

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR VOLUSIA
COUNTY, FLORIDA**

MARIA ZUBIETA,
Plaintiff,

CASE NO.: 2026 10__ CICI

v.

KESTREL HOME CENTER, LLC,
a Florida limited liability company,
Defendant.

_____/

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

Defendant, KESTREL HOME CENTER, LLC, answers the Complaint as follows:

1. Admitted for jurisdictional purposes only. 2. Without knowledge, and therefore denied. 3. Admitted that Defendant operates a retail store in Daytona Beach, Florida. 4. Admitted. 5. Without knowledge, and therefore denied. 6 through 11. Denied.

First Affirmative Defense. Plaintiff failed to use reasonable care for her own safety, including by failing to watch where she was walking, and her negligence caused or contributed to her injuries. Any award must be reduced by her percentage of fault under section 768.81, Florida Statutes, and she may not recover any damages if she is found greater than 50 percent at fault for her own harm.

Second Affirmative Defense. Defendant did not have actual or constructive knowledge of any transitory foreign substance on the floor, as section 768.0755, Florida Statutes, requires.

Third Affirmative Defense. Any condition on the floor was open and obvious.

Fourth Affirmative Defense. Defendant is entitled to a setoff for any collateral source payments, as the law allows.

Defendant demands trial by jury on all issues so triable.

CERTIFICATE OF SERVICE. I certify that on May 12, 2026, I filed this document through the Florida Courts E-Filing Portal, which served it on Kim Nguyen, Temko & Eden, P.A., counsel for Plaintiff.

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