



### **FIFTH DEFENSE**

This Defendant shows that any injury or damage that Patrick Desmond experienced was the proximate result of unforeseen acts or omissions of other persons which intervened between any alleged act or omission of this Defendant and Plaintiffs' damages.

### **SIXTH DEFENSE**

This Defendant shows that any injury or damage that Patrick Desmond experienced was solely and proximately the result of personal, individual choices made by Patrick Desmond.

### **SEVENTH DEFENSE**

Plaintiffs' Complaint fails to state a cause of action for punitive damages against this Defendant and there is not evidence sufficient to create a jury issue on punitive damages against this Defendant. As a defense to Plaintiffs' claims for punitive damages, however, this Defendant also states that any such claim and/or award pursuant to O.C.G.A. § 51-12-5.1 should be denied on the grounds that this would violate the guarantees of the Eighth Amendment to the United States Constitution against excessive fines and penalties and the Constitution of the State of Georgia (Article 1, Section 1, Paragraph 17), the substantive and procedural due process guarantees of the Fifth and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Georgia (Article 1, Section 1, Paragraph 1), and the equal protection guarantees of the Fourteenth Amendment of the United States Constitution and the Constitution of the State of Georgia (Article 1, Section 1, Paragraph 2) for the following reasons, among others:

1. The statute and the court decisions interpreting the statute, fail to notify individuals of the nature of the offense for which they may be liable for punitive damages, and fail to limit the award of punitive damages to the degree of reprehensibility of the Defendant's

misconduct; the disparity between the harm (or potential harm) suffered by the Plaintiff and the punitive damage award; and the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases;

2. The statute, and the court decisions interpreting the statute, fail to adequately inform or instruct judges and juries of the nature of the offenses for which punitive damages can be awarded;

3. The statute, and the court decisions interpreting the statute, fail to provide any constitutional standard or means of calculating the amount of punitive damages to be awarded;

4. The statute, and the court decisions interpreting the statute, allow persons to repeatedly be put in jeopardy of paying for the same offense;

5. To the extent the award of punitive damages are criminal or quasi-criminal in nature, they are not awarded upon proof beyond a reasonable doubt, contrary to due process of law;

6. The statute, and the court decisions interpreting the statute, permit the award of excessive punitive damages without relationship to the public safety, health or welfare said to be served by punitive damages;

7. The statute, and the court decisions interpreting the statute, permit the trier of fact to consider the Defendant's net worth, wealth or financial condition in awarding punitive damages or in calculating such an award;

8. The statute, and the court decisions interpreting the statute, fail to provide adequate post-verdict processes and standards for review by the trial court and also fail to provide adequate appellate review procedures so as to adequately protect due process rights;

9. The statute, and the court decisions interpreting the statute, permit the award of punitive damages without reasonable relationship to the civil or criminal penalties that could be imposed for comparable misconduct in other cases;

10. The statute, and the court decisions interpreting the statute, fail to limit the award of punitive damages to what is reasonably required to vindicate this State's legitimate interests in punishment and deterrence for conduct having an impact on the citizens of Georgia;

11. The statute, and the court decisions interpreting the statute, fail to ensure the award of punitive damages is both reasonable and proportional to the amount of harm to the Plaintiff and to the general damages recovered;

12. The statute, and the court decisions interpreting the statute, do not give cognizance to the comparability of the award to awards in other, similar cases;

13. The statute, and the court decisions interpreting the statute, do not provide notice of or means of ascertaining whether, or in what amount, this Defendant might be subject to a penalty of punitive damages for the conduct alleged by Plaintiffs in this case, which lack of notice is compounded by the absence of any adequate or meaningful standards as to the kind of conduct that might subject this Defendant to punitive damages or as to the potential amount of such an award;

14. The statute, and the court decisions interpreting the statute, do not provide adequate substantive and procedural safeguards consistent with the criteria set forth in *Philip Morris USA v. Williams*, 549 U.S. 346 (2007); *State Farm Mutual Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003); *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996); *Pacific Mutual Life Ins. Co.*

v. *Haslip*, 499 U.S. 1 (1990); *Matthews v. Eldridge*, 424 U.S. 319 (1976), as to the imposition of a punitive award;

15. The statute, and the court decisions interpreting the statute, provide a risk that punitive damages will be imposed retrospectively based on conduct that was not deemed punishable at the time the conduct occurred;

16. The statute, and the court decisions interpreting the statute, do not expressly prohibit an award of punitive damages, or determining the amount of an award of punitive damages, in whole or in part, on the basis of invidiously discriminatory characteristics, including the residence, wealth, and corporate status of this Defendant;

17. The statute, and the court decisions interpreting the statute, do not adequately instruct on the limits on punitive damages imposed by the applicable principles of deterrence and punishment.

#### **EIGHTH DEFENSE**

This Defendant shows that venue as to it is improper in DeKalb County. This Defendant reserves the right, pursuant to O.C.G.A. §14-2-510, to transfer or remove this case to the proper county should the DeKalb County resident-Defendant that is alleged to be the basis for venue be dismissed or otherwise removed from the action.

#### **NINTH DEFENSE**

Defendant raises as defenses Patrick Desmond's own negligence (comparative negligence), assumption of the risk and failure to exercise ordinary care for his own safety as defenses that bar or reduce any recovery against this Defendant.

### **TENTH DEFENSE**

Defendant raises the defense of the Georgia doctrine of charitable immunity to the extent that it may apply to this case.

### **ELEVENTH DEFENSE**

Pending further investigation and discovery, Defendant raises the defenses of waiver, estoppel and release.

### **TWELFTH DEFENSE**

Responding to the individual allegations of Plaintiffs' Complaint, this Defendant shows as follows:

#### **PARTIES, JURISDICTION AND VENUE**

1.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

2.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

3.

This Defendant admits only that it is a non-profit organization, incorporated under the laws of the State of Georgia which provides drug and alcohol rehabilitation services to students in consideration of a fee. This Defendant admits the allegations contained in last sentence of

paragraph 3 of Plaintiffs' Complaint. This Defendant denies the remaining allegations contained in paragraph 3 of Plaintiffs' Complaint.

4.

Responding to the allegations contained in paragraph 4 of Plaintiffs' Complaint, this Defendant admits only that it is a licensee of Narconon International. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 4 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

5.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

6.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

7.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

8.

Upon information and belief, this Defendant admits that Lisa Carolina Robbins, M.D. is a physician licensed in the State of Georgia. This Defendant is without knowledge or information

sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 8 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

9.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first paragraph 9 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

9. [sic]

This Defendant denies the allegations contained in the second paragraph 9 of Plaintiffs' Complaint.

#### **FACTS**

10.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

11.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

12.

Upon information and belief, this Defendant admits that Patrick Desmond was arrested and charged with possession of illegal drugs. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 12 of Plaintiffs' Complaint.

13.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

14.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

15.

This Defendant admits only that Patrick Desmond was enrolled in this Defendant's drug and alcohol rehabilitation program. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 15 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

16.

Responding to the allegations contained in paragraph 16 of Plaintiffs' Complaint, this Defendant admits only that it is a licensee of Narconon International and that Narconon International licenses drug rehabilitation programs around the world. This Defendant denies the remaining allegations contained in paragraph 16 of Plaintiffs' Complaint.

17.

This Defendant denies allegations contained in paragraph 17 of Plaintiffs' Complaint.

18.

This Defendant denies allegations contained in paragraph 18 of Plaintiffs' Complaint.

19.

It is admitted that this Defendant was never licensed to operate a residential program in Georgia. This Defendant denies the remaining allegations contained in paragraph 19 of Plaintiffs' Complaint.

20.

Responding to the allegations contained in paragraph 20 of Plaintiffs' Complaint, this Defendant admits that it was licensed to operate an outpatient facility in Georgia. This Defendant denies the remaining allegations contained in paragraph 20 of Plaintiffs' Complaint.

21.

This Defendant denies the allegations contained in paragraph 21 of Plaintiffs' Complaint.

22.

This Defendant denies the allegations contained in paragraph 22 of Plaintiffs' Complaint.

23.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

24.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

25.

This Defendant denies the allegations contained in paragraph 25 of Plaintiffs' Complaint.

26.

This Defendant denies the allegations contained in paragraph 26 of Plaintiffs' Complaint.

27.

This Defendant admits the allegations contained in the first sentence of paragraph 27 of Plaintiffs' Complaint. This Defendant denies the remaining allegations contained in paragraph 27 of Plaintiffs' Complaint as pled.

28.

In response to the allegations contained in paragraph 28 of Plaintiffs' Complaint, this Defendant, upon information and belief, admits that Patrick Desmond failed a required alcohol test and that he returned to this Defendant's program. This Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 28 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

29.

This Defendant admits the allegations contained in paragraph 29 of Plaintiffs' Complaint.

30.

This Defendant denies the allegations contained in paragraph 30 of Plaintiffs' Complaint as pled.

31.

This Defendant denies the allegations contained in paragraph 31 of Plaintiffs' Complaint as pled.

32.

This Defendant denies any allegation in Paragraph 32 that Narconon of Georgia breached any duty owed to Patrick Desmond or is liable for his death. This Defendant is without

knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 32 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

33.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

34.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

#### **COUNT I**

35.

Responding to the allegations contained in paragraph 35 of Plaintiffs' Complaint, it is admitted only this Defendant had certain duties to Patrick Desmond. This paragraph states broad and vague legal conclusions and Defendant is therefore without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 35 of Plaintiffs' Complaint and, therefore, can neither admit nor deny these allegations as pled.

36.

This Defendant denies the allegations contained in paragraph 36 of Plaintiffs' Complaint.

37.

This Defendant denies the allegations contained in paragraph 37 of Plaintiffs' Complaint, including the allegations contained in subparagraphs a, b, c, d and e thereof.

38.

This Defendant denies the allegations contained in paragraph 38 of Plaintiffs' Complaint.

**COUNT II**

39.

In response to Paragraph 39, this Defendant admits that its license is for an outpatient facility. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 39 of Plaintiffs' Complaint and, therefore, can neither admit nor deny these allegations.

40.

This Defendant denies the allegations contained in paragraph 40, including the allegations contained in subparagraphs a, b, and c thereof.

41.

This Defendant denies the allegations contained in paragraph 41 of Plaintiffs' Complaint.

**COUNT III**

42.

This Defendant denies the allegations contained in paragraph 42 of Plaintiffs' Complaint.

43.

This Defendant denies the allegations contained in paragraph 43, including the allegations contained in subparagraphs a and b thereof.

44.

This Defendant denies the allegations contained in paragraph 44 of Plaintiffs' Complaint.

45.

This Defendant denies the allegations contained in paragraph 45 of Plaintiffs' Complaint.

46.

This Defendant denies the allegations contained in paragraph 46 of Plaintiffs' Complaint.

47.

This Defendant denies the allegations contained in paragraph 47 of Plaintiffs' Complaint.

#### **COUNT IV**

48.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

49.

This Defendant denies the allegations contained in paragraph 49 of Plaintiffs' Complaint.

50.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

51.

This Defendant denies the allegations contained in paragraph 51 of Plaintiffs' Complaint.

#### **COUNT V**

52.

This Defendant denies the allegations contained in paragraph 52 of Plaintiffs' Complaint.

53.

This Defendant denies the allegations contained in paragraph 53 of Plaintiffs' Complaint.

**COUNT VI**

54.

This Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of Plaintiffs' Complaint and, therefore, can neither admit nor deny said allegations.

55.

This Defendant denies the allegations contained in paragraph 55 of Plaintiffs' Complaint.

56.

This Defendant denies the allegations contained in paragraph 56 of Plaintiffs' Complaint.

**COUNT VII**

57.

This Defendant denies the allegations contained in paragraph 57 of Plaintiffs' Complaint, including the allegations contained in subparagraphs a and b thereof.

**COUNT VIII**

58.

This Defendant denies the allegations contained in paragraph 58 of Plaintiffs' Complaint.

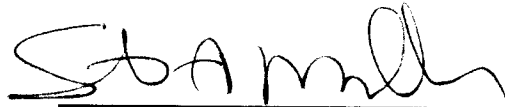
59.

Responding to the allegations contained in the last, unnumbered paragraph of Plaintiffs' Complaint, this Defendant shows that subparagraphs 1 and 2 do not require any response from this Defendant, and Defendant denies the allegations contained in subparagraphs 3, 4, 5 and 6 or otherwise set out thereof. This Defendant further denies that Plaintiffs are entitled to recover of it in any amount or in any manner whatsoever.

Any of the allegations contained in Plaintiffs' Complaint which have not heretofore been specifically admitted or denied are hereby denied.

WHEREFORE having fully answered, this Defendant prays that it be dismissed hence with prejudice. In the absence of the relief prayed for, this Defendant demands a jury of twelve to try the issues when joined.

DREW, ECKL & FARNHAM, LLP



Stevan A. Miller

*State Bar of Georgia No. 508375*

Kathryn S. Whitlock

*State Bar of Georgia No. 756233*

880 W. Peachtree Street (30309)  
Post Office Box 7600  
Atlanta, Georgia 30357-0600  
T: 404.885.1400  
F: 404.876.0992  
*Attorneys for Defendant  
Narconon of Georgia, Inc.*

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STATE COURT OF  
DEKALB COUNTY, GA

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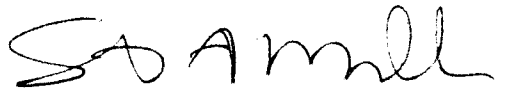


Marvin Dikeman  
Webb, Zschunke, Neary & Dikeman, LLP  
One Securities Centre - Suite 1210  
3490 Piedmont Road  
Atlanta, Georgia 30305

Melanie Carstairs Eyre  
Belli Weil Grozbean & Davis  
8010 Roswell Road, Suite 200  
Atlanta, GA 30350-3939

This 12th day of July, 2010.

DREW, ECKL & FARNHAM, LLP



Stevan A. Miller  
**Georgia Bar No. 508375**

P. O. Box 7600  
Atlanta, GA 30357  
Phone: 404-885-1400  
Fax: 404-876-0992  
*Attorneys for Defendant*  
*Narconon of Georgia, Inc.*

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