

IN THE _____ COURT OF _____ COUNTY
STATE OF _____

_____)	
)	
Petitioner/Plaintiff,)	
)	
Vs.)	NO. _____
)	
_____)	
Respondent/Defendant)	
)	

ANSWER

Comes now _____, Inc., Defendant in the above-styled cause, and responds to the Plaintiffs Complaint as follows:

COUNT I

1. Defendant is without sufficient information to admit or deny the allegations contained in this paragraph, and as such, denies the same and demands strict proof thereof.
2. Admitted.
3. Denied.
4. Defendant admits the time and place of said accident, but denies the remaining allegations of the paragraph.
5. Denied.
6. Denied.
7. Defendant denies this paragraph, including sub-paragraphs.

COUNT II

8. Defendant restates and incorporates by reference its responses to paragraphs 1-7 as if set out fully herein.

9. Denied.

10. Defendant denies this paragraph, including sub-paragraphs.

FIRST AFFIRMATIVE DEFENSE

The injuries sustained by Plaintiff resulted from a danger which was open and obvious or which should have been observed in the exercise of reasonable care, and therefore, the Plaintiff cannot recover from this Defendant as a matter of law.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff herself was guilty of negligence which proximately caused or contributed to her injuries and damages at the time and place referred in the Complaint, and therefore, the Plaintiff cannot recover from the defendant as a matter of law.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs claim of punitive damages violates the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the Constitution of the United States, on the following grounds:

- (a) It is a violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution to impose punitive damages, which are penal in nature, against a civil defendant upon the plaintiffs satisfying a burden of proof which is less than the "beyond a reasonable doubt" burden of proof required in criminal cases;
- (b) The procedures pursuant to which punitive damages are awarded may result in the award of joint and several judgments against multiple defendants for different

alleged acts of wrongdoing, which infringes the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution;

(c) The procedures pursuant to which punitive damages are awarded fail to provide a reasonable limit on the amount of an award of punitive damages against Defendants, which thereby violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution;

(d) The procedures pursuant to which punitive damages are awarded are unconstitutionally vague in violation of the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution;

(e) The procedures pursuant to which punitive damages are awarded fail to provide specific standards for the amount of the award of punitive damages which thereby violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution

(f) The procedures pursuant to which punitive damages are awarded result in the imposition of different penalties for the same or similar acts and thus violate the Due Process and Equal Protection Clause of the Fourteenth Amendment of the United States Constitution;

(g) The procedures pursuant to which punitive damages are awarded permit the imposition of punitive damages in excess of the maximum criminal fine for the same or similar conduct, which thereby infringes the Due Process Clause of the Fifth and Fourteenth Amendments and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution; and

(h) The procedures pursuant to which punitive damages are awarded permit the

imposition of excessive fines and unusual punishment in violation of the Eighth Amendment of the United States Constitution.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs claim of punitive damages violates due process guaranteed by Article ___, Sections ___ and ___ of the Constitution of _____, on the following grounds:

- (a) It is a violation of due process to impose punitive damages, which are penal in nature, upon a civil defendant upon the plaintiffs satisfying a burden of proof less than the "beyond a reasonable doubt" burden of proof required in criminal cases;
- (b) The procedures pursuant to which punitive damages are awarded fail to provide a limit on the amount of an award of punitive damages against these Defendants;
- (c) The procedures pursuant to which punitive damages are awarded are unconstitutionally vague;
- (d) The procedures pursuant to which punitive damages are awarded fail to provide specific standards for the amount of the award of punitive damages;
- (e) An award of punitive damages in this case would constitute a deprivation of property without due process of law;
- (f) The procedures pursuant to which punitive damages are awarded result in the imposition of different penalties for the same or similar acts; and
- (g) The procedures pursuant to which punitive damages are awarded may result in the award of joint and several judgments against multiple defendants for different alleged acts of wrongdoing.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs claim of punitive damages violates Defendants' right to equal protection of the laws as

provided in Art. ___, §§ ___, ___, and ___ of the Constitution of _____, on the following grounds:

- (a) The procedures pursuant to which punitive damages are awarded result in the imposition of different penalties for the same or similar acts;
- (b) The procedures pursuant to which punitive damages are awarded permit the imposition of punitive damages in excess of the maximum criminal fine for the same or similar conduct;
- (c) The procedures pursuant to which punitive damages are awarded are unconstitutionally vague;
- (d) The procedures pursuant to which punitive damages are awarded may result in the award of joint and several judgments against multiple defendants for different alleged acts of wrongdoing;
- (e) The absence of sufficiently specific and objective standards for the imposition of punitive damages fails to insure equality of treatment between and among similarly situated civil defendants in the same or in different cases.

SIXTH AFFIRMATIVE DEFENSE

The procedures pursuant to which punitive damages are awarded permit the imposition of an excessive fine and unusual punishment in violation of Article ___, Section ___, of the Constitution of _____.

SEVENTH AFFIRMATIVE DEFENSE

The existing _____ procedures for jury awards of punitive damages, to be applied in this action, are unconstitutional for reasons expressed in the special concurring opinion of Justice _____ in the case of _____ v. _____.

EIGHTH AFFIRMATIVE DEFENSE

An award of punitive damages would constitute an arbitrary and capricious taking of property in violation of due process and equal protection guaranteed by Art. ___, §§ ___, ___, ___, and ___ of the _____ Constitution and the Fifth and Fourteenth Amendments of the United States Constitution.

NINTH AFFIRMATIVE DEFENSE

The absence of meaningful standards for determining an award of punitive damages results in a deprivation of property without due process of law guaranteed by Art. ___, §§ ___ and ___ of the _____ Constitution and the Fifth and Fourteenth Amendments of the United States Constitution.

TENTH AFFIRMATIVE DEFENSE

Considering the private interests at stake affected by the procedures of awarding punitive damages and the risk that existing procedures will lead to erroneous results, due process under Art. ___, §§ ___ and ___ of the _____ Constitution and the Fifth and Fourteenth Amendments of the United States Constitution mandates a standard of proof more substantial than a mere "reasonable satisfaction from the evidence" standard.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claim for punitive damages against Defendants cannot be sustained because any award of punitive damages without bifurcating the trial and trying all punitive damages issues only if and after liability on the merits has been found, would violate Defendants' due process rights under the _____ and U.S. Constitutions, and would be improper under the common law and public policies of the state of _____ and under applicable court rules and statutes.

Respectfully submitted,

Dated: _____

Name: _____

Title:

Address:

Address:

City, State, Zip:

Phone:

Fax:

E-Mail:

Attorney No.:

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed,
U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to

_____, at the following address;

THIS the ____ day of _____, 20____.
