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IN THE CIRCUIT COURT OF THE 7TH JUDICIAL  
CIRCUIT IN AND FOR FLAGLER COUNTY, FLORIDA

CASE NO. 2017 CA 000203

IMAD MANSOUR and GAIL MANSOUR,

Plaintiffs,

v.

CAPTAIN'S BAIT, TACKLE & BBQ, LLC and  
COUNTY OF FLAGLER,

Defendants.

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**DEFENDANT, CAPTAIN'S BAIT, TACKLE & BBQ, LLC'S,**  
**ANSWER TO PLAINTIFFS' COMPLAINT**

COMES NOW, Defendant, CAPTAIN'S BAIT, TACKLE & BBQ, LLC ("CAPTAIN'S BAIT"), by and through its undersigned counsel, and pursuant to the Florida Rules of Civil Procedure, hereby files its Answer and Affirmative Defenses to Plaintiff, IMAD MANSOUR and GAIL MANSOUR's, Complaint, and state as follows:

1. Defendant, CAPTAIN'S BAIT, is without knowledge as to the allegations in Paragraphs 1 and 3 of Plaintiffs' Complaint, therefore, deemed denied.

2. Defendant, CAPTAIN'S BAIT, admits that on August 4, 2016, it operated a restaurant located at 5862 North Ocean Shore Boulevard, Palm Coast, Florida; however, all other remaining allegations in Paragraph 2 of Plaintiffs' Complaint are, therefore, deemed denied.

3. Defendant, CAPTAIN'S BAIT, denies the allegations contained in Paragraphs 4, 5 and 6 of Plaintiffs' Complaint.

4. In response to Paragraph 7 of Plaintiffs' Complaint, Defendant, CAPTAIN'S BAIT, realleges its allegations contained in Paragraphs 1-6 of Plaintiffs' Complaint.

5. Defendant, CAPTAIN'S BAIT, denies the allegations contained in Paragraphs 8 and 9 of Plaintiff's Complaints.

6. Counts III and IV are not directed to Defendant, CAPTAIN'S BAIT; therefore, no response is required. However, to the extent any response is required, Defendant, CAPTAIN'S BAIT, denies all allegations and demands strict proof thereof.

**AFFIRMATIVE DEFENSES**

1. Plaintiff was under an affirmative duty to exercise due care in his own regard but, notwithstanding said duty, he so negligently and carelessly conducted himself in the premises that his conduct was the sole proximate cause of, or a contributing cause to, the events of which he now complains. His right to recovery is, therefore, defeated or diminished as a result of said conduct under the Doctrine of Comparative Negligence.

2. The acts and conduct of a third party caused or contributed to the cause of the events of which the Plaintiff now complains. When said third party is identified, the Defendant would have a right to add said affirmative defense and have a jury compare the fault of said third party with the fault of the parties herein and place the percentages of fault on the verdict form according to the Doctrine of Comparative Fault as set forth in Fabre v. Marin, 623 So. 2d 1182 (Fla. 1993).

3. All or part of Plaintiff's damages have been paid by collateral sources as defined in Florida Statutes, and/or common law and therefore, Defendant is entitled to set-offs for such collateral sources against any judgment entered against the Defendant.

4. The condition which allegedly caused Plaintiff's fall and subsequent injuries was open and obvious to a reasonable observer.

5. The Plaintiff was under a duty to mitigate damages, but, notwithstanding that duty, failed to so mitigate. His right to recovery is, therefore, diminished as a result of said conduct.

**DEMAND FOR JURY TRIAL**

Defendant demands a trial by jury on all issues so triable.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy hereof has been furnished by service through the eportal to Robert W. Elton, Esq., 1951 W. Granada Blvd., Ormond Beach, FL 32174, Attorney for Plaintiffs, [relton@eltonlaw.com](mailto:relton@eltonlaw.com) on this 10th day of May, 2017.

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