

5. Defendant denies the material allegations contained in paragraph five (5) of Plaintiff's Complaint.

6. Defendant is without sufficient information to either admit or deny the material allegations contained in paragraph six (6) of Plaintiff's Complaint.

WHEREFORE, the Defendant, City of Bloomington, would pray for judgment in its favor, that Plaintiff takes nothing by way of his Complaint, for costs of this action, and for all other just and proper relief in the premises.

AFFIRMATIVE DEFENSES

Comes now the Defendant, City of Bloomington, by counsel, and for its Affirmative Defenses to Plaintiff's Complaint, alleges and says:

1. The Plaintiff, Steven Melton, was contributorily negligent, and such conduct bars Plaintiff's claim under Ind. Code § 34-13-3-1, *et seq.*

2. That the injuries and/or damages of which the Plaintiff complains was the proximate result of the risk voluntarily incurred and/or assumed by the Plaintiff.

3. That the Plaintiff's claim against the Defendant is barred pursuant to Ind. Code § 34-13-3-1, *et seq.*

4. That the Defendant is immune from liability to the Plaintiff pursuant to Ind. Code § 34-13-3-1, *et seq.*

5. The Defendant did not have prior notice of, nor an opportunity to correct, the defects alleged in Plaintiffs' Complaint.

6. The Defendant did not proximately cause the Plaintiff's damages and injuries, if any be found to exist.

7. That the Plaintiff has already been fully or partially compensated for the injuries and/or damages of which they complain and are therefore not entitled to recover from the Defendant, and/or such full or partial compensation is a set-off against any claim by the Plaintiff against the Defendant.

8. That the Plaintiff has failed to mitigate his damages.

9. To the extent any allegation or count is not specifically addressed herein is specifically denied.

10. Defendant reserves the right to raise additional Affirmative Defenses.

WHEREFORE, the Defendant, City of Bloomington, would pray for judgment in its favor, that the Plaintiff takes nothing by way of his Complaint, for costs of this action, and for all other just and proper relief in the premises.

JURY DEMAND

Pursuant to Trial Rule 38, the Defendant respectfully demands a trial by jury.

Respectfully submitted,


TRAVELERS STAFF COUNSEL INDIANA

By: 
Matthew D. Miller, #21744-49

CERTIFICATE OF SERVICE

The undersigned certifies that on the 14th day of October, 2019, a copy of this document was filed electronically, with a copy served electronically via the Court's system upon registered counsel of record as follows:

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