

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JANE DOE #2,

) CASE NO. C1 16-4603

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)  
)  
) Plaintiffs,

) COMPLAINT, REQUEST FOR  
) JURY TRIAL AND PRAECIPE

)  
) vs.

)  
) PLANET FITNESS, INC., and  
) AFIRM, LLC., AND PF OMAHA #1, LLC.)

)  
) Defendants.

LANCASTER COUNTY  
2016 DEC 30 PM 2 04  
CLERK OF THE  
DISTRICT COURT

COMES NOW the Plaintiff Jane Doe #2, by and through her attorneys Vince Powers and

Elizabeth Govaerts and for her causes of action against the Defendants states as follows:

1. Jane Doe #2 is a female resident of Lincoln, Lancaster County, Nebraska. She brings this suit under the pseudonym Jane Doe #2 to prevent further embarrassment and humiliation because of the conduct of the Defendants as set forth below.
2. The Defendant Planet Fitness Inc. is the franchiser and operator of a fitness center located at 3020 Folkways Blvd, Lincoln, Lancaster County, Nebraska, which does business as Planet Fitness, Inc. and is duly authorized to do business in the State of Nebraska.
3. AFIRM LLC does business at 3020 Folkways Blvd, Lincoln, Lancaster County, Nebraska, and is the owner of various items of tanning equipment, furniture fixtures, tanning beds and other personal property used in the operation of Planet Fitness, Inc. It is an operator of the fitness club and is a corporation duly authorized to do business in the State of Nebraska.
4. PF Omaha #1, LLC is an owner, operator of the fitness club known as Planet Fitness located at 3020 Folkway Blvd, Lincoln, Lancaster County, Nebraska, and is a corporation duly authorized to do business in the State of Nebraska.



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5. The Defendants do business as a fitness club. For a payment of money, persons such as the Plaintiff join the fitness club in order to be able to exercise and make use of other services offered by said Defendants.

6. At some time in 2015, the exact date is unknown at this time, the Plaintiff without her knowledge and against her will was videotaped naked while using a machine made for “body enhancement” provided to her by the Defendants and informed by the Defendants that the room would be secure and her privacy would be protected and/or guaranteed.

7. On or about December 6, 2016 the Plaintiff discovered the existence of the video. Prior to this time, she was unaware of any facts upon which a reasonable person would investigate the circumstances set forth in this Complaint.

8. Plaintiff has suffered past, present and future humiliation, inconvenience, and mental anguish and healthcare expense all to her damage.

9. Upon information and belief, the person who perpetrated the secret filming of the Plaintiff was an approximately 28-year-old male who either was or had previously been employed by the Defendant.

10. At some time during the relevant time period, the perpetrator was an employee of the defendant.

11. Upon his separation from the Defendants, the perpetrator retained keys to the building exterior and interior.

12. Further, thereafter the perpetrator was allowed to roam inside the building acting as if he was still an employee.

13. Said perpetrator did film Plaintiff and other women through a scheme in which he encouraged women to use the “body enhancement” machine and was able to videotape these

women without their knowledge or consent.

### FIRST CAUSE OF ACTION

#### NEGLIGENCE

14. Plaintiff incorporates paragraph 1-13 as fully set forth above.

15. The Defendants either created the condition which allowed the Plaintiff to be filmed against her will, knew of the condition, or by the exercise of reasonable care would have discovered the condition.

16. The Defendants should have realized that the condition was intolerable and did shock the conscious of a reasonable person.

17. The Defendants failed to use to reasonable care to protect its customers such as the Plaintiff.

18. The Defendants were negligent in one or more of the following, which were a proximate cause of damage to the Plaintiff:

- a. In failing to properly supervise the perpetrator while he was employed by the defendants;
- b. In failing to provide proper security at their facility;
- c. Failing to change the locks after the perpetrator was separated from his employment with the Defendants; and/or
- d. Failing to account for all keys at the time the perpetrator was separated from his employment with the Defendants; and/or

e. Failing to supervise this business to prevent non-employees such as the perpetrator from being able to create a scheme by which he could film naked women over a period of time without their knowledge or consent;

19. All actions taken by the perpetrator are imputed to the defendant via the doctrine of *respondeat superior*.

WHEREFORE Plaintiff requests judgment against the Defendants in amount which will fairly and justly compensate the Plaintiff for her mental suffering and other damages suffered herein together with the costs of this action and such other and further relief as the Court deems

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## SECOND THEORY OF RECOVERY

### BREACH OF CONTRACT

20. Plaintiff incorporates paragraph 1-19 as fully set forth above.

21. The Plaintiff and the Defendants entered into a contract whereby in consideration of a payment or money the Defendants would provide a safe place to exercise and to use devices such as the "body enhancement" machine.

22. The Defendants did breach this contract by allowing her to be filmed while naked against her will and without her knowledge.

23. As a proximate result of the breach of this contract, Plaintiff suffered damages as set forth;

WHEREFORE the Plaintiff request a refund of all monies paid to her, together with general damages allowed by law together with the costs of this action and such other and further relief as the Court deems just.

THIRD CAUSE OF ACTION

INVASION OF PRIVACY

24. Plaintiff incorporates paragraph 1-23 as fully set forth above.

The Defendants did trespass or intrude upon the Plaintiff in her place of solitude or seclusion.

26. Said intrusion was highly offensive to a reasonable person.

27. The Defendants' actions did invade the privacy of the Plaintiff, all to her damage as fully set forth herein.

WHEREFORE Plaintiff requests judgment against the Defendants in amount which will fairly and justly compensate the Plaintiff for her mental suffering and other damages suffered herein together with the costs of this action and such other and further relief as the Court deems just.

JANE DOE #2, PLAINTIFF



Vincent M. Powers #15866

Elizabeth A. Govaerts #20315

POWERS LAW

411 South 13<sup>th</sup> Street, Suite 300

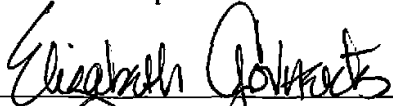
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Lincoln, NE 68501-4936

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DEMAND FOR JURY TRIAL

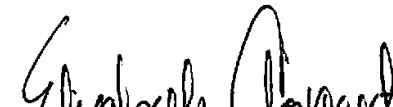
Plaintiff demands a jury trial in the above-captioned matter.

  
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Vincent M. Powers #15866  
Elizabeth A. Govaerts, #20315

PRAECIPE

Please issue a summons in the above-captioned matter and return the same to the undersigned for service, by Certified Mail, upon the Defendants at the following address:

Joseph Byam, Registered Agent  
AFIRM LLC  
8990 West Dodge Road, Suite 317  
Omaha, NE 68114

  
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Vincent M. Powers #15866  
Elizabeth A. Govaerts, #20315

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