

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SUPERIOR COURT  
C.A. No. 2483CV00692

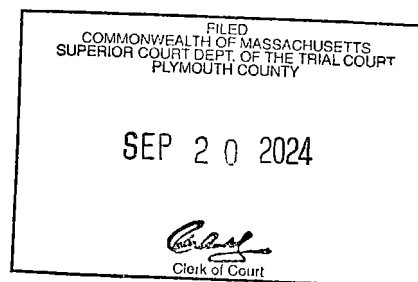
PAUL O'KEEFE, AS PERSONAL  
REPRESENTATIVE OF THE ESTATE OF  
JOHN JOSEPH O'KEEFE III; PAUL  
O'KEEFE, INDIVIDUALLY; JOHN  
O'KEEFE II; MARGARET O'KEEFE; and  
MARGARET O'KEEFE AS  
GRANDPARENT / GUARDIAN OF  
KAYLEY FURBUSH;

Plaintiffs,

v.

C&C HOSPITALITY, LLC d/b/a C.F.  
MCCARTHY'S; G&S HOSPITALITY, LLC  
d/b/a C.F. MCCARTHY'S; WATERFALL  
BAR & GRILL, LTD d/b/a WATERFALL  
BAR& GRILL; and KAREN READ;

Defendants.



**DEFENDANTS C&C HOSPITALITY, LLC D/B/A C.F. MCCARTHY'S  
AND "G&S HOSPITALITY, LLC D/B/A C.F. MCCARTHY'S"<sup>1</sup>  
ANSWER TO THE PLAINTIFFS' COMPLAINT**

Defendants C&C Hospitality, LLC d/b/a C.F. McCarthy's and "G&S Hospitality, LLC d/b/a C.F. McCarthy's" (collectively "C.F. McCarthy's") hereby respond to the allegations in the Complaint in this action. C.F. McCarthy's reserves the right to supplement its Answer as warranted by the circumstances and as allowed by law. All allegations not specifically admitted are denied.

<sup>1</sup> The entity G&S Hospitality, LLC has no affiliation to C.F. McCarthy's and, therefore, is not a proper party to this lawsuit. By filing this Answer on behalf of this entity, no acknowledgement or admission is made that it is a proper party to this lawsuit; and all rights are reserved accordingly to seek dismissal of G&S Hospitality, LLC at a later juncture.

**PARTIES/JURISDICTION**

1. Upon information and belief, C.F. McCarthy's admits Paul O'Keefe was the brother of the Decedent. C.F. McCarthy's otherwise lacks sufficient knowledge or information to admit or deny the remaining allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

2. Upon information and belief, C.F. McCarthy's admits that John O'Keefe II was the father of the Decedent. C.F. McCarthy's otherwise lacks sufficient knowledge or information to admit or deny the remaining allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

3. Upon information and belief, C.F. McCarthy's admits that Margaret O'Keefe was the mother of the Decedent. C.F. McCarthy's otherwise lacks sufficient knowledge or information to admit or deny the remaining allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

4. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

5. C.F. McCarthy's admits the allegations in Paragraph 5 of the Complaint solely insofar as C&C Hospitality, LLC is the legal entity that owns and operates C.F. McCarthy's. Further answering, C.F. McCarthy's also admits that it is a restaurant with a usual place of business at 614 Washington St. in Canton, Massachusetts, and that Mr. Steven P. Carey is C&C Hospitality, LLC's registered agent. The remaining allegations as to G&S Hospitality, LLC are denied.

6. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

7. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

**FACTS**

8. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 7 of its Answer as if fully set forth herein.

9. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

10. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

11. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

12. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

13. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

14. C.F. McCarthy's admits the allegations in Paragraph 14 of the Complaint solely insofar as John J. O'Keefe was present at C.F. McCarthy's on the evening of January 28, 2022.

15. C.F. McCarthy's admits the allegations in Paragraph 15 of the Complaint.

16. C.F. McCarthy's admits the allegations in Paragraph 16 of the Complaint solely insofar as it served Karen Read ("Read") alcohol and/or other beverages on January 28, 2022. C.F. McCarthy's otherwise lacks sufficient knowledge or information to admit or deny the remaining allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

17. C.F. McCarthy's admits the allegations in Paragraph 17 of the Complaint solely insofar as it served Read alcohol and/or other beverages on January 28, 2022. C.F. McCarthy's denies the remaining allegations in this Paragraph and calls upon the Plaintiffs to prove the same.

18. C.F. McCarthy's admits the allegations in Paragraph 18 of the Complaint solely insofar as it served Read alcohol and/or other beverages on January 28, 2022. C.F. McCarthy's denies the remaining allegations in this Paragraph and calls upon the Plaintiffs to prove the same.

19. C.F. McCarthy's denies the allegations in Paragraph 19 of the Complaint and calls upon the Plaintiffs to prove the same.

20. C.F. McCarthy's admits the allegations in Paragraph 20 of the Complaint solely insofar as O'Keefe and Read left its premises during the evening of January 28, 2024.

21. C.F. McCarthy's denies the allegations in Paragraph 21 of the Complaint and calls upon the Plaintiffs to prove the same.

22. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

23. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

24. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

25. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

26. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

27. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

28. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

29. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof. To the extent the allegations in this Paragraph insinuate that C.F. McCarthy's alleged conduct rendered Read "unable to drive a motor vehicle safely," such allegations are specifically denied.

30. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

31. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

32. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

33. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof. To the extent the allegations in this Paragraph insinuate that C.F. McCarthy's alleged conduct rendered Read "in a state of intoxication," such allegations are specifically denied.

34. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

35. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

36. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

37. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and all its sub-paragraphs and, therefore, leaves the Plaintiffs to their proof.

38. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and all its sub-paragraphs and, therefore, leaves the Plaintiffs to their proof.

39. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

40. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

41. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

42. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

43. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

44. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

45. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

46. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

47. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

48. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

49. Paragraph 49 of the Complaint calls for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

50. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

51. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

52. C.F. McCarthy's lacks sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

53. Paragraph 53 of the Complaint merely purports to describe the Plaintiffs' motivations in bringing this suit, and therefore no response is required. To the extent that this Paragraph purports to impute wrongdoing on the part of C.F. McCarthy's, such allegations are specifically denied.

### **COUNT I**

#### **The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2**

54. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 53 of its Answer as if fully set forth herein.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

## **COUNT II**

### **The Estate of John Joseph O’Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2**

64. C.F. McCarthy’s restates and incorporates the responses made in Paragraphs 1 – 63 of its Answer as if fully set forth herein.

65. The allegations in Paragraph 65 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response is required, C.F. McCarthy’s is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

66. The allegations in Paragraph 66 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response is required, C.F. McCarthy’s is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

67. The allegations in Paragraph 67 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response is required, C.F. McCarthy’s is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

68. The allegations in Paragraph 68 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response



is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

69. The allegations in Paragraph 69 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

70. The allegations in Paragraph 70 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

71. The allegations in Paragraph 71 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

72. The allegations in Paragraph 72 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

73. The allegations in Paragraph 73 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

**COUNT III**

**The Estate of John Joseph O’Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c.  
229, § 2**

74. C.F. McCarthy’s restates and incorporates the responses made in Paragraphs 1 – 73 of its Answer as if fully set forth herein.

75. The allegations in Paragraph 75 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response is required, C.F. McCarthy’s is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

76. The allegations in Paragraph 76 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response is required, C.F. McCarthy’s is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

77. The allegations in Paragraph 77 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response is required, C.F. McCarthy’s is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

78. The allegations in Paragraph 78 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response is required, C.F. McCarthy’s is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

79. The allegations in Paragraph 79 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy’s is required. To the extent that a response

is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

#### **COUNT IV**

##### **Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress**

80. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 79 of its Answer as if fully set forth herein.

81. Upon information and belief, admitted.

82. C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in the first sentence of Paragraph 82 of the Complaint and, therefore, leaves the Plaintiffs to their proof. C.F. McCarthy's denies the allegations in the second sentence of this Paragraph and calls upon the Plaintiffs to prove the same.

83. Denied.

84. Denied.

85. The allegations in Paragraph 85 of the Complaint call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's denies the allegations and calls upon the Plaintiffs to prove the same.

#### **COUNT V**

##### **John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress**

86. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 85 of its Answer as if fully set forth herein.

87. Upon information and belief, admitted.

88. C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

89. Denied.

90. Denied.

91. Denied.

92. The allegations in Paragraph 92 of the Complaint call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's denies the allegations and calls upon the Plaintiffs to prove the same.

#### **COUNT VI**

##### **Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress**

93. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 92 of its Answer as if fully set forth herein.

94. Upon information and belief, admitted.

95. C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph and, therefore, leaves the Plaintiffs to their proof.

96. Denied.

97. Denied.

98. Denied.

99. The allegations in Paragraph 99 of the Complaint call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's denies the allegations and calls upon the Plaintiffs to prove the same.

#### **COUNT VII**

##### **Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress**

100. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 99 of its Answer as if fully set forth herein.

101. The allegations in Paragraph 101 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, upon information and belief, C.F. McCarthy's admits that Margaret O'Keefe was the mother of the Decedent.

102. The allegations in Paragraph 102 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

103. The allegations in Paragraph 103 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

104. The allegations in Paragraph 104 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

105. The allegations in Paragraph 105 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

106. The allegations in Paragraph 106 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. Further answering, the allegations in Paragraph 106 of the Complaint also call for a legal conclusion to which no response

is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

### **COUNT VIII**

#### **John O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress**

107. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 106 of its Answer as if fully set forth herein.

108. The allegations in Paragraph 108 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, upon information and belief, C.F. McCarthy's admits that John O'Keefe II was the father of the Decedent.

109. The allegations in Paragraph 109 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

110. The allegations in Paragraph 110 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

111. The allegations in Paragraph 111 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

112. The allegations in Paragraph 112 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

113. The allegations in Paragraph 113 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. Further answering, the allegations in Paragraph 113 of the Complaint also call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

### **COUNT IX**

#### **Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress**

114. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 113 of its Answer as if fully set forth herein.

115. The allegations in Paragraph 115 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, upon information and belief, C.F. McCarthy's admits Paul O'Keefe was the brother of the Decedent.

116. The allegations in Paragraph 116 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

117. The allegations in Paragraph 117 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response

is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

118. The allegations in Paragraph 118 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

119. The allegations in Paragraph 119 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

120. The allegations in Paragraph 120 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. Further answering, the allegations in Paragraph 120 of the Complaint also call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

### **COUNT X**

#### **Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress**

121. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 120 of its Answer as if fully set forth herein.

122. The allegations in Paragraph 122 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response



is required, upon information and belief, C.F. McCarthy's admits Margaret O'Keefe was the mother of the Decedent.

123. The allegations in Paragraph 123 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

124. The allegations in Paragraph 124 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

125. The allegations in Paragraph 125 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

126. The allegations in Paragraph 126 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

127. The allegations in Paragraph 127 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

128. The allegations in Paragraph 128 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. Further answering, the allegations in Paragraph 128 of the Complaint call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

### **COUNT XI**

#### **John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress**

129. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 128 of its Answer as if fully set forth herein.

130. The allegations in Paragraph 130 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, upon information and belief, C.F. McCarthy's admits that John O'Keefe II was the father of the Decedent.

131. The allegations in Paragraph 131 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

132. The allegations in Paragraph 132 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

133. The allegations in Paragraph 133 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response

is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

134. The allegations in Paragraph 134 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

135. The allegations in Paragraph 135 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

136. The allegations in Paragraph 136 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. Further answering, the allegations in Paragraph 136 of the Complaint also call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

## **COUNT XII**

### **John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress**

137. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 136 of its Answer as if fully set forth herein.

138. The allegations in Paragraph 138 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, upon information and belief, C.F. McCarthy's admits Paul O'Keefe was the brother of the Decedent.

139. The allegations in Paragraph 139 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

140. The allegations in Paragraph 140 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

141. The allegations in Paragraph 141 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

142. The allegations in Paragraph 142 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

143. The allegations in Paragraph 143 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

144. The allegations in Paragraph 144 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. Further answering, the allegations in Paragraph 144 of the Complaint also calls for a legal conclusion to which no response

is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

**COUNT XIII**

**Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress**

145. C.F. McCarthy's restates and incorporates the responses made in Paragraphs 1 – 144 of its Answer as if fully set forth herein.

146. The allegations in Paragraph 146 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

147. The allegations in Paragraph 147 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

148. The allegations in Paragraph 148 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

149. The allegations in Paragraph 149 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

150. The allegations in Paragraph 150 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

151. The allegations in Paragraph 151 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

152. The allegations in Paragraph 152 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

153. The allegations in Paragraph 153 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

154. The allegations in Paragraph 154 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

155. The allegations in Paragraph 155 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response

is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

156. The allegations in Paragraph 155 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

157. The allegations in Paragraph 157 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

158. The allegations in Paragraph 158 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

159. The allegations in Paragraph 159 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

160. The allegations in Paragraph 160 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

161. The allegations in Paragraph 161 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

162. The allegations in Paragraph 162 of the Complaint are directed toward another Defendant, therefore no response from C.F. McCarthy's is required. Further answering, the allegations in Paragraph 105 of the Complaint also call for a legal conclusion to which no response is required. To the extent that a response is required, C.F. McCarthy's is without sufficient knowledge or information to admit or deny the allegations in this Paragraph.

#### **AFFIRMATIVE DEFENSES**

C.F. McCarthy's, having denied each and every allegation not expressly admitted above, state its affirmative defenses to the Complaint as follows:

#### **FIRST AFFIRMATIVE DEFENSE**

The Complaint and/or its respective causes of action against C.F. McCarthy's should be dismissed pursuant to Mass. R. Civ. P. 12(b)(6) for failure to state a claim against C.F. McCarthy's upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

The Complaint is barred, in whole or in part, by the Plaintiffs' failure to comply with the statutory prerequisites for bringing a cause of action based on the distribution, sale, or service of alcoholic beverages.

#### **THIRD AFFIRMATIVE DEFENSE**

The Plaintiffs' claims are barred, in whole or in part, for failure to comply with G.L. c. 231, § 60J.



**FOURTH AFFIRMATIVE DEFENSE**

No acts or omissions of C.F. McCarthy's, if any, were the proximate cause of the Plaintiffs' alleged injuries and damages, and said injuries and damages, if any, were the result of other intervening and superseding causes for which C.F. McCarthy's is not legally responsible.

**FIFTH AFFIRMATIVE DEFENSE**

The Plaintiffs' claims are barred, in whole or in part, to the extent that Plaintiffs' alleged injuries and damages were solely and proximately caused by the intervening negligence, gross negligence, wantonness, recklessness, willfulness, or otherwise careless, willful, intentional and/or criminal conduct of an independent third party for which C.F. McCarthy's is not legally responsible and/or exercised no control.

**SIXTH AFFIRMATIVE DEFENSE**

To the extent that C.F. McCarthy's owed any obligation or duty to the Plaintiffs (and/or John J. O'Keefe III), such obligations or duties were fully, completely, and properly performed in every respect.

**SEVENTH AFFIRMATIVE DEFENSE**

At no time did C.F. McCarthy's purported conduct violate G.L. c. 138, § 69 in that it did not cause any alcoholic beverage to be sold or delivered on any premises to an intoxicated person.

**EIGHTH AFFIRMATIVE DEFENSE**

C.F. McCarthy's states that it presently has insufficient knowledge or information on which to form a belief as to whether it may have additional, yet unstated affirmative defenses. C.F. McCarthy's reserves all rights to file an Amended Answer asserting additional defenses, or to file counterclaims in the event that developments and/or discovery in this litigation so warrant.

**JURY DEMAND**

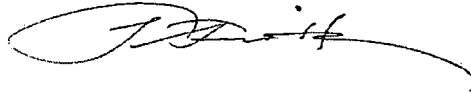
C.F. McCarthy's demands a jury trial on all triable issues.

**WHEREFORE**, C.F. McCarthy's requests that the Court dismiss the Plaintiffs' Complaint and that it award C.F. McCarthy's its reasonable costs and attorney's fees incurred in the defense of this action and such other further and relief as the Court deems just and proper.

Respectfully submitted,

C&C HOSPITALITY, LLC d/b/a C.F.  
MCCARTHY'S and G&S HOSPITALITY, LLC  
d/b/a C.F. MCCARTHY'S

By its attorneys,



---

Tamara Smith Holtslag, BBO#634027  
Lincoln A. Rose, BBO #691797  
Kevin M. Bergin, BBO #697437  
PEABODY & ARNOLD LLP  
Federal Reserve Plaza  
600 Atlantic Avenue  
Boston, MA 02210  
(617) 951-2100  
[tsmith@peabodyarnold.com](mailto:tsmith@peabodyarnold.com)  
[rose@peabodyarnold.com](mailto:rose@peabodyarnold.com)  
[kbergin@peabodyarnold.com](mailto:kbergin@peabodyarnold.com)

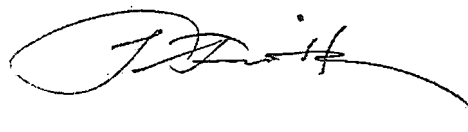
Dated: September 20, 2024

**CERTIFICATE OF SERVICE**

I, Tamara Smith Holtslag, hereby certify that on September 20, 2024, I caused the within document to be served by electronically filing with the Court and via electronic mail to the following counsel of record:

Marc Diller, Esq.  
BBO No. 644997  
DILLER LAW, LLP  
50 Congress Street, Suite 420  
Boston, MA 02109  
(617) 523-7771  
[marc@dillerlaw.com](mailto:marc@dillerlaw.com)  
***Counsel for the Plaintiffs***

William L. Keville, Jr., Esq.  
Christopher D. George, Esq.  
Marissa K. Palladini, Esq.  
Melick & Porter, LLP  
One Liberty Square, 7<sup>th</sup> Floor  
Boston, MA 02109  
t: (617) 523-6200  
[wkeville@melicklaw.com](mailto:wkeville@melicklaw.com)  
[cgeorge@melicklaw.com](mailto:cgeorge@melicklaw.com)  
[mpalladini@melicklaw.com](mailto:mpalladini@melicklaw.com)  
***Counsel for the Defendant, Karen Read***



---

Tamara Smith Holtslag