

1 Dean Gazzo Roistacher LLP
2 Attorneys at Law
3 Mitchell D. Dean, Esq. (SBN 128926)
4 Heather E. Paradis, Esq. (SBN 276650)
5 440 Stevens Avenue, Suite 100
6 Solana Beach, CA 92075
7 Telephone: (858) 380-4683
8 Facsimile: (858) 492-0486
9 E-mail: mdean@deangazzo.com
10 hparadis@deangazzo.com

11 Attorneys for Defendants
12 City of La Mesa and Eric Knudson

**Exempt from Fees Per
Gov. Code, § 6103**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

13 LESLIE FURCRON, an individual,
14
15 Plaintiff,
16
17 v.

Case No.: 37-2020-00045018-CU-CR-CTL

**DEFENDANTS CITY OF LA MESA AND
ERIC KNUDSON’S ANSWER TO
PLAINTIFF’S COMPLAINT**

18 ERIC KNUDSON, an individual; CITY OF
19 LA MESA, a municipal entity; and DOES
20 1-25, inclusive,
21
22 Defendants.

[IMAGED]

Dept: C-71
Judge: Hon. Gregory W. Pollack

Complaint Filed: June 19, 2020
Trial Date: None set

23 Defendants City of La Mesa and Eric Knudson (“Defendants”) answer Plaintiffs’
24 Complaint as follows:

**I.
GENERAL DENIAL**

25 The Complaint in this matter being unverified, these answering Defendants, pursuant to
26 Section 431.30(d) of the Code of Civil Procedure, now files its general denial to the unverified
27 Complaint and, answering all the allegations contained therein, denies generally and specifically
28 each cause of action contained in the Complaint, and further denies that said Plaintiff has or will
sustain damages in the sums alleged or in any other sum or sums, or at all.

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II.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. The Complaint fails to state a claim against Defendants upon which relief may be granted.

Second Affirmative Defense

2. Defendants allege that if any damages were sustained by Plaintiff, the damages were proximately caused by the acts and/or omission of others over whom these answering Defendants exercises no control and for whose acts these answering Defendants are not responsible.

Third Affirmative Defense

3. Plaintiff failed to mitigate her damages and should be barred from recovery of such amounts.

Fourth Affirmative Defense

4. Any loss or damages sustained by Plaintiff were in whole or in part due to the acts or omission by Plaintiff, and Plaintiff's award, if any, should be reduced by her proportional share of negligence, fault, recklessness, or unlawful conduct.

Fifth Affirmative Defense

5. Plaintiff waived any and all claims she may have had against Defendants.

Sixth Affirmative Defense

6. Defendants alleges that the acts complained of by Plaintiff were provoked by Plaintiff's unlawful and wrongful conduct, and the force and/or physical contact, if any, used was not excessive or unreasonable under the circumstances.

Seventh Affirmative Defense

7. Defendants allege that Plaintiff has failed to bring this action in a timely manner and has otherwise failed to maintain this action within the applicable statute of limitations periods.

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1 **Eighth Affirmative Defense**

2 8. Defendants allege that Plaintiff’s Complaint fails to state facts sufficient to set
3 forth a claim for punitive damages against Defendants.

4 **Ninth Affirmative Defense**

5 9. Defendants acted in good faith without malice, and upon a reasonable believe
6 that their conduct was lawful and necessary.

7 **Tenth Affirmative Defense**

8 10. Defendants are not liable for injuries resulting from acts or omissions which
9 were an exercise of their discretion.

10 **Eleventh Affirmative Defense**

11 11. Defendants were acting on a good faith and reasonable belief that the acts
12 complained of occurred within the scope of the defendant officer’s official duties and they had
13 no knowledge that the alleged wrongful acts, if any, were illegal and/or unconstitutional nor
14 were said alleged wrongful acts, if any, clearly a violation of Plaintiff’s rights at the time they
15 were committed.

16 **Reservation of Affirmative Defenses**

17 12. Because the Complaint is couched in vague and conclusory terms, Defendants
18 cannot fully anticipate all affirmative defenses that may be applicable to this action.
19 Accordingly, Defendants hereby reserve the right to assert additional affirmative defenses, if
20 and to the extent that such affirmative defenses are applicable, and/or to withdraw affirmative
21 defenses as may be appropriate.

22 WHEREFORE, defendant Defendants pray as follows:

- 23 1. That Plaintiff takes nothing by her Complaint;
- 24 2. That Defendants be awarded costs of suit;
- 25 3. For such further relief as the Court deems proper; and
- 26 4. That the sole liability of these answering Defendants, if any, be limited in
27 proportion to the degree of fault attributable to these answering Defendants.

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Dated: January 27, 2021

Dean Gazzo Roistacher LLP

By: /s/ Heather E. Paradis
Mitchell D. Dean
Heather E. Paradis
Attorneys for Defendants
City of La Mesa and
Eric Knudson