every allegation contained in Paragraph 113 of
24 the Complaint.

25 99. Payrolling denies each and every allegation contained in Paragraph 114 of
26 the Complaint.

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28 **DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT**

1 100. Payrolling denies each and every allegation contained in Paragraph 115 of
2 the Complaint.

3 101. Payrolling denies each and every allegation contained in Paragraph 116 of
4 the Complaint.

5 102. Payrolling denies each and every allegation contained in Paragraph 117 of
6 the Complaint.

7 **TENTH CAUSE OF ACTION**

8 103. Payrolling has filed a Joinder to Co-Defendant Google's Motion to Dismiss
9 Plaintiff's Tenth Cause of Action because it fails to state a claim upon which relief can be
10 granted under Federal Rules of Civil Procedure, Rule 12(b)(6) because it is wholly
11 duplicative of Plaintiff's Second, Third and Fourth Causes of Action. Accordingly,
12 Payrolling is not required to respond to Paragraphs 118-120 of the Complaint at this time,
13 and therefore provides no substantive response herein.

14 **ELEVENTH CAUSE OF ACTION**

15 104. Payrolling repleads and incorporates by reference herein to the same extent
16 as previously pled Paragraphs 1 through 24 of its Answer, above.

17 105. Because Paragraph 122 is nothing more than a legal conclusion, no
18 response is required, and none will be provided. To the extent that Paragraph 122 requires a
19 response, however, Payrolling denies each and every allegation contained therein.

20 106. Payrolling denies each and every allegation contained in Paragraph 123 of
21 the Complaint.

22 107. Payrolling denies each and every allegation contained in Paragraph 124 of
23 the Complaint.

24 108. Payrolling denies each and every allegation contained in Paragraph 125 of
25 the Complaint.

26 109. Payrolling denies each and every allegation contained in Paragraph 126 of
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28 DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT

1 the Complaint.

2 110. Payrolling denies each and every allegation contained in Paragraph 127 of
3 the Complaint.

4 111. Payrolling denies each and every allegation contained in Paragraph 128 of
5 the Complaint.

6 112. Payrolling denies that Plaintiff is entitled to any of the relief sought in his
7 Complaint for which he prays at page 17, lines 12-16.

8
9 Further answering the Complaint, Payrolling pleads the following separate and
10 additional defenses:

11 **DEFENSES**

12
13 **FIRST DEFENSE**

14 (Failure to State a Claim)

15 1. Plaintiff has failed to state a claim for which relief can be granted.

16 **SECOND DEFENSE**

17 (Late Filed Complaint)

18 2. Plaintiff's claims are barred in whole or in part by the applicable statutes of
19 limitation, including, but not limited to, California Code of Civil Procedure §§ 335.1, 338,
20 339 and 340 and California Business and Professions Code § 17208.

21 **THIRD DEFENSE**

22 (Federal Preemption)

23 3. Plaintiff's claims are barred in whole or in part as preempted or exclusively
24 governed by the Employee Retirement Income Security Act ("ERISA") of 1974, 29 U.S.C.
25 § 1001, *et seq.*

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28 **DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT**

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FOURTH DEFENSE

(Failure to Exhaust Administrative Remedies)

4. Plaintiff's claims are barred in whole or in part to the extent Plaintiff failed to exhaust the required administrative remedies.

FIFTH DEFENSE

(Improper Party)

5. With respect to plaintiff's claim for ERISA benefits, Payrolling is not a proper party herein.

SIXTH DEFENSE

(Necessity of Arbitration)

6. Plaintiff's claims are barred in whole or in part to the extent that Plaintiff has failed to meet his contractual obligations to arbitrate this dispute.

SEVENTH

(Duplicative Claims)

7. Plaintiff is precluded from asserting his fraud claims to the extent they are entirely duplicative of his breach of contract claims.

EIGHTH DEFENSE

(Failure to Plead Fraud with Particularity)

8. Plaintiff is barred from recovering on his purported fraud claims because he has failed to plead with the requisite particularity.

NINTH DEFENSE

(Good Faith Effort)

9. Plaintiff's claims are barred in whole or in part because Payrolling and its agents acted in good faith at all times.

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TENTH DEFENSE

(Informed Consent)

10. Plaintiff's claims are barred in whole or in part to the extent that Plaintiff consented to the alleged conduct of Payrolling.

ELEVENTH DEFENSE

(Failure to Mitigate)

11. Plaintiff failed to mitigate his damages and thus Payrolling is not responsible for any damages Plaintiff could have avoided.

TWELFTH DEFENSE

(Equitable Doctrines)

12. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, release, payment, accord and satisfaction, estoppel, unclean hands and/or laches.

Payrolling reserves the right to amend its Answer to allege any additional defenses as may later become available or apparent. Further, Payrolling reserves the right to withdraw any defenses that it subsequently determines to be inapplicable. Nothing stated in the foregoing defenses constitutes a concession that Payrolling bears any burden of proof on any issue on which it would not otherwise bear such burden.

WHEREFORE, Defendant, Payrolling.com prays for judgment as follows:

- 1. That all relief requested in the Complaint be denied;
- 2. That Plaintiff take nothing by virtue of this action;
- 3. That the Complaint be dismissed;
- 4. For costs of suit and attorney's fees incurred herein; and

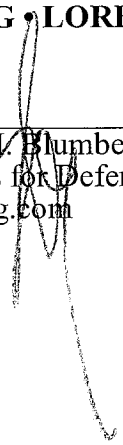
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5. For such other and further relief as the Court may deem proper.

BLUMBERG • LORBER • NELSON LLP

Dated: 06/20/05

By: 

By: Ronald H. Blumberg
Attorneys for Defendant,
Payrolling.com

DEFENDANT, PAYROLLING.COM'S FIRST AMENDED ANSWER TO PLAINTIFF, ROBERT A. BROWN'S COMPLAINT