

## **V. DEFENSES**

### **FIRST DEFENSE**

Plaintiff's Complaint fails to state claims upon which relief may be granted against the Defendant, Really Clean Autos Inc.

### **SECOND DEFENSE**

Plaintiff's claims are barred because the alleged damages and losses, if any, were proximately caused by intervening events attributable to the Plaintiffs or persons, firms and/or corporations other than the Defendant.

### **THIRD DEFENSE**

Plaintiff's recovery of damages and losses, if any, is subject to applicable constitutional and statutory caps and limitations.

### **FOURTH DEFENSE**

Plaintiff has failed to mitigate any damages, if any, they may have sustained.

### **FIFTH DEFENSE**

Defendant alleges that the Plaintiff's claims against it are groundless and frivolous, entitling Defendant to its attorney fees, costs, and other expenses as provided in §13-17-101, C.R.S.

### **SIXTH DEFENSE**

Plaintiff's claims are barred by the doctrines of waiver, estoppel and laches.

### **SEVENTH DEFENSE**

Plaintiff, through their conduct or words, has ratified the acts complained of by Plaintiff in their Complaint.

### **EIGHTH DEFENSE**

Any responsibility of the Defendants must be compared with the fault or blame of any designated non-parties and must be reduced by the comparative fault of the Plaintiff and/or other persons, including responsible parties and non-parties.

**NINTH DEFENSE**

Plaintiff's alleged damages must be reduced by any payment received by any collateral sources.

**TENTH DEFENSE**

Plaintiff's claims are barred by the spoliation of evidence relevant to the determination of Plaintiff's claims.

**ELEVENTH DEFENSE**

Subject to ongoing discovery, Defendant alleges that the damage complained of in the Complaint was proximately caused by the negligence of the Plaintiff, whose negligence is equal to or greater than the alleged negligence of the Defendant, therefore, Defendant has the benefit and now invokes protection under §13-21-111, C.R.S. (COLORADO COMPARATIVE NEGLIGENCE ACT).

**TWELFTH DEFENSE**

Defendant alleges that all its actions were in compliance with the orders or rules of, or a statute administered by a Federal, State or Local governmental agency, as required by C.R.S. §6-1-106 (1)(a).

**THIRTEEN DEFENSE**

Defendant is entitled to costs plus attorney fees since Plaintiff's action is in bad faith and for the purpose of harassment pursuant to C.R.S. §6-1-113(3).

**FOURTEENTH DEFENSE**

Defendant hereby reserves the right to assert additional defenses as discovery and the law provide.

WHEREFORE, Defendant respectfully moves this Honorable Court to enter judgment in its favor and against the Plaintiff for the grounds and reasons set forth herein.

Respectfully Submitted,  
CONTIGUGLIA, P.C.

*Original Signature on file at Contiguglia, P.C.  
Pursuant to C.R.C.P. Rule 121 1-26*

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ANDREW J. CONTIGUGLIA, #26901