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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

03/26/2024
Clerk of the Court
BY: MARK UDAN
Deputy Clerk

8 *Attorneys for Defendants Jon Holloway, Emily Holloway, and Amy Holloway*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SAN FRANCISCO**

11 LOUIS MURILLO PAVON, an
12 individual,

13 Plaintiff,

14 v.

15 EMILY HOLLOWAY, an individual;
16 JON HOLLOWAY, an individual; AMY
17 HOLLOWAY, an individual; and DOES
18 1 through 20, inclusive,

19 Defendants.

Case No.: CGC-23-611132

**DEFENDANTS JON HOLLOWAY, EMILY
HOLLOWAY AND AMY HOLLOWAY'S
ANSWER TO PLAINTIFF LOUIS MURILLO
PAVON'S COMPLAINT**

Complaint Filed: December 18, 2023

20 COMES NOW, Defendants, Jon Holloway, Emily Holloway, and Amy Holloway (hereinafter
21 collectively referred to as "Defendants"), and respond to Plaintiff, Louis Murillo Pavon's ("Plaintiff")
22 Complaint on file as follows:

23 **GENERAL DENIAL**

24 Pursuant to the provisions of Section 431.30 of the California Code of Civil Procedure,
25 Defendants deny generally and specifically each, every, and all of the allegations in said Complaint, and
26 the whole thereof, including each and every purported cause of action contained therein. Defendants
27 further deny that Plaintiff has or will sustain damages in their amount alleged or in any amount
28 whatsoever. The answering Defendants deny that Plaintiff has sustained any injuries, damages or losses
because of any act or omission of the answering Defendants. In addition, Defendants the following

1 affirmative defenses:

2 **AFFIRMATIVE DEFENSES**

3 **FIRST AFFIRMATIVE DEFENSE**

4 (Comparative Negligence of Plaintiff)

5 1. Defendants are informed and believe and thereon allege, at all times and places set forth
6 in the Complaint, Plaintiff failed to exercise ordinary care on their own behalf, which negligence and
7 carelessness was a proximate cause of some portion, up to and including the whole thereof, of the injuries
8 and damages complained of in this action. Plaintiff's recovery, therefore, against Defendants should be
9 barred or reduced according to principles of comparative negligence.

10 **SECOND AFFIRMATIVE DEFENSE**

11 (Comparative Negligence of Others)

12 2. Defendants deny that they were negligent in any fashion with respect to the damages,
13 losses, injuries, and debts claimed by the Plaintiff. However, if Defendants are found to have been
14 negligent (which supposition is denied and merely stated for the purpose of this affirmative defense),
15 then Defendants provisionally allege that their negligence is not the sole and proximate cause of the
16 resultant damages, losses and injuries alleged by Plaintiff and that the damages awarded to Plaintiff, if
17 any, are to be apportioned according to the respective fault of the parties, persons, and entities, or their
18 agents, servants, and employees who contributed to and/or caused said resultant damages as alleged,
19 according to proof presented at the time of trial. To assess any greater percentage of fault and damages
20 against Defendants in excess of their percentage of fault would be a denial of equal protection and due
21 process which are guaranteed by the constitutions of the State of California and the United States,
22 respectively.

23 **THIRD AFFIRMATIVE DEFENSE**

24 (Comparison of Fault)

25 3. Defendants deny that they were negligent in any fashion with respect to the damages,
26 losses, injuries, and debts claimed by the Plaintiff on file herein. However, if Defendants are found to
27 have been negligent (which supposition is denied and merely stated for the purpose of this affirmative
28 defense), then Defendants provisionally allege that their negligence is not the sole and proximate cause of

1 the resultant damages, losses and injuries alleged by Plaintiff and that the damages awarded to Plaintiff,
2 if any, are to be apportioned according to the respective fault of the parties, persons, and entities, or their
3 agents, servants, and employees who contributed to and/or caused said resultant damages as alleged,
4 according to proof presented at the time of trial. To assess any greater percentage of fault and damages
5 against Defendants in excess of their percentage of fault would be a denial of equal protection and due
6 process which are guaranteed by the constitutions of the State of California and the United States,
7 respectively.

8 **FOURTH AFFIRMATIVE DEFENSE**

9 (Comparative Fault of Others)

10 4. Defendants are informed and believe and thereon allege, at all times and places set forth
11 in the Complaint, other persons, other than Defendants, failed to exercise ordinary care on their own
12 behalf, which negligence and carelessness was a proximate cause of some portion, up to and including
13 the whole thereof, of the injuries and damages complained of by Plaintiff in this action. The fault, if any,
14 of Defendants should be compared with the fault of those other individuals, and damages, if any, should
15 be apportioned among the others in direct relation to each person's comparative fault, such that
16 Defendants should be obliged to pay only such damages, if any, which are directly attributable to their
17 percentage of comparative fault. To require Defendants to pay any more than their percentage of
18 comparative fault violates the equal protection and due process clauses of the Constitution of the United
19 States and the California State Constitution.

20 **FIFTH AFFIRMATIVE DEFENSE**

21 (Failure to State a Cause of Action)

22 5. The Complaint and every purported cause of action therein fail to set forth facts
23 sufficient to state a cause of action.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 (Offset)

26 6. Defendants allege that the claims, and each of them, are barred by offset.

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1 **SEVENTH AFFIRMATIVE DEFENSE**

2 (Statute of Limitation - General)

3 7. Plaintiff's actions are barred by the applicable statutes of limitations.

4 **EIGHTH AFFIRMATIVE DEFENSE**

5 (Statutes of Limitation - Negligence)

6 8. Plaintiff's actions are barred by the provisions of Section 335.1 of the California Code
7 of Civil Procedures.

8 **NINTH AFFIRMATIVE DEFENSE**

9 (Assumption of Risk)

10 9. The perils or dangers, if any, existing at the time of Plaintiff's alleged injuries, if any,
11 were open and obvious and known to Plaintiff, and each of them, who nevertheless conducted themselves
12 in such a manner so as to expose themselves to said perils and dangers, if any, and by so doing, assumed
13 all of the risk attendant thereto.

14 **TENTH AFFIRMATIVE DEFENSE**

15 (Failure to Mitigate)

16 10. Plaintiff failed to exercise reasonable care and diligence to avoid loss and to minimize
17 damages and, therefore, Plaintiff may not recover for losses which could have been prevented by
18 reasonable efforts on their own part, or by expenditures that might reasonably have been made.
19 Therefore, Plaintiff's recovery, if any, should be reduced by the failure of Plaintiff to mitigate their
20 damages.

21 **ELEVENTH AFFIRMATIVE DEFENSE**

22 (Superseding Negligence)

23 11. The injuries and damages of which Plaintiff complains were proximately caused or
24 contributed to by the acts of other persons and/or entities. Said acts were an intervening, supervening and
25 superseding cause of the injuries and damages, if any, of which the Plaintiff complains, thus barring
26 Plaintiff from any recovery against Defendant.

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1 **TWELFTH AFFIRMATIVE DEFENSE**

2 (Estoppel)

3 12. Plaintiff engaged in conduct with respect to the activities and/or property which are the
4 subject of the Complaint, and by reason of said activities and conduct, are estopped from asserting any
5 claim for damages or seeking any other relief against Defendant.

6 **THIRTEENTH AFFIRMATIVE DEFENSE**

7 (Waiver)

8 13. Plaintiff engaged in conduct and activities sufficient to constitute a waiver of any
9 alleged negligence or any other conduct, if any, as set forth in the cross-complaint.

10 **FOURTEENTH AFFIRMATIVE DEFENSE**

11 (Laches)

12 14. Due to their tardiness in asserting their purported right to recover, Plaintiff's claims
13 should be barred by the equitable doctrine of laches.

14 **FIFTEENTH AFFIRMATIVE DEFENSE**

15 (Civil Code Section 1431.2)

16 15. To the extent Plaintiff is able to prove any liability against Defendant, all or a portion of
17 Plaintiff's damages are barred pursuant to Civil Code Section 1431.2.

18 **SIXTEENTH AFFIRMATIVE DEFENSE**

19 (Unclean Hands)

20 16. By virtue of Plaintiff's unlawful, immoral, careless, negligent, and other wrongful
21 conduct, Plaintiff should be barred from recovering against Defendants by the equitable doctrine of
22 unclean hands.

23 **SEVENTEENTH AFFIRMATIVE DEFENSE**

24 (Costs)

25 17. Defendants are informed and believe, and thereon allege, that at all times mentioned
26 herein, the Complaint was brought without reasonable cause and without a good faith belief that there
27 was a justifiable controversy under the facts or the laws which warranted the filing of this Complaint
28 against Defendants. Plaintiff should therefore be responsible for all of Defendants' necessary and

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