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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
 FIRST JUDICIAL DISTRICT AT KETCHIKAN

FILED in the Trial Courts
 State of Alaska, First District
 at Ketchikan
 MAR 04 2021
 Clerk of the Trial Courts
 Deputy

SAMUEL E. BERGERON and LINDA G.)
 MILLARD, husband and wife,)
)
 Plaintiffs,)

v.)

CITY OF KETCHIKAN, operating by and)
 through the KETCHIKAN POLICE)
 DEPARTMENT,)

Case No. 1KE-21-00022CI

Defendant.)

ANSWER

COMES NOW defendant CITY OF KETCHIKAN, operating by and through the KETCHIKAN POLICE DEPARTMENT, by and through counsel, Walker & Eakes, and for its answer to plaintiffs' complaint admits, denies, and alleges as follows:

1. With regard to paragraph one of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

2. With regard to paragraph two of plaintiffs' complaint, answering defendant is admits the allegations contained therein.

3. With regard to paragraph three of plaintiffs' complaint, answering defendant admits venue is proper in Ketchikan. Answering defendant is without knowledge or

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information sufficient to form a belief as to the extent the plaintiffs' sustained injury or damages as a result of the subject accident.

4. With regard to paragraph four of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to whether plaintiffs' damages are sufficient to justify having filed in Superior Court.

5. With regard to paragraph five of plaintiffs' complaint, answering defendant admits the allegations contained therein.

6. With regard to paragraph six of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

7. With regard to paragraph seven of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

8. With regard to paragraph eight of plaintiffs' complaint, answering defendant admits the allegations contained therein.

9. With regard to paragraph nine of plaintiffs' complaint, answering defendant admits plaintiffs were in the crosswalk at the time the impact occurred.

10. With regard to paragraph 10 of plaintiffs' complaint, answering defendant admits the allegations contained therein.

11. With regard to paragraph 11 of plaintiffs' complaint, answering defendant admits the allegations contained therein.

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12. With regard to paragraph 12 of plaintiffs' complaint, answering defendant admits plaintiffs were in the crosswalk at the time the impact occurred. Defendant further admits the impact occurred as Officer Perez was turning left onto Grant Street.

13. With regard to paragraph 13 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

14. With regard to paragraph 14 of plaintiffs' complaint answering defendant admits Officer Perez was aware of a prior accident at the subject crosswalk. All remaining allegations are denied for lack of knowledge.

15. With regard to paragraph 15 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

16. With regard to paragraph 16 of plaintiffs' complaint, answering defendant admits that sometime during the week following the accident Officer Perez went to the

plaintiffs' home to apologize and find out how they were doing. Defendant admits this visit occurred in the evening while Officer Perez was on duty.

17. With regard to paragraph 17 of plaintiffs' complaint, answering defendant admits Officer Perez attempted to explain how the accident had occurred from his perspective.

18. With regard to paragraph 18 of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

19. With regard to paragraph 19 of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the extent plaintiff Sam Bergeron sustained damages as a result of the subject accident.

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20. With regard to paragraph 20 of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the extent plaintiff Linda Millard sustained damages as a result of the subject accident.

21. With regard to paragraph 21 of plaintiffs' complaint, answering defendant admits the allegations contained therein.

22. With regard to paragraph 22 of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the extent the plaintiffs' sustained damages as a result of the subject accident.

23. With regard to paragraph 23 of plaintiffs' complaint, this paragraph states a legal conclusion to which no response is required.

24. With regard to paragraph 24 of plaintiffs' complaint, answering defendant denies any allegations or inference of negligent or reckless conduct. Additionally, the

remaining allegations contained in paragraph twenty-four of plaintiffs' complaint are a legal conclusion to which no response is required.

25. With regard to paragraph 25 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

26. With regard to paragraph 26 of plaintiffs' complaint, answering defendant admits the allegations contained therein.

27. With regard to paragraph 27 of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

28. With regard to paragraph 28 of plaintiffs' complaint, answering defendant incorporates by reference the responses set forth in paragraphs 1 through 27 above as if set forth in full.

29. With regard to paragraph 29 of plaintiffs' complaint, this paragraph states a legal conclusion to which no response is required.

30. With regard to paragraph 30 of plaintiffs' complaint, the first sentence of paragraph thirty states a legal conclusion to which no response is required. Answering defendant denies the remaining allegations contained in paragraph thirty of plaintiffs' complaint.

31. With regard to paragraph 31 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

32. With regard to paragraph 32 of plaintiffs' complaint answering defendant incorporates by reference the responses set forth in paragraphs one through thirty-one above as if set forth in full.

33. With regard to paragraph 33 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

34. With regard to paragraph 34 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

35. With regard to paragraph 35 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

36. With regard to paragraph 36 of plaintiffs' complaint, answering defendant incorporates by reference the responses set forth in paragraphs 1 through 35 above as if set forth in full.

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37. With regard to paragraph 37 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

38. With regard to paragraph 38 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

39. With regard to paragraph 39 of plaintiffs' complaint, answering defendant incorporates by reference the responses set forth in paragraphs 1 through 38 above as if set forth in full.

40. With regard to paragraph 40 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

41. With regard to paragraph 41 of plaintiffs' complaint, answering defendant incorporates by reference the responses set forth in paragraphs 1 through 40 above as if set forth in full.

42. With regard to paragraph 42 of plaintiffs' complaint, answering defendant denies the allegations contained therein. Further, this paragraph states a legal conclusion to which no response is required.

43. With regard to paragraph 43 of plaintiffs' complaint, answering defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

44. With regard to paragraph 44 of plaintiffs' complaint, answering defendant incorporates by reference the responses set forth in paragraphs 1 through 43 above as if set forth in full.

45. With regard to paragraph 45 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

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46. With regard to paragraph 46 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

47. With regard to paragraph 47 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

48. With regard to paragraph 48 of plaintiffs' complaint, answering defendant denies the allegations contained therein.

Except as expressly admitted in paragraphs 1 through 48 above, all allegations contained in plaintiffs' complaint are denied.

AFFIRMATIVE AND ADDITIONAL DEFENSES

By way of further answer and by way of further affirmative defenses, answering defendant alleges as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' complaint fails to state a claim for relief.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their damages, if any.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' own conduct was comparatively negligent and such conduct should serve to reduce their damages, if any.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' damages, if any, were caused by plaintiffs' own negligence, or by the negligence or culpable conduct of others, whether parties to this lawsuit or not.

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FURTHER AFFIRMATIVE DEFENSES

Defendant reserves the right to assert whatever other affirmative defenses and/or counterclaims may become available as discovery progresses.

PRAYER

WHEREFORE, having answered the plaintiffs' complaint, answering defendant prays that the same be dismissed with prejudice; that plaintiffs take nothing from defendant; that defendant be awarded its costs and attorney's fees incurred in defending this action; and for such other and further relief as this court deems just and equitable.

DATED this 3rd day of March 2021, at Anchorage, Alaska.

Walker & Eakes, LLC
Attorney for Defendant
CITY OF KETCHIKAN, operating by and
through the KETCHIKAN POLICE
DEPARTMENT

By: /s/ Laura J. Eakes
Laura J. Eakes
Alaska Bar No. 0011072/

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 3rd day of March 2021 by:

- : Mail
- : Email
- : Facsimile
- : Hand Delivery
- : Courier

To the following persons:

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/s/ Amable Rosa
Walker & Eakes, LLC
170.462/pld/2021-02-17 Answer

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