1 2 3 4 5 6 7	PORTERSCOTTA PROFESSIONAL CORPORATIONDavid A. Melton, SBN 176340350 University Avenue, Suite 200Sacramento, California 95825TEL: 916.929.1481FAX: 916.927.3706Dmelton@porterscott.comAttorneys for DefendantWALMART INC.	F Superior Court of California F I County of Butte I L 10/12/2022 L E E E D Steamf Elmailan, Clerk D By Electronically FILED Deputy		
8	WALMART INC.			
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10	SUPERIOR COURT OF THE STATE OF CALIFORNIA			
11	FOR THE COUNTY OF BUTTE			
12	DENNIS DEVER,	CASE NO: 22CV02005		
13	Applicant,	ANSWER TO COMPLAINT		
14	vs.	ANSWER TO COMPLAINT		
15 16	WALMART, INC., a Kansas corporation; and DOES 1 through 10,			
10	Defendants.			
18	Defendant WALMART, INC. ("Defender	dant") hereby answers the Original Complaint		
19	("Complaint") filed by Plaintiff DENNIS DEVER ("Plaintiff"):			
20	GENERAL AND SPECIFIC DENIALS			
21	Pursuant to the provisions of California Code of Civil Procedure section 431.30(d),			
22	Defendant denies, generally and specifically, each and every allegation contained in the Complaint,			
23	and further denies that Plaintiff has been damaged in the amount or amounts alleged therein, or in			
24	any other amount, or at all, by reason of any act or omission on the part of Defendant, or by any act			
25	or omission by any agent or employee of Defendant. Defendant further denies, generally and			
26	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	
	(Acts of Other Parties)	
11	Defendant alleges that, if Defendant is subjected to any liability by Plaintiff, it will be due	
12	in whole or in part to the acts and/or omissions of other parties, or parties unknown at this time, and	
13	any recovery obtained by Plaintiff should be barred or reduced according to law, up to and including	
14	the whole thereof.	
15	FOURTH AFFIRMATIVE DEFENSE	
16	(Assumption of Risk)	
17	The Complaint, and each and every cause of action alleged therein, is barred in that Plaintiff,	
18	with full knowledge of all risks attendant thereto, voluntarily and knowingly assumed any and all	
19	risks attendant upon Plaintiff's conduct, including any purported damages alleged to be related	
20	thereto and proximately caused thereby.	
21	FIFTH AFFIRMATIVE DEFENSE	
22	(Comparative Negligence)	
23	Defendant alleges that Plaintiff was negligent, and otherwise at fault, with regard to the	
24	events alleged in the Complaint, and such negligence and fault is the proximate cause of any	
25	liabilities or damages Plaintiff may incur. Accordingly, Plaintiff's recovery, if any, should be	
26	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	
	(Failure of Others to Exercise Reasonable Care)	
11	If Defendant is subjected to any liability herein, it will be due in whole, or in part, to the acts	
12	and/or omissions of other Defendants or other parties unknown at this time, and any recovery	
13	obtained by Plaintiff should be barred or reduced according to law, up to and including the whole	
14	thereof.	
15	NINTH AFFIRMATIVE DEFENSE	
16	(Failure to Exercise Ordinary Care)	
17	The Complaint, and each and every cause of action alleged therein, is barred in that Plaintiff	
18	failed to exercise ordinary and reasonable care on Plaintiff's own behalf and such negligence and	
19	carelessness was a proximate cause of some portion, up to and including the whole of, Plaintiff's	
20	own alleged injuries and damages, if any, and Plaintiff's recovery therefore should be barred or	
21	reduced according to law, up to and including the whole thereof.	
22	TENTH AFFIRMATIVE DEFENSE	
23	(Failure to Mitigate Damages)	
24	Plaintiff failed to take reasonable steps and make reasonable expenditures to reduce	
25	Plaintiff's claims, damages, losses, if any, and that said failure to mitigate Plaintiff's damages bars	
26	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		
-	of laches.		
10	THIRTEENTH AFFIRMATIVE DEFENSE		
11	(Lack of Notice)		
12	Defendant alleges that it did not have either actual or constructive notice of the conditions,		
13	if any, which existed at the time and places mentioned in the Complaint, which conditions may have		
14	caused or contributed to the damages as alleged herein. Said lack of notice prevented Defendant		
15	from undertaking any measures to protect against or warn of said conditions.		
16	FOURTEENTH AFFIRMATIVE DEFENSE		
17	(No Constructive Notice of Dangerous Condition)		
18	The Complaint, and each and every cause of action alleged therein, is barred by the fact that		
19	Defendant did not have constructive notice of the allegedly unsafe conditions on the premises.		
20	FIFTEENTH AFFIRMATIVE DEFENSE		
21	(Obvious Danger)		
22	Defendant alleges that Plaintiff failed to exercise reasonable and ordinary care, caution, or		
23	prudence for Plaintiff's own safety in order to avoid the alleged accident. The resulting injuries and		
24	damages, if any, sustained by Plaintiff were proximately caused and contributed to by the negligence		
25	of Plaintiff, in that any possible danger with regard to the accident in question was obvious to anyone		
26	using reasonable care.		
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1	SIXTEENTH AFFIRMATIVE DEFENSE	
2	(Res Judicata/Collateral Estoppel)	
3	The Complaint, and each and every cause of action alleged therein, is barred by the doctrines	
4	of res judicata and/or collateral estoppel.	
5	SEVENTEENTH AFFIRMATIVE DEFENSE	
6	(Several Liability for Non-Economic Damages)	
7	If Defendant has any liability to Plaintiff in this action, which is denied, it is only severally	
8	liable for Plaintiff's non-economic damages under California Civil Code sections 1431.1 and	
9	1431.2. Therefore, Defendant requests a judicial determination of the percentage of its negligence,	
-	if any, which proximately contributed to the subject incident.	
10	EIGHTEENTH AFFIRMATIVE DEFENSE	
11	(Statute of Limitations)	
12	The Complaint, and each and every cause of action alleged therein, is barred by the	
13	applicable statute of limitations, including, but not limited to, Government Code sections 12960 and	
14	12965; Code of Civil Procedure sections 335.1, 337, 338, 339, 340 and 343; and Business and	
15	Professions Code section 17208.	
16	NINETEENTH AFFIRMATIVE DEFENSE	
17	(Additional Defenses)	
18	Defendant may have additional defenses that cannot be articulated due to Plaintiff's failure	
19	to particularize Plaintiff's claims, due to the fact that Defendant does not have copies of certain	
20	DOCUMENTS bearing on Plaintiff's claims and due to Plaintiff's failure to provide more specific	
21	information concerning the nature of the damage claims and claims for certain costs for which	
22	Plaintiff alleges that Defendant may share some responsibility. Defendant therefore reserves the	
23	right to assert additional defenses upon further particularization of Plaintiff's claims, upon	
24	examination of the DOCUMENTS provided, upon discovery of further information concerning the	
25	alleged damage claims and claims for costs, and upon the development of other pertinent	
26	information.	
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