

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Case No. 06-cv-00865-LTB-BNB

COLORADO CROSS-DISABILITY COALITION, a Colorado non-profit Corporation;
LAURA HERSHEY; ROBIN STEPHENS; CARRIE ANN LUCAS; HEATHER REBEKAH
RENEE LUCAS, by and through her parent and next friend, CARRIE ANN LUCAS;
ADRIANNE EMILY MONIQUE LUCAS, by and through her parent and next friend, CARRIE
ANN LUCAS; and DANIEL WILSON,

Plaintiffs

v.

THE CITY AND COUNTY OF DENVER, COLORADO; DENVER CENTER FOR
PERFORMING ARTS, a Colorado non-profit Corporation; OPERA COLORADO, a Colorado
non-profit Corporation; COLORADO BALLET COMPANY, a Colorado non-profit
Corporation; and COLORADO SYMPHONY ASSOCIATION, a Colorado non-profit
organization,

Defendants

**ANSWER AND DEFENSES OF DEFENDANT COLORADO SYMPHONY
ASSOCIATION TO PLAINTIFFS' SECOND AMENDED COMPLAINT**

Defendant Colorado Symphony Association (“Colorado Symphony”), by and through its
undersigned counsel, hereby answers the numbered paragraphs in plaintiffs’ Second Amended
Complaint (“complaint”), filed July 12, 2006, and state as follows:

ANSWER

1. Colorado Symphony denies the allegations contained within paragraph one of
plaintiffs’ complaint to the extent they pertain to Colorado Symphony.
2. Colorado Symphony admits that the Americans with Disabilities Act (“ADA”),
42 U.S.C. §§ 12101-12213, is a civil rights statute that was signed into law in July 1990. With

respect to the remaining allegations against Colorado Symphony contained within paragraph two of plaintiffs' complaint, Colorado Symphony denies those allegations.

3. Colorado Symphony neither admits nor denies the allegations contained within paragraph three of plaintiffs' complaint as the ADA and its legislative history presumably speaks for itself and/or the allegations call for a legal conclusion.

4. Colorado Symphony neither admits nor denies the allegations contained within paragraph four of plaintiffs' complaint as they call for a legal conclusion and/or are not directed against Colorado Symphony.

5. To the extent the allegations contained within paragraph five of plaintiffs' complaint directed against Colorado Symphony, Colorado Symphony denies the allegations.

6. Denied.

7. To the extent the allegations contained within paragraph seven of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

JURISDICTION

8. Colorado Symphony neither admits nor denies the allegations contained within paragraph eight of plaintiffs' complaint as they call for a legal conclusion.

9. Colorado Symphony neither admits nor denies the allegations contained within paragraph nine of plaintiffs' complaint as they call for a legal conclusion.

PARTIES

10. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph ten of plaintiffs' complaint and therefore denies them.

11. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 11 of plaintiffs' complaint and therefore denies them.

12. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 12 of plaintiffs' complaint and therefore denies them.

13. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 13 of plaintiffs' complaint and therefore denies them.

14. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 14 of plaintiffs' complaint and therefore denies them.

15. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 15 of plaintiffs' complaint and therefore denies them.

16. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 16 of plaintiffs' complaint and therefore denies them.

17. Many of the allegations contained within paragraph 17 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required from Colorado Symphony. Despite the foregoing, Colorado Symphony admits that it enters into agreements with the City to use some of the Performing Arts Complex facilities.

18. The allegations contained within paragraph 18 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

19. The allegations contained within paragraph 19 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

20. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 20 of plaintiffs' complaint and therefore denies them.

21. Colorado Symphony admits that it is a Colorado non-profit organization that schedules, promotes and performs symphonies at certain facilities within the Performing Arts Complex (“PAC”), many of which are in the Boettcher Concert Hall. Colorado Symphony admits that it enters into agreements with the city to perform in some of the PAC’s facilities. Colorado Symphony also admits that it has a web site with the URL address www.coloradosymphony.org. To the extent the other allegations within paragraph 21 of plaintiffs’ complaint call for a legal conclusion, Colorado Symphony denies them.

GENERAL ALLEGATIONS

22. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 22 of plaintiffs’ complaint and therefore denies them.

23. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 23 of plaintiffs’ complaint and therefore denies them.

24. Colorado Symphony admits that the Performing Arts Complex (“PAC”) is located at 14th and Curtis streets. Colorado Symphony further admits that the Ellie Caulkins Opera House, Boettcher Concert Hall, the Temple Hoyne Buell Theatre, the Garner Galleria Theatre, and the Helen Bonfils Theatre Complex, which includes the Stage, Space, Ricketson and Jones theaters and the Donald R. Seawell Grand Ballroom, are located in the Performing Arts Complex. Colorado Symphony admits that there is a parking garage within the PAC and that the PAC is an approximately 4-square block site owned and operated by the city. Colorado Symphony admits that it conducts performances in certain PAC facilities. Colorado Symphony denies all other allegations contained within paragraph 24 of plaintiffs’ complaint.

25. The allegations contained within paragraph 25 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

26. The allegations contained within paragraph 26 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

27. The allegations contained within paragraph 25 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

28. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 28 of plaintiffs' complaint and therefore denies them.

29. The allegations contained within paragraph 29 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

30. The allegations contained within paragraph 30 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

31. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 31 of plaintiffs' complaint and therefore denies them.

32. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 32 of plaintiffs' complaint and therefore denies them.

33. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 33 of plaintiffs' complaint and therefore denies them.

34. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 34 of plaintiffs' complaint and therefore denies them.

35. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 35 of plaintiffs' complaint and therefore denies them.

36. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 36 of plaintiffs' complaint and therefore denies them.

37. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 37 of plaintiffs' complaint and therefore denies them.

38. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 38 of plaintiffs' complaint and therefore denies them.

39. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 39 of plaintiffs' complaint and therefore denies them.

40. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 40 of plaintiffs' complaint and therefore denies them.

41. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 41 of plaintiffs' complaint and therefore denies them.

42. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 42 of plaintiffs' complaint and therefore denies them.

43. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 43 of plaintiffs' complaint and therefore denies them.

44. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 44 of plaintiffs' complaint and therefore denies them.

45. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 45 of plaintiffs' complaint and therefore denies them.

46. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 46 of plaintiffs' complaint and therefore denies them.

47. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 47 of plaintiffs' complaint and therefore denies them.

48. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 48 of plaintiffs' complaint and therefore denies them.

49. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 49 of plaintiffs' complaint and therefore denies them.

50. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 50 of plaintiffs' complaint and therefore denies them.

51. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 51 of plaintiffs' complaint and therefore denies them.

52. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 52 of plaintiffs' complaint and therefore denies them.

53. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 53 and/or the allegations call for a legal conclusion and no answer is required.

54. To the extent the allegations contained within paragraph 54 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

55. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 55 and/or the allegations call for a legal conclusion and no answer is required.

56. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 56 of plaintiffs' complaint and therefore denies them.

57. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 57 of plaintiffs' complaint and therefore denies them.

58. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 58 of plaintiffs' complaint and therefore denies them.

59. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 59 of plaintiffs' complaint and therefore denies them.

60. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 60 of plaintiffs' complaint and therefore denies them.

61. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 61 of plaintiffs' complaint and therefore denies them.

62. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 62 of plaintiffs' complaint and therefore denies them.

63. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 63 of plaintiffs' complaint and therefore denies them.

64. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 64 of plaintiffs' complaint and therefore denies them.

65. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 65 of plaintiffs' complaint and therefore denies them.

66. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 66 of plaintiffs' complaint and therefore denies them.

67. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 67 of plaintiffs' complaint and therefore denies them.

68. To the extent allegations contained within paragraph 68 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

69. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 69 of plaintiffs' complaint and therefore denies them.

70. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 70 of plaintiffs' complaint and therefore denies them.

71. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 71 of plaintiffs' complaint and therefore denies them.

72. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 72 of plaintiffs' complaint and therefore denies them.

73. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 73 of plaintiffs' complaint and therefore denies them.

74. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 74 of plaintiffs' complaint and therefore denies them.

75. Colorado Symphony admits that it utilizes Boettcher Concert Hall. Colorado Symphony is either without knowledge or information as to the truth of the remaining allegations contained within paragraph 75 or specifically denies them.

76. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 76 of plaintiffs' complaint and therefore denies them.

77. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 77 of plaintiffs' complaint and therefore denies them.

78. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 78 of plaintiffs' complaint and therefore denies them.

79. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 79 of plaintiffs' complaint and therefore denies them.

80. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 80 of plaintiffs' complaint and therefore denies them.

81. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 81 of plaintiffs' complaint and therefore denies them.

82. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 82 of plaintiffs' complaint and therefore denies them.

83. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 83 of plaintiffs' complaint and therefore denies them.

84. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 84 of plaintiffs' complaint and therefore denies them.

85. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 85 of plaintiffs' complaint and therefore denies them.

86. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 86 of plaintiffs' complaint and therefore denies them.

87. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 87 of plaintiffs' complaint and therefore denies them.

88. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 88 of plaintiffs' complaint and/or the paragraph calls for a legal conclusion and no response is necessary.

89. Colorado Symphony neither admits nor denies the allegations contained within paragraph 89 of plaintiffs' complaint as they call for a legal conclusion.

90. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 90 of plaintiffs' complaint and therefore denies them.

91. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 91 of plaintiffs' complaint and therefore denies them.

92. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 92 of plaintiffs' complaint and therefore denies them.

93. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 93 of plaintiffs' complaint and therefore denies them.

94. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 94 of plaintiffs' complaint and therefore denies them.

95. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 95 of plaintiffs' complaint and therefore denies them.

96. Through Colorado Symphony's website, a link to Ticketmaster is available. Upon information and belief TTY service is available through Ticketmaster.

97. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 97 of plaintiffs' complaint and therefore denies them.

98. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 98 of plaintiffs' complaint and therefore denies them.

99. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 99 of plaintiffs' complaint and therefore denies them.

100. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 100 of plaintiffs' complaint and therefore denies them.

101. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 101 of plaintiffs' complaint and therefore denies them.

102. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 102 of plaintiffs' complaint and therefore denies them.

103. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 103 of plaintiffs' complaint and therefore denies them.

104. The allegations contained within paragraph 104 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

105. The allegations contained within paragraph 105 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

106. Denied.

107. Admit.

108. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 108 of plaintiffs' complaint and therefore denies them.

109. To the extent the allegations contained within paragraph 109 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

110. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 110 of plaintiffs' complaint and therefore denies them.

111. To the extent the allegations contained within paragraph 111 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

112. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 112 of plaintiffs' complaint and therefore denies them.

113. To the extent the allegations contained within paragraph 113 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

114. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 114 of plaintiffs' complaint and therefore denies them.

115. To the extent the allegations contained within paragraph 115 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

116. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 116 of plaintiffs' complaint and therefore denies them.

117. To the extent the allegations contained within paragraph 117 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

118. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 118 of plaintiffs' complaint and therefore denies them.

119. To the extent the allegations contained within paragraph 119 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

120. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 120 of plaintiffs' complaint and therefore denies them.

121. To the extent the allegations contained within paragraph 121 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

122. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 122 of plaintiffs' complaint and therefore denies them.

123. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 123 of plaintiffs' complaint and therefore denies them.

124. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 124 of plaintiffs' complaint and therefore denies them.

125. To the extent the allegations contained within paragraph 125 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

126. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 126 of plaintiffs' complaint and therefore denies them.

127. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 127 of plaintiffs' complaint and therefore denies them.

128. To the extent the allegations contained within paragraph 128 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

129. To the extent the allegations contained within paragraph 129 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

130. To the extent the allegations contained within paragraph 130 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

131. Colorado Symphony denies that it has been a source of discrimination in the community. Colorado Symphony is without knowledge or information as to the truth of the

other allegations contained within paragraph 131 of plaintiffs' complaint and therefore denies them.

132. To the extent the allegations contained within paragraph 132 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

133. To the extent the allegations contained within paragraph 133 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

134. Colorado Symphony denies that it has discriminated. Colorado Symphony is without knowledge or information as to the truth of the other allegations contained within paragraph 134 of plaintiffs' complaint and therefore denies them.

135. Colorado Symphony neither admits nor denies the allegations contained within paragraph 135 of plaintiffs' complaint as they call for a legal conclusion.

136. To the extent the allegations contained within paragraph 136 of plaintiffs' complaint are directed against Colorado Symphony, Colorado Symphony denies the allegations.

FIRST CLAIM FOR RELIEF

(Against City and County of Denver: Violation of the Americans with Disabilities Act)

137. In response to paragraph 137 of plaintiffs' complaint, Colorado Symphony hereby incorporates the foregoing responses as if fully set forth herein.

138. Colorado Symphony neither admits nor denies the allegations contained within paragraph 138 of plaintiffs' complaint as they call for a legal conclusion and/or are not directed against Colorado Symphony.

139. Colorado Symphony neither admits nor denies the allegations contained within paragraph 139 of plaintiffs' complaint as they call for a legal conclusion and/or are not directed against Colorado Symphony.

140. The allegations contained within paragraph 140 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

141. The allegations contained within paragraph 141 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

SECOND CLAIM FOR RELIEF

(Against City and County of Denver: Violation of the Rehabilitation Act)

142. In response to paragraph 142 of plaintiffs' complaint, Colorado Symphony hereby incorporates the foregoing responses as if fully set forth herein.

143. Colorado Symphony neither admits nor denies the allegations contained within paragraph 143 of plaintiffs' complaint as they call for a legal conclusion and/or are not directed against Colorado Symphony.

144. Colorado Symphony is without knowledge or information as to the truth of the allegations contained within paragraph 144 of plaintiffs' complaint and therefore denies them.

145. The allegations contained within paragraph 145 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

146. The allegations contained within paragraph 146 of plaintiffs' complaint are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

THIRD CLAIM FOR RELIEF

(Against Denver Center for Performing Arts, Opera Colorado, Colorado Ballet Company, Colorado Symphony Association: Americans with Disabilities Act)

147. In response to paragraph 147 of plaintiffs' complaint, Colorado Symphony hereby incorporates the foregoing responses as if fully set forth herein.

148. Colorado Symphony neither admits nor denies the allegations contained within paragraph 148 as they call for a legal conclusion.

149. Colorado Symphony denies the allegations contained within paragraph 149 to the extent they pertain to Colorado Symphony.

150. Colorado Symphony denies the allegations contained within paragraph 150 to the extent they pertain to Colorado Symphony.

151. Colorado Symphony denies the allegations contained within paragraph 151 to the extent they pertain to Colorado Symphony.

FOURTH CLAIM FOR RELIEF

(Against all Defendants: Colorado Anti-Discrimination Act)

152. In response to paragraph 152 of plaintiffs' complaint, Colorado Symphony hereby incorporates the foregoing responses as if fully set forth herein.

153. Colorado Symphony neither admits nor denies the allegations contained within paragraph 153 as the Colorado Anti-Discrimination Act presumably speaks for itself and/or the allegations call for a legal conclusion.

154. Colorado Symphony neither admits nor denies the allegations contained within paragraph 154 as they call for a legal conclusion.

155. Colorado Symphony neither admits nor denies the allegations contained within paragraph 155 as they call for a legal conclusion.

156. Colorado Symphony denies the allegations contained within paragraph 156 to the extent they pertain to Colorado Symphony.

157. Colorado Symphony neither admits nor denies the allegations contained within paragraph 157 as they call for a legal conclusion.

158. Colorado Symphony denies the allegations contained within paragraph 158 to the extent they pertain to Colorado Symphony.

FIFTH CLAIM FOR RELIEF

(Against the City and County of Denver and the Denver Center for Performing Arts: Colorado Consumer Protection Act)

159. In response to paragraph 159 of plaintiffs' complaint, Colorado Symphony hereby incorporates the foregoing responses as if fully set forth herein.

160. Colorado Symphony neither admits nor denies the allegations contained within paragraph 160 as the Colorado Consumer Protection Act ("CCPA") presumably speaks for itself.

161. Colorado Symphony is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within paragraph 161 and therefore denies them.

162. Colorado Symphony neither admits nor denies the allegations contained within paragraph 162 as the Colorado Consumer Protection Act ("CCPA") presumably speaks for itself.

163. Colorado Symphony neither admits nor denies the allegations contained within paragraph 163 as the allegations call for a legal conclusion.

164. Colorado Symphony neither admits nor denies the allegations contained within paragraph 164 as the Colorado Consumer Protection Act ("CCPA") presumably speaks for itself.

165. The allegations contained within paragraph 165 are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

166. The allegations contained within paragraph 166 are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

167. The allegations contained within paragraph 167 are not directed to Colorado Symphony and therefore no response is required by Colorado Symphony.

168. Colorado Symphony denies the allegations contained within paragraph 168 to the extent they pertain to Colorado Symphony.

169. To the extent the paragraphs beginning “PRAYER FOR RELIEF” on page 38 of plaintiffs’ complaint contain any factual allegations, Colorado Symphony denies these allegations. Colorado Symphony also denies that plaintiffs are entitled to any of the relief set forth therein, or otherwise.

170. Colorado Symphony specifically denies that it committed any of the allegedly wrongful acts set forth in plaintiffs’ complaint and further denies that plaintiffs are entitled to any award of relief, whether consisting of compensatory or other damages, attorneys’ fees, costs, and/or other relief, from Colorado Symphony.

171. Each and every allegation set forth in plaintiffs’ complaint not specifically admitted herein is expressly denied.

ATTORNEYS’ FEES

Colorado Symphony has retained the undersigned counsel, and has agreed to pay their reasonable fees for services. Pursuant to 28 U.S.C. § 1927 and 42 U.S.C. § 12205, Colorado Symphony is entitled to recover its attorneys’ fees and costs incurred in this action.

AFFIRMATIVE AND OTHER DEFENSES

As and by way of affirmative defenses, Colorado Symphony states as follows:

FIRST DEFENSE

Plaintiffs’ complaint fails to state a claim upon which relief can be granted against Colorado Symphony.

SECOND DEFENSE

Plaintiffs have failed to mitigate their damages, if any.

THIRD DEFENSE

To the extent any of plaintiffs' claims fall outside the applicable statute of limitations, or to which plaintiffs failed to exhaust administrative remedies, they are barred.

FOURTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by one or more of the equitable doctrines of laches, estoppel, waiver, or ratification.

FIFTH DEFENSE

Any damages plaintiffs suffered were due to their own acts or omissions, or the acts or omissions of others besides Colorado Symphony.

SIXTH DEFENSE

Plaintiffs have brought this case in bad faith, without adequate factual basis or investigation, without a prior request or demand of any sort, and for the improper purpose of harassment and recovery of needless attorneys' fees, expenses, and costs.

SEVENTH DEFENSE

Some or all of plaintiffs lack standing to bring this action.

EIGHTH DEFENSE

Some or all of plaintiffs' claims are barred from proceeding and from relief due to the failure to join indispensable parties.

NINTH DEFENSE

Plaintiffs have demanded modifications which are either not readily achievable, not required by law, technically infeasible, would create an undue hardship on Colorado Symphony, would fundamentally alter the way Colorado Symphony provides services to the public, or creates a direct threat to the health and safety of plaintiffs or others.

TENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, because, at all relevant times, Colorado Symphony acted in good faith, lawfully, and in accordance with all applicable federal, state, and local law.

ELEVENTH DEFENSE

Colorado Symphony did not commit the wrongs alleged in plaintiffs' complaint.

TWELFTH DEFENSE

Some or all of plaintiffs' claims are moot.

THIRTEENTH DEFENSE

Prior to and/or following the institution of this action, corrective actions have been taken to eliminate accessibility issues that were the subject of plaintiffs' complaint.

FOURTEENTH DEFENSE

Colorado Symphony denies that plaintiffs are entitled to any of the relief sought in their complaint, or otherwise.

FIFTEENTH DEFENSE

Plaintiffs' claims for monetary damages may be barred, reduced, or otherwise limited pursuant to statutory damage caps.

SIXTEENTH DEFENSE

Colorado Symphony reserves the right to add other defenses that may be incorporated herein pursuant to law.

WHEREFORE, Colorado Symphony prays that plaintiffs take nothing from their complaint and that judgment be awarded against plaintiffs, and in favor of Colorado Symphony, together with costs, attorneys' fees, and any other further relief the court deems just and proper.

Respectfully submitted this 8th day of September, 2006.

s/ John C. Lowrie
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CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2006, a true and correct copy of the foregoing **ANSWER AND DEFENSES OF DEFENDANT COLORADO SYMPHONY ASSOCIATION TO PLAINTIFFS' SECOND AMENDED COMPLAINT** was filed and served via CM/ECF addressed to the following:

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