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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

HENRY MICHAEL FUHRER,

Plaintiff,

vs.

AVIS BUDGET GROUP, INC., AVIS BUDGET CAR RENTAL, LLC., PV HOLDING CORP, AB CAR RENTAL SERVICES, INC., AVIS RENT A CAR SYSTEM, LLC, CONTINENTAL CASUALTY COMPANY, GASPAR DAVID MATEO, GASPAR DAVID PABLO, AND TADASHI DAVID EMORI,

Defendants.

Case No. 19CV38807

**DEFENDANTS AVIS BUDGET GROUP, INC., AVIS BUDGET CAR RENTAL, LLC, PV HOLDING CORP, AB CAR RENTAL SERVICES, INC., AVIS RENT A CAR SYSTEM, LLC, AND TADASHI DAVID EMORI'S ANSWER AND AFFIRMATIVE DEFENSES TO FIRST AMENDED COMPLAINT**

CLAIM NOT SUBJECT TO MANDATORY ARBITRATION

Jury Trial Requested

Amount in Controversy: \$8,900,000.00  
Fee Authority: ORS 21.160(1)(d)

Defendants Avis Budget Group, Inc., Avis Budget Car Rental, LLC, PV Holding Corp, AB Car Rental Services, Inc., Avis Rent A Car System, LLC and Tadashi David Emori (collectively, "defendants") answer plaintiff's first amended complaint as follows:

1.

Defendants deny each and every allegation in plaintiff's complaint except as expressly admitted herein.

**COMMON ALLEGATIONS**

**(Parties and Venue)**

2.

Defendants admit the allegations in paragraphs 1 through 4.

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3.

As to the allegations in paragraph 5, defendants admit only that AB Car Rental Services, Inc. is a foreign corporation. Defendants deny the remaining allegations in paragraph 5.

4.

Defendants admit the allegations in paragraph 6.

5.

Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 7, and therefore deny same.

6.

Defendants admit the allegations in paragraphs 8 and 9.

7.

As to the allegations in paragraph 10, defendants admit only that defendant Emori was employed by one of the Avis defendants, and at all times material he was in the course and scope of his employment. Defendants deny the remaining allegations in paragraph 10.

**COMMON ALLEGATIONS**

**(Facts related to all claims)**

8.

Defendants admit the allegations in paragraph 11.

9.

As to the allegations in paragraph 12, defendants admit only that plaintiff was a passenger in the van driven by Emori. Defendants deny the remaining allegations in paragraph 12.

10.

As to the allegations in paragraph 13, defendants admit only that a collision occurred between a vehicle operated by Mateo and a van operated by Emori at or near the

1 time at place alleged in paragraph 13, and the collision caused damage to both vehicles.

2 11.

3 As to the allegations in paragraph 14, defendants admit only that Emori was driving  
4 out of a driveway access on the north side of Columbia Blvd. and making a left turn on to  
5 Columbia Blvd.

6 12.

7 Defendants admit the allegations in paragraph 15.

8 13.

9 As to the allegations in paragraph 16 through 18, defendants admit only that  
10 plaintiff suffered some injuries and damages as a result of the collision, the nature and  
11 extent of which are unknown to defendants at this time and are in dispute.

12 **FIRST CLAIM FOR RELIEF**

13 **(Defendant Mateo)**

14 14.

15 In response to the allegations in paragraph 19, defendants re-assert their answers to  
16 paragraphs 1 through 18.

17 15.

18 Defendants admit the allegations in paragraphs 20 and 21.

19 **SECOND CLAIM FOR RELIEF**

20 **(Defendant Pablo)**

21 16.

22 In response to the allegations in paragraph 22, defendants re-assert their answers to  
23 paragraphs 1 through 18.

24 17.

25 Defendants admit the allegations in paragraphs 23 through 25.

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**THIRD CLAIM FOR RELIEF**  
**(Defendants Emori and PV Holding)**

18.

In response to the allegations in paragraph 26, defendants re-assert their answers to paragraphs 1 through 18.

19.

Defendants deny the allegations in paragraphs 27 through 29.

**FOURTH CLAIM FOR RELIEF**  
**(Defendant Continental)**

20.

In response to the allegations in paragraph 30, defendants re-assert their answers to paragraphs 1 through 18.

21.

Defendants are without sufficient knowledge to admit or deny the allegations in paragraphs 31 through 36 and therefore deny same.

**FIFTH CLAIM FOR RELIEF**  
**(Defendants Group; Avis Budget; PV Holding;**  
**AB Car Rental; and Avis Rent A Car)**

22.

In response to the allegations in paragraph 37, defendants re-assert their answers to paragraphs 1 through 18.

23.

Defendants deny the allegations in paragraphs 37 through 43.

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**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

24.

Plaintiff has failed to state ultimate facts sufficient to state a valid claim for relief against defendants.

**SECOND AFFIRMATIVE DEFENSE**

**(Insufficiency of Service)**

25.

Plaintiff has not properly served the summons and complaint and/or amended complaint upon defendant Emori.

**THIRD AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

26.

One or more of plaintiff’s claims against defendants is barred by the applicable statute of limitations.

**FOURTH AFFIRMATIVE DEFENSE**

**(Comparative Fault)**

27.

In the event defendants are found at fault and liable for plaintiff’s injuries, defendants are entitled to an allocation of fault against all parties responsible or potentially responsible for plaintiff’s injuries under ORS 31.600.

**FIFTH AFFIRMATIVE DEFENSE**

**(Exclusive Remedy – ORS 656.018)**

28.

Defendants Avis Budget Group, Inc., Avis Budget Car Rental, LLC, PV Holding Corp., AB Car Rental Services, Inc., and Avis Rent A Car System, LLC are immune from

1 liability under the Employer Liability Law given that they were in compliance with the  
2 Workers' Compensation Law.

3 **SIXTH AFFIRMATIVE DEFENSE**

4 **(Negligence of Fellow Servant)**

5 29.

6 Defendants deny that Emori was negligent. However, to the extent Emori is found  
7 to be negligent, then defendants Avis Budget Group, Inc., Avis Budget Car Rental, LLC,  
8 PV Holding Corp., AB Car Rental Services, Inc., and Avis Rent A Car System, LLC are  
9 immune from liability under the Employer Liability Law given that plaintiff's injuries  
10 were caused by the negligence of a fellow servant.

11 WHEREFORE, having fully answered plaintiff's complaint, defendants pray for  
12 judgment in their favor and for costs and disbursements incurred herein.

13 DATED this 12<sup>th</sup> day of November, 2019.

14 LEWIS BRISBOIS BISGAARD & SMITH LLP

15  
16 By: s/ Nicole M. Nowlin

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21 *Avis Rent A Car System, LLC, and Tadashi*  
22 *David Emori*

23 Trial Attorney:

24 Nicole M. Nowlin, OSB #051316

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**CERTIFICATE OF SERVICE**

I certify that I served the foregoing **DEFENDANTS AVIS BUDGET GROUP, INC., AVIS BUDGET CAR RENTAL, LLC, PV HOLDING CORP, AB CAR RENTAL SERVICES, INC., AVIS RENT A CAR SYSTEM, LLC, AND TADASHI DAVID EMORI'S ANSWER AND AFFIRMATIVE DEFENSES TO FIRST AMENDED COMPLAINT** on the following attorneys by the method indicated below on the 12<sup>th</sup> day of November, 2019:

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