

Plaintiff,

vs.

DEFENDANTS' ANSWER

County of Ramsey, Minnesota
Daniel Schacht, office of the
Ramsey County Attorney, and
David MacMillan,

Defendants.

For their Answer to Plaintiff's Complaint herein, Defendants County of Ramsey, Daniel Schacht, Office of the Ramsey County Attorney and David Macmillan:

1. Deny each and every allegation, matter and thing contained in the Complaint except as hereinafter admitted, qualified or otherwise stated.
2. Admit paragraphs 1-4 and 9.
3. Admit that:
 - a. Dave MacMillan is an employee of Ramsey County;
 - b. There is an Agreement and Release executed in *Lam v. Ramsey County*, case No. 62-C2-009271, which is substantially like paragraph 6;
 - c. MacMillan learned that the system had not been installed by October 31, 2005 when he was served with an Order to Show Cause on November 1, 2005; and
 - d. A new system was constructed on November 8, 2005 and the catch basin was not located within the paved portion of the roadway.
4. Specifically deny:
 - a. That the catch basin and drain gate have been located on plaintiff's property;
 - b. That an uninterrupted extension of the bituminous curb to the western edge of plaintiff's property is impossible;
 - c. Paragraphs 12-17.
5. State that if Plaintiff suffered injuries and damages as alleged in Plaintiff's Complaint or otherwise, then said alleged injuries were caused or contributed to by the negligence or fault of the Plaintiff, or by negligence or fault of others over whom these answering Defendants had no control, or both.

AFFIRMATIVE DEFENSES

Defendants County of Ramsey and/or County of Ramsey for their Affirmative Defenses:

6. Re-allege paragraphs 1-5 in their Answer.
7. State that they are entitled to all the rights, privileges, immunities and limitations of liability provided under Minn. Stat. Chapter 466.
8. State that they are entitled to judgment based on the Doctrine of Laches.
9. State that they are entitled to judgment based on the Doctrine of Waiver.
10. State that they have insufficient knowledge or information upon which to form a belief as to the character and extent of any injuries or damages sustained by Plaintiff and therefore denies the same and puts the Plaintiff to the proof thereof.
11. To the extent Plaintiff has sustained any damage, he has failed to mitigate those damages.

WHEREFORE, Defendants County of Ramsey and/or County of Ramsey Parks and Recreation Department pray that Plaintiff take nothing by his pretended cause of action and that they have judgment herein, together with costs and disbursements.

SUSAN GAERTNER
Ramsey County Attorney

Dated: January 3, 2005

By: C. David Dietz
C. DAVID DIETZ
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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, to the party against whom the allegations in this pleading are asserted.

C. David Dietz
C. DAVID DIETZ