

1 JAMES FARINARO (SBN 146189)
2 LAW OFFICES OF JAMES FARINARO
3 852 East 14th Street
4 San Leandro, CA 94577
5 Tel: (510) 553-1200
6 Fax: (877) 689-0676
7 Email: James@Farinarolaw.com

8 Attorney for Cross-Defendant
9 RICHARD GOTTLIEB, an individual dba RGX MEDICAL

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF MONTEREY**

12 CARLA GATLIN and SUSAN YBARRA-
13 TELIAS, Individually and as Successors-In-
14 Interest of decedent Baylee Ybarra Gatlin,

15 Plaintiffs,

16 vs.

17 DO LAB INC.; MULTIDISCIPLINARY
18 ASSOCIATION FOR PSYCHEDELIC
19 STUDIES, INC., a.k.a. MAPS, INC.;
20 ZENDO PROJECT, a business entity form
21 unknown; RGX MEDICAL, business entity
22 form unknown; RICHARD GOTTLIEB, an
23 individual; and DOES 1 through 20,
24 inclusive,

25 Defendants.

Case No.: 20CV002753

**ANSWER OF CROSS-DEFENDANT
RICHARD GOTTLIEB, AN
INDIVIDUAL DBA RGX MEDICAL TO
THE CROSS-COMPLAINT OF
MULTIDISCIPLINARY ASSOCIATION
FOR PSYCHEDELIC STUDIES, INC.,
a.k.a. MAPS, INC.**

26 MULTIDISCIPLINARY ASSOCIATION
27 FOR PSYCHEDELIC STUDIES, INC.,
28 a.k.a., MAPS, INC.,

Cross-Complainant,

v.

DO LAB INC.; RGX MEDICAL, a
business entity form unknown; RICHARD
GOTTLIEB, an individual; and ROES 1 to
50 inclusive,

Cross-Defendants.

1 COMES NOW Cross-Defendant RICHARD GOTTLIEB, an individual dba RGX
2 MEDICAL (“Defendant”) in answer to the Cross-Complaint filed by MULTIDISCIPLINARY
3 ASSOCIATION FOR PSYCHEDELIC STUDIES, INC., a.k.a. MAPS, INC., as follows:

4 1. Pursuant to the Code of Civil Procedure (“CCP”) § 431.30, this answering cross-
5 defendant denies each and every, all and singular, both generally and specifically, all the
6 allegations of the complaint, and each and every cause of action contained therein, and further
7 denies that any plaintiffs have been damaged in the sums alleged, or in any way at all, or is
8 otherwise entitled to the relief requested in the complaint, by reason of any negligence, act or
9 omission of this Answering cross-defendant.

10 As a separate and distinct affirmative defense to each and every cause of action of the
11 complaint that charges or related to this answering cross-defendant, this Answering cross-
12 defendant alleges the defenses set forth herein below.

13 **FIRST AFFIRMATIVE DEFENSE**

14 2. That the complaint, and each and every purported cause of action of said complaint,
15 fails to state facts sufficient to state a cause of action against this Answering cross-defendant.

16 **SECOND AFFIRMATIVE DEFENSE**

17 3. The complaint and each purported cause of action contained therein is barred by the
18 statutes of limitation set forth in applicable laws including but not limited to: CCP § 335.1;
19 CCP § 338(a); CCP § 339; CCP § 340(a); CCP § 340(b); CCP § 340.5; CCP § 343; CCP §
20 335 continuing through CCP § 349.4.

21 **THIRD AFFIRMATIVE DEFENSE**

22 4. The accident, injuries and damages, alleged in the complaint were proximately caused
23 or contributed to by the negligence and/or other misconduct of third parties (not Plaintiffs,
24 decedents, or this Answering cross-defendant) including, but not limited to, Katy Rothstein,
25 and that said third parties failed to exercise reasonable care at and prior to the time of said
26 accident which proximately caused the death of decedent and/or injury to Plaintiffs or,
27 alternatively, said third parties aided and abetted decedent in committing a tort/crime which
28 said third parties knew was going to be committed by decedent and which proximately caused

1 injuries to decedent, the death of decedent, and/or injury to Plaintiffs or, alternately, said third
2 parties engaged in conspiracy with decedent to commit a tort/crime which proximately caused
3 injuries to decedent, the death of decedent, and/or injury to Plaintiffs, and by reason thereof
4 any recovery by Plaintiffs against this Answering cross-defendant must be reduced by an
5 amount equal to the proportionate fault of said third parties.

6 **FOURTH AFFIRMATIVE DEFENSE**

7 5. Plaintiffs voluntarily and knowingly consented to the acts, conduct and omissions
8 alleged in the complaint, and said consent either bars recovery against this Answering cross-
9 defendant or proportionally reduces such recovery.

10 **FIFTH AFFIRMATIVE DEFENSE**

11 6. The complaint, and each cause of action alleged therein, is barred to the extent any
12 damage or loss sustained by plaintiff was proximately caused and contributed to by the
13 negligence or intentional wrongful acts of others, thereby precluding the claims, reducing the
14 recoverable damage, and entitling defendants to indemnity or contribution from such other
15 third persons. As a result, any judgment against this Answering cross-defendant for non-
16 economic damages may only be in direct proportion to each defendant's percentage of fault
17 pursuant to California Civil Code Section 1431.2.

18 **SIXTH AFFIRMATIVE DEFENSE**

19 7. Plaintiffs failed and neglected to use reasonable care to minimize the losses, injuries
20 and damages complained of.

21 **SEVENTH AFFIRMATIVE DEFENSE**

22 8. Plaintiffs voluntarily and knowingly entered into, consented to and engaged in the
23 operations, acts, conduct alleged in the complaint, and voluntarily and knowingly assumed all
24 the risks incident to said operations, acts and conduct at the times and placed mentioned in said
25 complaint, and that said assumption of the risk either bars recovery against this Answering
26 cross-defendant or proportionally reduces such recovery.

27 **EIGHTH AFFIRMATIVE DEFENSE**

28 9. This Answering cross-defendant at all times relevant to the allegations in the complaint

1 acted reasonable, within the standard of care, and in good faith. This answering cross-
2 defendant at all times relevant to the allegations in the complaint acted in good faith and
3 without malice, oppression, fraud or intent to injure plaintiffs.

4 **NINTH AFFIRMATIVE DEFENSE**

5 10. Plaintiffs were careless, negligent, or otherwise responsible in and about the
6 matters alleged in the complaint, and said carelessness, negligence or other conduct
7 proximately contributed to the happening of the accident, injuries, and damages, if any,
8 alleged, and that said contributory negligence and other conduct bars a recovery, or
9 proportionally reduces any potential verdict according to the principals of comparative fault in
10 favor of plaintiffs herein.

11 **TENTH AFFIRMATIVE DEFENSE**

12 11. The causes of actions against this Answering cross-defendant are barred by the
13 doctrine of avoidable consequences.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 12. Plaintiffs have voluntarily acknowledged, ratified, and consented to the alleged
16 acts and omissions, of this Answering cross-defendant in connection with the events alleged in
17 the complaint by virtue of among other things attending the festival, participating in events at
18 the festival and voluntarily consuming illegal drugs including but not limited to LSD.

19 **TWELFTH AFFIRMATIVE DEFENSE**

20 13. The causes of actions against defendant are barred because plaintiffs voluntarily
21 with full knowledge of material information and facts released defendant from liability to them
22 arising out of events alleged in the complaint in exchange for adequate consideration.

23 **THIRTEENTH AFFIRMATIVE DEFENSE**

24 14. Pursuant to Civil Code § 3333.2 and MICRA, the plaintiffs seek recovery for
25 injury against defendant as a health care provider based on professional negligence and based
26 on said allegations the amount of damages for noneconomic losses shall not exceed two
27 hundred fifty thousand dollars (\$250,000).

28 **FOURTEENTH AFFIRMATIVE DEFENSE**

1 15. The claims, allegations and causes of action for punitive damages against this
2 Answering cross-defendant are barred because plaintiffs have failed to comply with Code of
3 Civil Procedure 425.13, which requires that plaintiffs obtain leave to amend from this court
4 upon noticed motion to allege punitive damages in a complaint or as part of any cause of
5 action. Plaintiffs cannot establish a substantial probability of prevailing on the punitive
6 damage claims.

7 **FIFTEENTH AFFIRMATIVE DEFENSE**

8 16. The punitive damage claims, allegations and causes of action violate this
9 Answering cross-defendant's right to due process under the Fourteenth Amendment of the
10 United States Constitution, and the ban on excessive fines in the Eight Amendment of the
11 United States Constitution.

12 **SIXTEENTH AFFIRMATIVE DEFENSE**

13 17. This Answering cross-defendant is informed and believes, and upon such
14 information and belief alleges that any damages alleged in the Third Amended Complaint were
15 the result of an unavoidable accident and occurred without any negligence, want of care,
16 default, or other breach of duty, and were the result of no human intervention, but were solely
17 caused by a natural cause which no one could reasonably be expected to anticipate and whose
18 effects could not be prevented or controlled by the exercise of prudence, diligence and care.

19 **SEVENTEENTH AFFIRMATIVE DEFENSE**

20 18. This Answering cross-defendant is informed and believes, and upon such
21 information and belief alleges that if Plaintiffs and/or decedents were damaged in any manner
22 whatsoever, that said damage was a direct and proximate result of the intervening and/or
23 superseding actions on the part of other parties (including, but not limited to, the conduct of
24 Katy Rothstein and/or decedent, and/or Plaintiffs) and/or third parties, and not of this
25 Answering cross-defendant, and that such intervening and/or superseding actions of the other
26 parties and/or third parties bar recovery herein on behalf of Plaintiffs.

27 **EIGHTEENTH AFFIRMATIVE DEFENSE**

28 19. This Answering cross-defendant is informed and believes, and upon such

1 information and belief alleges that this Answering cross-defendant is entitled to the right of
2 indemnification by apportionment against all other parties and persons whose negligence
3 and/or recklessness and/or strict liability contributed proximately to the happening of the
4 claimed accident or alleged injuries.

5 **NINETEENTH AFFIRMATIVE DEFENSE**

6 20. This Answering cross-defendant is informed and believes and thereon alleges
7 that Plaintiffs may not have the standing under the relevant portions of the *California Code of*
8 *Civil Procedure*, including Sections 377.30 and 377.60 to bring the subsection action against
9 this Answering cross-defendant with respect to any claim made on behalf of decedent Baylee
10 Ybarra Gatlin.

11 **TWENTIETH AFFIRMATIVE DEFENSE**

12 21. In the event this Answering cross-defendant is found to be negligent and/or
13 liable, which suppositions are denied and merely stated for the purpose of this affirmative
14 defense, this Answering cross-defendant may elect to have future damages, if in excess of the
15 amount specified in *California Code of Civil Procedure* Section 667.7, paid in whole or in part
16 as specified therein.

17 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

18 22. This Answering cross-defendant is informed and believes and thereon alleges
19 that in the event this Answering cross-defendant is found to be negligent, which supposition is
20 denied and merely stated for the purpose of this affirmative defense, this Answering cross-
21 defendant may elect to introduce evidence of any amounts paid or payable, if any as a benefit
22 to the plaintiff pursuant to *California Civil Code* Section 3333.1.

23 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

24 23. This Answering cross-defendant asserts by way of affirmative defense that
25 Plaintiffs are barred from recovery as alleged pursuant to *California Civil Code* Section
26 1714.8, which states “No healthcare provider shall be liable for professional negligence or
27 malpractice for any occurrence or result solely on the basis of that the occurrence or result was
28 caused by the natural course of disease or condition, or was the natural or expected result of

1 reasonable treatment rendered for the disease or condition.”

2 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

3 24. This Answering cross-defendant alleges that, pursuant to Proposition 51,
4 effective June 4, 1986, this Answering cross-defendant intends to request, at the time of trial,
5 that the court diminish, strike, or eliminate non-economic damages allegedly sustained by
6 Plaintiff and/or decedent.

7 **RESERVATION OF RIGHTS**

8 This Answering cross-defendant hereby gives notice that it intends to rely upon such
9 other affirmative defenses as may become available or apparent during discovery and this
10 reserves the right to amend its Answer to assert any such defenses with and/or without leave of
11 Court at any time.

12 **PRAYER**

13 WHEREFORE, this answering cross-defendant prays that Cross-Complainant takes
14 nothing by reason of its Cross-Complaint, and that judgment be entered against Cross-
15 Complainant and in favor of this Answering cross-defendant, for costs of suit, for attorney’s fees
16 where appropriate and by law, and for such other relief as the Court deems just and proper.

17
18 Dated: July 1, 2021

LAW OFFICES OF JAMES FARINARO

19 By:

20 

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22 _____
23 JAMES FARINARO
24 Attorney for Defendant RICHARD
25 GOTTLIEB, an individual
26 dba RGX MEDICAL
27
28

LAW OFFICES OF JAMES FARINARO
852 EAST 14TH STREET
SAN LEANDRO, CA 94577

PROOF OF SERVICE

Gatlin, et al. v. Do Lab Inc., et al

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is: 852 East 14th Street, San Leandro, CA. On the below-mentioned date, I caused to be served the within documents:

ANSWER OF CROSS-DEFENDANT RICHARD GOTTLIEB, AN INDIVIDUAL DBA RGX MEDICAL TO THE CROSS-COMPLAINT OF MULTIDISCIPLINARY ASSOCIATION FOR PSYCHEDELIC STUDIES, INC., a.k.a. MAPS, INC.

by electronic service based on CRC Rule 2.251 and the Emergency Rules Related to COVID-19, or by agreement, I caused such document to be Electronically Mailed through Law Office of James Farinaro electronic mail system for the above entitled case.

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 1, 2021, at San Leandro, California.



James Farinaro

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SERVICE LIST
Gatlin, et al. v. Do Lab Inc., et al
Los Angeles County Superior Court Case No. BC706951

<p>PACHOWICZ GOLDENRING, APLC Mark Pachowicz Jennie Hendrickson 6050 Seahawk Street Ventura, CA 93003-6622</p>	<p><i>Attorneys for Plaintiff</i> Susan Ybarra-Telias Email: mark@pglaw.law, jennie@pglaw.law</p>
<p>LOWTHORP, RICHARDS, McMILLAN, MILLER & TEMPLEMAN John Howard Brett Templeman 300 E. Esplanade Drive, Suite 850 Oxnard, CA 93036</p>	<p><i>Attorneys for Plaintiff</i> Carla Gatlin Email: jhoward@lrmt.com, btempleman@lrmt.com</p>
<p>BREMER WHYTE BROWN & O'MEARA LLP Keith Bremer J. Jackson Briscoe 21215 Burbank Blvd., Suite 500 Woodland Hills, CA 91367</p>	<p><i>Attorneys for Defendant</i> Do Lab Inc. Email: kbremer@bremerwhyte.com Cnathan@bremerwhyte.com</p>
<p>GORDON & REES Chuck Custer Laura Ryan 101 W. Broadway, Ste. 2000 San Diego, CA 92101</p>	<p><i>Attorneys for Defendant</i> MAPS, Inc. Email: ccuster@grsm.com lryan@grsm.com</p>