

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**SUSAN HAYWOOD,**

**Plaintiff,**

**CASE NO. 2:05-CV-78**

**(Maxwell)**

**vs.**

**CIVIL ACTION NO. 05-C-34**

**(Tucker County Circuit Court)**

**USA CYCLING, INC, a  
non-resident corporation,**

**Defendant.**

**ANSWER TO COMPLAINT**

NOW COMES the Defendant, USA Cycling, Inc., by its undersigned counsel, and for its Answer to the Complaint of Plaintiff, states the following:

**FIRST AFFIRMATIVE DEFENSE**

1. Defendant admits that Susan Haywood is 33 years old and that prior to July, 2004, she has trained and competed as an athlete in women's mountain bike competition within and without the State of West Virginia, and elsewhere within and without the United States. Defendant is without knowledge or information sufficient to admit or deny the remaining allegations set forth in Paragraph 1 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.
2. Defendant is without knowledge or information sufficient to admit or deny the allegations set forth in Paragraph 2 of Plaintiff's Complaint that it controls nearly two dozen

major events each year and issues permits for up to 3,000 more and therefore denies the same and demands strict proof thereof. Defendant admits the remaining allegations contained in Paragraph 2 of Plaintiff's Complaint.

3. Defendant admits the allegations contained in Paragraph 3 of Plaintiff's Complaint.

4. Defendant admits the allegations contained in Paragraph 4 of Plaintiff's Complaint except for the allegation that USA Cycling, Inc. is the surviving umbrella corporation. USA Cycling, Inc. is the surviving corporation, not the surviving umbrella corporation.

5. In response to Paragraph 5 of Plaintiff's Complaint, Defendant states that its Amended and Restated Articles of Incorporation speak for themselves.

6. Defendant denies that it has the duty to obtain and maintain the results of its sanctioned events and submit them to the International Cycling Union in Aigle, Switzerland. Defendant is without knowledge or information sufficient to admit or deny the remaining allegations set forth in Paragraph 6 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

7. Defendant denies the allegations set forth in Paragraph 7 of Plaintiff's Complaint and demands strict proof thereof.

8. Defendant admits the allegations contained in Paragraph 8 of Plaintiff's Complaint.

9. Defendant admits that Plaintiff's finish in the Sand Point, Idaho race held in July 2003 earned her 15 points which are used to determine the female athlete that would be selected to represent the United States of America in the 2004 Olympic competition. Defendants deny

the remaining allegations set forth in Paragraph 9 of Plaintiff's Complaint and demand strict proof thereof.

10. Defendant is without knowledge or information sufficient to admit or deny the reasons Plaintiff decided not to enter additional point yielding competitions as set forth in Paragraph 10 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof. Defendant denies the remaining allegations set forth in Paragraph 10 of Plaintiff's Complaint and demands strict proof thereof.

11. Defendant admits the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. Defendant admits the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13. Defendant denies the allegations set forth in Paragraph 13 of Plaintiff's Complaint and demands strict proof thereof.

14. Defendant denies the allegations set forth in Paragraph 14 of Plaintiff's Complaint and demands strict proof thereof.

14. Plaintiff's Complaint contains two paragraphs that are numbered 14 and Defendant denies the allegations set forth in second Paragraph of Plaintiff's Complaint identified as number 14 and demands strict proof thereof.

15. Defendant is without knowledge or information sufficient to admit or deny the reasons Plaintiff decided not to enter additional races which would not count in UCI and Olympic ranking and eligibility purposes as set forth in Paragraph 15 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof. Defendant denies the remaining allegations set forth in Paragraph 15 of Plaintiff's Complaint and demands strict proof thereof.

16. Defendant denies the allegations set forth in Paragraph 16 of Plaintiff's Complaint and demands strict proof thereof.

17. Defendant denies that it promotes and advertises races in the state of West Virginia as alleged in Paragraph 17 of Plaintiff's Complaint and therefore denies the same and demands strict proof thereof. Defendant admits the remaining allegations contained in Paragraph 17 of Plaintiff's Complaint.

18. Defendant denies each and every allegation set forth in Plaintiff's Complaint that is not expressly and specifically admitted herein.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails to state a cause of action upon which relief can be granted and therefore should be dismissed.

#### **THIRD AFFIRMATIVE DEFENSE**

Defendant asserts the affirmative defense of comparative fault and contributory negligence and/or assumption of the risk to the extent that discovery in this matter proves them applicable and therefore, Plaintiff's claims are barred in whole or in part.

#### **FOURTH AFFIRMATIVE DEFENSE**

The conduct complained of in the Plaintiff's Complaint was a direct and proximate cause of the acts and/or omissions of the Plaintiff or others and was not the direct or proximate result of any act and/or omission of the Defendant.

#### **FIFTH AFFIRMATIVE DEFENSE**

At all times relevant Defendant acted in good faith.

#### **SIXTH AFFIRMATIVE DEFENSE**

Defendant asserts the Plaintiff has failed to mitigate her damages.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to exhaust her administrative remedies and therefore her Complaint should be dismissed.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff has a lack of private right in participating in the Olympics and therefore has no standing to bring her claim.

**NINTH AFFIRMATIVE DEFENSE**

Defendant asserts the affirmative defenses of lack of jurisdiction over the person, improper venue and insufficiency of service of process to the extent that discovery deems them applicable.

**TENTH AFFIRMATIVE DEFENSE**

Defendant asserts all affirmative defenses available to it pursuant to the Ted Stevens Olympic and Amateur Sports Act, codified at 36 U.S.C. § 220501 *et seq.*

**ELEVENTH AFFIRMATIVE DEFENSE**

To the extent that the alleged wrongful acts occurred outside the applicable time period, the claims are barred by the applicable statute of limitations.

**TWELFTH AFFIRMATIVE DEFENSE**

Defendant asserts that Plaintiff's claims are barred by laches.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Defendant reserves the right to assert any and all affirmative defenses that may become apparent through discovery.

**WHEREFORE**, Defendant demands that all Plaintiff's requests for relief be denied, that the action be dismissed, that it be awarded defense costs and other relief as the Court may deem appropriate.

**USA CYCLING, INC., Defendant,**

/s/ William A. Kolibash

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing DEFENDANT'S ANSWER TO COMPLAINT was filed with the Clerk of the Court on the 14th day of October, 2005 using the CM/ECF system, which will send notification of such filing to the following: John W. Cooper, Esquire and William D. Wilmoth, Esquire.

/s/ William A. Kolibash  
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