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FILED
Superior Court of California
County of Riverside
12/22/2017
A. Rangel
By Fax

**EXEMPT FROM FEE
GOVT. CODE 6103**

Attorneys for Defendants JASON HORTON and COUNTY OF RIVERSIDE

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

LUS GUSMAN, an individual; MISAEL GALINDO-GUSMAN, by and through his mother and Guardian ad Litem, Lus Gusman; FERNANDO GALINDO, an individual,

Plaintiffs,

v.

JASON HORTON, in his official capacity and individually; COUNTY OF RIVERSIDE, a public entity; and DOES 1 to 100, Inclusive,

Defendants.

CASE NO.: RIC 1721294

DEFENDANTS ANSWER TO COMPLAINT

Case Management Conference
DATE: 5-8-18
TIME: 8:30
DEPT: 6

Defendants JASON HORTON and COUNTY OF RIVERSIDE, and no others, answers the Complaint in the above matter as follows:

I.

Pursuant to the provisions of California Code of Civil Procedure, Section 431.30, these Defendants deny generally each and every allegation of the Complaint and deny that Plaintiffs were damaged in the amounts claimed, or at all, and deny that Plaintiffs are entitled to the relief claimed upon the grounds alleged, or otherwise, or at all.

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FIRST AFFIRMATIVE DEFENSE

That Plaintiffs are barred from recovery, or said recovery, if any, is proportionately reduced, as any injury or damage allegedly suffered by Plaintiffs occurred as a proximate result of negligence on the part of Plaintiff, LUS GUSMAN, in that LUS GUSMAN failed to exercise ordinary care on her own behalf at the time and place alleged, and such negligence is imputed to the other Plaintiffs herein.

SECOND AFFIRMATIVE DEFENSE

That Plaintiffs are barred from recovery herein, as the Complaint, including all claims proffered under the Government Code, fails to state facts sufficient to constitute a cause of action against these responding Defendants.

THIRD AFFIRMATIVE DEFENSE

That Plaintiff LUS GUSMAN voluntarily and knowingly exposed herself to a known danger and thereby assumed the risk of any injury resulting from said danger, and such assumption of risk is imputed to the other Plaintiff's herein.

FOURTH AFFIRMATIVE DEFENSE

That Plaintiffs are barred from recovery, or said recovery, if any, is proportionately reduced, as any injury or damage allegedly suffered by Plaintiffs occurred as a proximate result of negligence of other persons.

FIFTH AFFIRMATIVE DEFENSE

That under and pursuant to the terms of California Civil Code, Sections 1431.1 through 1431.5, Plaintiffs are barred and precluded from recovery against these responding Defendants for any non-economic damages, except those allocated to these responding Defendants in direct proportion to the percentage of fault of these responding Defendants, if any such fault or damages there be.

SIXTH AFFIRMATIVE DEFENSE

That Plaintiffs are barred from recovery, or said recovery, if any, is proportionately reduced, as Plaintiffs have failed to mitigate damages.

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SEVENTH AFFIRMATIVE DEFENSE

Any and all duties imposed on these Defendants, their agents or employees, the failure of which allegedly created the conduct at the time and place which is the subject of this Complaint, were exercised with reasonable care and diligence, and therefore, these Defendants are not liable to Plaintiffs

WHEREFORE, responding Defendants pray as follows:

- (1) That Plaintiffs take nothing by reason of their Complaint on file herein;
- (2) That the Complaint be dismissed;
- (3) For costs of suit incurred herein; and
- (4) For such other and further relief as the Court deems just and proper.

Date: December 21, 2017

DISENHOUSE LAW APC



BRUCE E. DISENHOUSE

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PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I, Brenda Laird, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3833 Tenth Street, Riverside, California 92501.

On December 21, 2017, I served or caused to be served the foregoing DEFENDANTS ANSWER TO COMPLAINT on the interested parties by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Riverside, California, addressed as follows and/or by one of the methods of service as follows:

SEE ATTACHED MAILING LIST

BY MAIL: I am readily familiar with this firm's practice of collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service the same day in the ordinary course of business pursuant to C.C.P. 1013(a).

BY FAX: A copy of said document(s) was delivered by facsimile transmission to the addressee pursuant to C.C.P. 1013(e).


BY ELECTRONIC SERVICE: A copy of said document(s) was delivered by electronic transmission to the addressee(s) pursuant to C.C.P. 1013(g) and 1010.6(3).

BY PERSONAL SERVICE: I caused to be hand-delivered said document(s) to the office of the addressee, using an attorney service, pursuant to C.C.P. 1011.

BY EXPRESS MAIL: I caused said document(s) to be placed in an Express Mail Overnight Envelope and deposited in an Express Mail DropBox to be delivered the following business day pursuant to C.C.P. 1013(c).

FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Pursuant to L.R. 5-3.2.1 and 5-3.2.2 the undersigned declares service has been affected by way of CM/ECF or via Mail service as indicated above.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on December 21, 2017, at Riverside, California.



BRENDA LAIRD

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MAILING LIST

Gusman v. County of Riverside, et al.
RIC 1721294

Attorney for Plaintiffs Lus Gusman, Misael-Gusman and Fernando Galindo

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