

**E-FILED**

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David H. Yamasaki  
Chief Executive Officer/Clerk  
Superior Court of CA, County of Santa Clara  
Case #1-09-CV-136380 Filing #G-17186  
By R. Walker, Deputy

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7 SILICON VALLEY SYSTECH, INC.

9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF SANTA CLARA  
11 CIVIL UNLIMITED JURISDICTION

12 AJAY BATHLA, ANANDAKRISHNAN  
13 GOVINDARAJAN, and PURNIMA  
14 KALIA, on behalf of themselves and those  
15 similarly situated,

CASE NO. 1-09-CV-136380

**ANSWER TO FIRST AMENDED  
COMPLAINT**

14 Plaintiffs,

15 - v -

16 SILICON VALLEY SYSTECH, INC., a  
17 California Corporation, and DOES 1  
18 through 25, inclusive,

18 Defendants.

19  
20 Pursuant to California Code of Civil Procedure Section 431.30, Defendant Silicon Valley  
21 Systech ("Defendant") answer the First Amended Complaint ("Complaint") filed by plaintiffs Ajay  
22 Bathla, Anandakrishnan Govindarajan and Purnima Kalia ("Plaintiffs") as follows:

23 **GENERAL DENIAL**

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25 Pursuant to California Code of Civil Procedure Section 431.130(d), Defendant generally deny  
26 all of the material allegations set forth in the Complaint and further deny that plaintiffs are entitled to  
27 any relief or damages of any kind.  
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**AFFIRMATIVE DEFENSES**

In addition, as separate and affirmative defenses to the Complaint, defendants allege as follows:

**FIRST AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

1. The Complaint and each and every purported cause of action therein, fail to state facts sufficient to constitute a cause of action against either Defendant.

**SECOND AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

2. The Complaint, and each of its causes of action on behalf of plaintiffs and of the putative class members, is barred by the statute of limitations contained in the California Code of Civil Procedure, including, but not limited to, sections 337, 338, 339 and 340, and by Business and Professions Code §17208.

**THIRD AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

3. Plaintiffs have failed and neglected to mitigate their damages, if any, and to the extent of such failure to mitigate, any damages awarded to Plaintiffs should be reduced accordingly.

**FOURTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

4. Any conduct of defendant, which is alleged in the Complaint to be unlawful, was taken as a result of conduct or omissions by plaintiffs, and plaintiffs are thus estopped from asserting any cause of action against said defendant.

**FIFTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

5. Plaintiffs' claims are barred by the doctrine of waiver.

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**SIXTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

6. The alleged losses to alleged class members, if any, occasioned by the matters alleged in the Complaint pertaining to wage and other payments, are insubstantial. The absence of substantial injury to alleged class members who may benefit by the protections of California Business & Professions Code § 17200 precludes a finding of unfairness and, accordingly, the Business & Professions Code § 17200 claim for relief is without merit.

**SEVENTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

7. The alleged losses, if any, occasioned by the matters alleged in the Complaint are outweighed by countervailing benefits to the alleged class members. The presence of these countervailing benefits precludes a finding of unfairness and, accordingly, the Business & Professions Code §17200 claim for relief is without merit.

**EIGHTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

8. Any recovery by plaintiffs is barred by the doctrine of laches.

**NINTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

9. The alleged losses, if any, occasioned by the matters alleged in the Complaint are losses that an alleged class member could reasonably have avoided. The fact that such alleged losses could reasonably have been avoided precludes a finding of unfairness and, accordingly, the Business & Professions Code §17200 claim for relief is without merit.

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**TENTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

10. Business & Professions Code section 17200 does not extend to a claim for alleged wage or overtime loss insofar as restitution or disgorgement is sought, and therefore, plaintiffs are not entitled to such relief under section 17200. Further, to the extent that the Complaint seeks application of Business & Professions Code §17200 with respect to alleged class members who worked outside of California, the statutes do not apply to such alleged class members and the claims asserted are barred by the Due Process and Commerce Clauses of the United States Constitution.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

11. Plaintiffs lack standing to seek equitable and/or injunctive relief as sought in the Complaint.

**TWELFTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

12. Plaintiffs do not satisfy the requirements for waiting time penalties under California Labor Code Section 203 and other code sections as there was a good faith dispute regarding wage and other payments.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

13. This civil action is frivolous and filed in bad faith, and that defendant is therefore entitled to recover its attorney's fees pursuant to Code of Civil Procedure §128.7.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

14. The Complaint, or certain of its claims, was brought by plaintiffs in bad faith and

1 without reasonable inquiry and for improper purpose to harass and needlessly increase the cost and  
2 breadth of litigation and are not warranted by existing law or any non-frivolous argument for an  
3 extension, modification, or reversal of existing law.

4 **FIFTEENTH AFFIRMATIVE DEFENSE**

5 **(All Causes of Action)**

6 15. Defendant has satisfied all of the duties required to be performed by them pursuant to  
7 the contract which is the subject matter of this Complaint, and plaintiffs have failed to satisfy the  
8 contractual obligations they owe to defendant.

9 **SIXTEENTH AFFIRMATIVE DEFENSE**

10 **(All Causes of Action)**

11 16. By virtue of their rights to setoff, offset and recoupment, any monies found due to  
12 plaintiffs, if any, must be diminished by the amounts owed to defendant.

13 **SEVENTEENTH AFFIRMATIVE DEFENSE**

14 **(All Causes of Action)**

15 17. Plaintiffs' claims are barred because plaintiffs failed to mitigate their damages.

16 **EIGHTEENTH AFFIRMATIVE DEFENSE**

17 **(All Causes of Action)**

18 18. Defendant alleges, without admitting that any unlawful or wrongful acts occurred, that  
19 if any of defendant's agents or employees engaged in any unlawful or wrongful acts, these acts were  
20 committed outside of the course and scope of their employment and were not authorized, ratified, or  
21 condoned by defendant.

22 **NINETEENTH AFFIRMATIVE DEFENSE**

23 **(All Causes of Action)**

24 19. The Complaint and each purported cause of action therein are vague, ambiguous and  
25 uncertain.

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**TWENTIETH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

20. Plaintiffs authorized, consented to, and/or ratified the conduct alleged in the Complaint and therefore the Complaint, and all of the claims contained therein, is barred on such basis.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

21. Defendant alleges that to the extent a contract existed between plaintiffs and Defendant, Defendant alleges that by reason of the acts and omissions of plaintiffs there was a failure of consideration for the contract alleged.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

22. To the extent a contract existed between plaintiffs and defendant, defendant was excused from performance thereunder because plaintiffs failed to fulfill their obligations under the contract.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

23. To the extent a contract existed between plaintiffs and defendant, plaintiffs' claims are barred because Defendant performed and satisfied all of its obligations under said alleged contract.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

**(All Causes of Action)**

24. Defendant denies engaging in the misconduct alleged in the Complaint, if it is determined the conduct alleged is legally attributable to defendant, then defendant alleges, upon information and belief, that all of their conduct and personnel actions toward plaintiffs were properly

1 based on legitimate, non-discriminatory, and non-retaliatory reasons unrelated to her gender or any  
2 complaint of alleged sexual harassment.

3 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

4 **(All Causes of Action)**

5 25. The Complaint fails to properly state a claim for which punitive damages may be  
6 awarded.

7 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

8 **(All Causes of Action)**

9 26. The Complaint fails to properly state a claim for attorney's fees or costs.

10 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

11 **(All Causes of Action)**

12 27. The Complaint fails to state a claim upon which prejudgment interest may be awarded,  
13 as the damages claims are not sufficiently certain to allow an award of prejudgment interest.

14 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

15 **(All Causes of Action)**

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17 28. Defendant has insufficient knowledge or information upon which to form a belief as to  
18 whether it may have additional, as yet unstated, separate affirmative defenses available. Defendant  
19 reserves the right to amend this Answer to add, delete, or modify defenses based up on legal theories  
20 that may or will be divulged through clarification of plaintiffs' Complaint through discovery, or  
21 through further legal analysis of plaintiffs' position in this litigation.  
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23  
24 WHEREFORE, this answering defendant prays that plaintiffs take nothing by reason of the  
25 Complaint, that this answering defendant be awarded costs of suit and attorneys' fees incurred herein,  
26 and for such other and further relief as the court deems just.  
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WHEREFORE, Defendant respectfully request that the Complaint be dismissed with prejudice and that plaintiffs take nothing thereby. Defendant further request that judgment be entered in their favor and against the plaintiffs for costs and such other relief as the Court deems proper, including reasonable attorney's fees and costs incurred herein to the extent permitted under applicable law, including, but not limited to, California Government Code section 12965(b).

DATED: August 3, 2009

NIXON PEABODY LLP

By: /s/ Lisa M. Chapman  
Lisa M. Chapman  
Attorneys for Defendant  
SILICON VALLEY SYSTECH, INC.