

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Case No.: 07 CIV 4826**ROBERT H. BORK,****JUDGE BUCHWALD**

Plaintiff,

**ANSWER TO AMENDED
COMPLAINT**

-against-

THE YALE CLUB OF NEW YORK CITY,

Defendant.

Defendant, **THE YALE CLUB OF NEW YORK CITY**, by its attorney, **BRUCE A. LAWRENCE, ESQ.**, as and for its answer to the plaintiff's amended complaint, alleges as follows:

ANSWERING THE ALLEGED NATURE OF ACTION

1. Denies each and every allegation contained in paragraph designated "1" of the amended complaint herein **and respectfully refers all questions of law to this Honorable Court.**

ANSWERING THE ALLEGED PARTIES

2. Denies knowledge or information sufficient to form a belief with respect to the allegations of paragraph "2" of the amended complaint herein.

3. Defendant admits paragraph "3" of the amended complaint herein.

ANSWERING THE ALLEGED VENUE AND JURISDICTION

4. Defendant admits paragraphs "4" and "5" of the amended complaint herein.

ANSWERING THE ALLEGED FACTUAL ALLEGATIONS

5. Denies knowledge or information sufficient to form a belief with respect to the allegations of paragraphs “6”, “10” and “11” of the amended complaint herein.
6. Denies each and every allegation contained in paragraph designated “7” of the amended complaint herein **and respectfully refers all questions of law to this Honorable Court.**
7. Denies each and every allegation contained in paragraphs designated “8” and “9” of the amended complaint herein.

ANSWERING THE ALLEGED FIRST CAUSE OF ACTION

8. Answering paragraph “12” of the amended complaint, defendant realleges each and every admission and denial heretofore made in answer to paragraphs numbered “1” through “11” inclusive of the amended complaint herein.
9. Denies each and every allegation contained in paragraph designated “13” of the amended complaint herein **and respectfully refers all questions of law to this Honorable Court.**
10. Denies each and every allegation contained in paragraphs designated “14”, “15”, “16” and “17” of the amended complaint herein.

ANSWERING THE ALLEGED SECOND CAUSE OF ACTION

11. Answering paragraph “18” of the amended complaint, defendant realleges each and every admission and denial heretofore made in answer to paragraphs numbered “1” through “17” inclusive of the amended complaint herein.

12. Denies each and every allegation contained in paragraph designated “19” of the amended complaint herein **and respectfully refers all questions of law to this Honorable Court.**

13. Denies each and every allegation contained in paragraphs designated “20”, “21”, “22”, “23” and “24” of the amended complaint herein.

ANSWERING THE ALLEGED JURY DEMAND

14. Defendant admits paragraph “25” of the amended complaint herein.

**AS A FIRST SEPARATE AND COMPLETE
AFFIRMATIVE DEFENSE TO PLAINTIFF'S
CAUSE OF ACTION, DEFENDANT
ALLEGES UPON INFORMATION AND BELIEF THAT:**

15. Whatever damages the plaintiff may have sustained at the time and place mentioned in the complaint were caused, in whole or part, by the culpable conduct of said plaintiff. The amount of damages recovered, if any, shall therefore be diminished in the proportion to which the culpable conduct attributable to plaintiff bears to the culpable conduct, which caused the damages.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

16. That all the damages and risks incident to the situation mentioned in the complaint were open, obvious and apparent, and were known and assumed by the plaintiff, and his claims are barred by virtue of his assumption of the risks thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

17. That, to the extent that the injuries of plaintiffs, if any, were caused or contributed to, in whole or in part, by intervening and superseding causative factors, the claims of plaintiffs against this defendant should be barred.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

18. Upon information and belief, the plaintiff received remuneration and/or compensation for some or all of his claimed economic loss and accordingly, the defendant is entitled to have plaintiff's award, if any, reduced by the amount of that remuneration and/or compensation pursuant to collateral source.

WHEREFORE, the defendant, **THE YALE CLUB OF NEW YORK CITY**, demands judgment dismissing the verified complaint or in the alternative, demand judgment over and against the Plaintiff on the basis of the apportionment of responsibility in such amounts as a jury or Court may direct together with the costs, disbursements and expenses of this action including attorneys fees.

Dated: Brooklyn, New York
July 10, 2007

Yours, etc.

BRUCE A. LAWRENCE, ESQ.
Attorney for Defendant
**THE YALE CLUB OF NEW YORK
CITY**

By _____
ERIC A. SCHNITTSMAN (6692)
15 MetroTech Center, 19th Floor
Brooklyn, NY 11201-3818
(718) 625-8940
Our File #: 07-0278
Claim No.: 0AA233886

TO: GIBSON, DUNNE & CRUTCHER, LLP
Attorneys for Plaintiff
ROBERT H. BORK
200 Park Avenue
New York, NY 10166
(212) 351-4000