

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

LUZY SAENZ,	:	
	:	
Plaintiff,	:	Case No. 21-CV-4224
	:	
v.	:	Judge Sheryl K. Munson
	:	
CITY OF COLUMBUS, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ANSWER OF DEFENDANTS TO PLAINTIFFS’ COMPLAINT

Now come Defendants City of Columbus, Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer, Rodney Reed, and Laura Thomas (collectively “Defendants”), and state the following in response to the Complaint:

FIRST DEFENSE

THE PARTIES

1. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 1 of the Complaint and therefore deny the same.
2. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 2 of the Complaint and therefore deny the same.
3. Defendants admit the allegations contained in Paragraph 3 of the Complaint.
4. Defendants admit the allegations contained in Paragraph 4 of the Complaint.

JURISDICTION AND VENUE

5. Paragraph 5 of the Complaint contains legal conclusions and/or non-factual statements to which no response is required. To the extent a response is required, Defendants admit the allegations contained in Paragraph 5 of the Complaint, but deny liability or responsibility for Plaintiff's claims.
6. Paragraph 6 of the Complaint contains legal conclusions and/or non-factual statements to which no response is required. To the extent a response is required, Defendants admit the allegations contained in Paragraph 6 of the Complaint.

STATEMENT OF FACTS

7. Defendants assert that the 9-1-1 call referenced in Paragraph 7 of the Complaint is a recording that speaks for itself.
8. Defendants admit the allegations contained in Paragraph 8 of the Complaint.
9. The Computer Aided Dispatch ("CAD") data referred to in Paragraph 9 of the Complaint speaks for itself. Further answering, Defendants admit the allegations contained in Paragraph 9 of the Complaint.
10. Defendants admit the allegations contained in Paragraph 10 of the Complaint.
11. In response to Paragraph 11 of the Complaint, Defendants admit that a window to the apartment was broken in, although at least one responding officer,¹ Defendant Reed, does not recall seeing the broken window at the time of the run. Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 11 of the Complaint and therefore deny the same.

¹ The "responding officers" are Defendants Matthew Caldwell, John Coaty, Todd Eagon, Sean Noltemeyer, and Rodney Reed.

12. In response to Paragraph 12 of the Complaint, Defendants deny that Plaintiff's decedent spoke to all of the responding officers. Defendants further assert that Plaintiff's decedent provided conflicting statements to the officers that she did talk to and that she only told Defendant Todd Eagon that she was scared of Marcos Solis. Defendants admit that Plaintiff's decedent cried at various times during the run.
13. In response to Paragraph 13 of the Complaint, Defendants admit that Defendant Caldwell identified an open and empty gun case located in plain view on a bed, inside a bedroom. Defendants deny all remaining allegations contained in Paragraph 13 of the Complaint.
14. Defendants deny the allegations contained in Paragraph 14 of the Complaint.
15. In response to Paragraph 15 of the Complaint, Defendants assert that they did not conduct a search of the apartment for guns because they did not have a search warrant. Further answering, Defendants assert that Officer Noltemeyer patted down Mr. Solis for guns, Officer Eagon asked him if he had a weapon on him, and that Officer Caldwell conducted a plain view scan of the apartment for any visible guns. Defendants deny the remaining allegations contained in Paragraph 15 of the Complaint.
16. In response to Paragraph 16 of the Complaint, Defendants assert that responding officers asked Mr. Solis if he had a weapon on him and patted him down. Defendants admit that they did not ask Marcos or the decedent about the location of the gun(s), but assert that Defendant Eagon asked the decedent what had happened and whether Marcos had guns out. Defendants deny that ammunition was identified in the apartment.
17. Defendants admit the allegations in Paragraph 17 of the Complaint.
18. Defendants admit the allegations in Paragraph 18 of the Complaint.
19. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 19 of the Complaint and therefore deny the same.

20. Paragraph 20 contains legal conclusions to which no response is required. In further response to Paragraph 20, Defendants assert that responding officers patted down Marcos Solis for a firearm and did not find a firearm on his person.
21. Defendants admit the allegations contained in Paragraph 21 of the Complaint.
22. Defendants admit the allegations contained in Paragraph 22 of the Complaint.
23. Defendants deny the allegations contained in Paragraph 23 of the Complaint.
24. Defendants deny the allegations contained in Paragraph 24 of the Complaint.
25. Defendants admit that Plaintiff was labeled as “16B” by Officer Reed, but deny all other allegations contained in Paragraph 25 of the Complaint.
26. Defendants deny the allegations contained in Paragraph 26 of the Complaint.
27. In response to Paragraph 27, Defendants admit that they did not arrest Solis. Defendants deny probable cause existed to arrest Solis and deny all remaining allegations contained in Paragraph 27 of the Complaint.
28. Defendants deny the allegations contained in Paragraph 28 of the Complaint.
29. In response to Paragraph 29, Defendants deny that they concluded the investigation without taking any preventative action to protect the decedent from Solis. Further answering, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation that decedent was reacting emotionally to their departure and therefore deny the same. Defendants admit the remaining allegations contained in Paragraph 29 of the Complaint.
30. In response to Paragraph 30 of the Complaint, Defendants admit that a 911 emergency call was made from Plaintiff’s decedent’s phone, that the call was disconnected without the caller saying anything, and that the 911 dispatcher attempted to return the call, but

there was no answer. Defendants deny that the 911 call occurred approximately nine minutes after the responding officers left the apartment and surrounding area.

31. In response to Paragraph 31 of the Complaint, Defendants admit Defendant Laura Thomas did not air (dispatch) the information about the 911 “hang-up” call to police officers. Defendants deny the remaining allegations contained in Paragraph 31 of the Complaint.

32. Defendants admit the allegations contained in Paragraph 32 of the Complaint.

33. Defendants admit the allegations contained in Paragraph 33 of the Complaint.

34. In response to Paragraph 34 of the Complaint, Defendants admit that Defendant Reed amended the narrative of the report. Defendants deny all other allegations contained in Paragraph 34 of the Complaint.

FIRST CAUSE OF ACTION

35. In response to Paragraph 35 of the Complaint, Defendants incorporate all of the admissions, denials, and statements stated in the foregoing paragraphs of this Answer as if the same were fully rewritten and repeated here.

36. Defendants deny the allegations contained in Paragraph 36 of the Complaint.

37. In response to Paragraph 37 of the Complaint, Defendants admit that Marcos Solis shot and killed Deborah Saenz on July 12, 2019. Defendants deny all other allegations contained in Paragraph 37 of the Complaint.

38. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraphs 38, 39, 40, 41, 42, and 43 of the Complaint and therefore deny the same. Defendants further assert that any damages, injuries, or suffering to decedent or to Plaintiff were caused by Solis, not Defendants.

SECOND CAUSE OF ACTION

39. In response to Paragraph 44 of the Complaint, Defendants incorporate all of the admissions, denials, and statements stated in the foregoing paragraphs of this Answer as if the same were fully rewritten and repeated here.

40. Defendants deny the allegations in Paragraph 45 of the Complaint.

41. Defendants deny the allegations contained in the “WHEREFORE” paragraph of the Complaint.

42. Defendants deny each and every allegation in the Complaint not specifically admitted.

SECOND DEFENSE

43. Defendants are entitled to all applicable immunities, defenses, set-offs, and limitations set forth in Chapter 2744 of the Ohio Revised Code, Ohio’s Political Subdivision Tort Liability Act.

THIRD DEFENSE

44. Plaintiff’s claims are barred (in whole or in part) by the intervening, superseding negligent, reckless, and/or intentional acts or omissions of Marcos Solis III and/or other third parties over whom the Defendants have no control and for whom the Defendants bear no responsibility or liability.

FOURTH DEFENSE

45. Plaintiff’s claims are barred (in whole or in part) by the intervening, superseding criminal acts or omissions of Marcos Solis III and/or other third parties over whom the Defendants have no control and for whom the Defendants bear no responsibility or liability.

FIFTH DEFENSE

46. Plaintiff’s claims are barred (in whole or in part) by the doctrines of estoppel, waiver, and/or laches.

SIXTH DEFENSE

47. The Complaint fails to state a claim upon which relief can be granted.

SEVENTH DEFENSE

48. Plaintiff's claims are barred (in whole or in part) because her injuries were not proximately caused by Defendants.

EIGHTH DEFENSE

49. Plaintiff is not entitled to attorney's fees.

NINTH DEFENSE

50. Plaintiff failed to join necessary or indispensable parties for the full adjudication of all the issues presented by this case.

TENTH DEFENSE

51. Defendants at all times acted in good faith and in accordance with applicable laws and regulations. If Plaintiff brings any federal claims, the responding officers are entitled to the defense of qualified immunity.

ELEVENTH DEFENSE

52. Plaintiff lacks standing to bring this cause of action.

TWELFTH DEFENSE

53. Defendants reserve the right to assert additional affirmative defenses to the extent such defenses are discovered during the course of this litigation.

PRAYER FOR RELIEF

WHEREFORE, the Defendants demand (a) that Plaintiff's Complaint be dismissed with prejudice, (b) an order from this Court assessing costs (including reasonable attorney's fees incurred in defending the claims asserted herein) to the Defendants, (c) an order from this Court awarding the Defendants any and all such other relief the Court deems just, necessary, or appropriate, and (d) a final judgment entry terminating this case in the Defendants' favor.

JURY DEMAND

The Defendants requests a trial by jury on all issues triable to a jury.

Respectfully Submitted,

**CITY OF COLUMBUS, DEPARTMENT OF LAW
ZACH KLEIN**

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CERTIFICATE OF SERVICE

This will certify that a true and accurate copy of the foregoing Answer has been served by operation of this Court's electronic filing system, this 4th day of August 2021 on the following:

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