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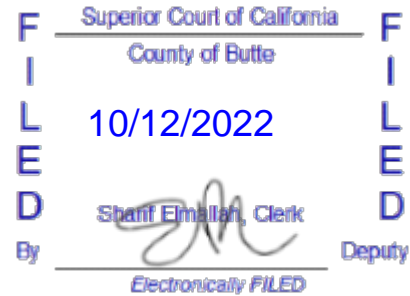
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WALMART INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF BUTTE**

DENNIS DEVER,

Applicant,

vs.

WALMART, INC., a Kansas corporation; and
DOES 1 through 10,

Defendants.

CASE NO: 22CV02005

ANSWER TO COMPLAINT

Defendant WALMART, INC. ("Defendant") hereby answers the Original Complaint ("Complaint") filed by Plaintiff DENNIS DEVER ("Plaintiff"):

GENERAL AND SPECIFIC DENIALS

Pursuant to the provisions of California Code of Civil Procedure section 431.30(d), Defendant denies, generally and specifically, each and every allegation contained in the Complaint, and further denies that Plaintiff has been damaged in the amount or amounts alleged therein, or in any other amount, or at all, by reason of any act or omission on the part of Defendant, or by any act or omission by any agent or employee of Defendant. Defendant further denies, generally and specifically, that Plaintiff is entitled to any relief whatsoever.

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1 **AFFIRMATIVE DEFENSES**

2 **FIRST AFFIRMATIVE DEFENSE**

3 **(Failure to State a Cause of Action)**

4 The Complaint, and each and every cause of action alleged therein fails to state facts
5 sufficient to constitute a cause of action for which relief may be granted.

6 **SECOND AFFIRMATIVE DEFENSE**

7 **(Accidental or Unavoidable Injury)**

8 The Complaint, and each and every cause of action alleged therein, is barred because
9 Defendant was not negligent at the time of the accident.

10 **THIRD AFFIRMATIVE DEFENSE**

11 **(Acts of Other Parties)**

12 Defendant alleges that, if Defendant is subjected to any liability by Plaintiff, it will be due
13 in whole or in part to the acts and/or omissions of other parties, or parties unknown at this time, and
14 any recovery obtained by Plaintiff should be barred or reduced according to law, up to and including
15 the whole thereof.

16 **FOURTH AFFIRMATIVE DEFENSE**

17 **(Assumption of Risk)**

18 The Complaint, and each and every cause of action alleged therein, is barred in that Plaintiff,
19 with full knowledge of all risks attendant thereto, voluntarily and knowingly assumed any and all
20 risks attendant upon Plaintiff's conduct, including any purported damages alleged to be related
21 thereto and proximately caused thereby.

22 **FIFTH AFFIRMATIVE DEFENSE**

23 **(Comparative Negligence)**

24 Defendant alleges that Plaintiff was negligent, and otherwise at fault, with regard to the
25 events alleged in the Complaint, and such negligence and fault is the proximate cause of any
26 liabilities or damages Plaintiff may incur. Accordingly, Plaintiff's recovery, if any, should be
27 precluded or reduced in proportion to their negligence and fault.

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1 **SIXTH AFFIRMATIVE DEFENSE**

2 **(Estoppel)**

3 The Complaint, and each and every cause of action alleged therein, is barred by the doctrine
4 of estoppel.

5 **SEVENTH AFFIRMATIVE DEFENSE**

6 **(Exercise of Reasonable Care)**

7 Defendant exercised reasonable care and did not know, and in the exercise of reasonable
8 care could not have known, of the alleged acts or allegations in connection with the conditions which
9 are the subject of the Complaint.

10 **EIGHTH AFFIRMATIVE DEFENSE**

11 **(Failure of Others to Exercise Reasonable Care)**

12 If Defendant is subjected to any liability herein, it will be due in whole, or in part, to the acts
13 and/or omissions of other Defendants or other parties unknown at this time, and any recovery
14 obtained by Plaintiff should be barred or reduced according to law, up to and including the whole
15 thereof.

16 **NINTH AFFIRMATIVE DEFENSE**

17 **(Failure to Exercise Ordinary Care)**

18 The Complaint, and each and every cause of action alleged therein, is barred in that Plaintiff
19 failed to exercise ordinary and reasonable care on Plaintiff's own behalf and such negligence and
20 carelessness was a proximate cause of some portion, up to and including the whole of, Plaintiff's
21 own alleged injuries and damages, if any, and Plaintiff's recovery therefore should be barred or
22 reduced according to law, up to and including the whole thereof.

23 **TENTH AFFIRMATIVE DEFENSE**

24 **(Failure to Mitigate Damages)**

25 Plaintiff failed to take reasonable steps and make reasonable expenditures to reduce
26 Plaintiff's claims, damages, losses, if any, and that said failure to mitigate Plaintiff's damages bars
27 or reduces any claims, losses, or damages.

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1 **ELEVENTH AFFIRMATIVE DEFENSE**

2 **(Intervening Acts of Others)**

3 The Complaint, and each and every cause of action alleged therein, is barred because the
4 injuries and damages sustained by Plaintiff, if any, were proximately caused by the intervening and
5 superseding actions of others, which intervening and superseding actions bar and/or diminish
6 Plaintiff's recovery, if any, against Defendant.

7 **TWELFTH AFFIRMATIVE DEFENSE**

8 **(Laches)**

9 The Complaint, and each and every cause of action alleged therein, is barred by the doctrine
10 of laches.

11 **THIRTEENTH AFFIRMATIVE DEFENSE**

12 **(Lack of Notice)**

13 Defendant alleges that it did not have either actual or constructive notice of the conditions,
14 if any, which existed at the time and places mentioned in the Complaint, which conditions may have
15 caused or contributed to the damages as alleged herein. Said lack of notice prevented Defendant
16 from undertaking any measures to protect against or warn of said conditions.

17 **FOURTEENTH AFFIRMATIVE DEFENSE**

18 **(No Constructive Notice of Dangerous Condition)**

19 The Complaint, and each and every cause of action alleged therein, is barred by the fact that
20 Defendant did not have constructive notice of the allegedly unsafe conditions on the premises.

21 **FIFTEENTH AFFIRMATIVE DEFENSE**

22 **(Obvious Danger)**

23 Defendant alleges that Plaintiff failed to exercise reasonable and ordinary care, caution, or
24 prudence for Plaintiff's own safety in order to avoid the alleged accident. The resulting injuries and
25 damages, if any, sustained by Plaintiff were proximately caused and contributed to by the negligence
26 of Plaintiff, in that any possible danger with regard to the accident in question was obvious to anyone
27 using reasonable care.

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