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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, and TADASHI DAVID  
EMORI,

Defendants.

Case No. 19CV38807

**DEFENDANTS' ANSWER TO  
SECOND AMENDED COMPLAINT**

CLAIM NOT SUBJECT TO  
MANDATORY ARBITRATION

Jury Trial Requested

Amount in Controversy: \$16,400,000  
Fee Authority: ORS 21.160(1)(e)

Defendants Avis Budget Group, Inc., Avis Budget Car Rental, LLC, PV Holding Corp, AB Car Rental Services, Inc., and Tadashi David Emori (collectively, "Defendants") hereby answer Plaintiff's Second Amended Complaint (the "Complaint") as follows. Defendants deny each and every allegation in the Complaint except as expressly admitted herein.

**COMMON ALLEGATIONS**

**(Parties and Venue)**

1.

Defendants admit the allegations in paragraphs 1 through 5 of the Complaint.

2.

Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 6 of the Complaint and, therefore, deny same.

3.

Defendants deny the allegations in paragraph 7 of the Complaint.

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4.

Defendants admit the allegations in paragraph 8 of the Complaint.

5.

In response to paragraph 9 of the Complaint, Defendants admit that Emori was hired by AB Car Rental Services, Inc. to perform, in part, vehicle movement duties. Defendants deny the remaining allegations in paragraph 9.

6.

Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 10 of the Complaint and, therefore, deny same.

7.

In response to paragraphs 11 through 16 of the Complaint, the allegations therein consist solely of legal conclusions to which no response is required of Defendants. To the extent a response is required, Defendants deny the same.

**COMMON ALLEGATIONS**

**(Facts related to all claims)**

8.

Defendants deny the allegations in paragraph 17 of the Complaint.

9.

Defendants admit the allegations in paragraph 18 of the Complaint.

10.

In response to paragraph 19 of the Complaint, Defendants are without sufficient knowledge to admit or deny the remaining allegations and, therefore, deny the same.

11.

In response to paragraph 20 of the Complaint, Defendants admit the allegations that “[a]t the same time, MATEO was driving generally west and north on N. Columbia Boulevard” and that “the vehicles crashed.” Defendants further admit the allegations that “[t]he collision caused extensive damage to both vehicles.” Defendants are without

1 sufficient knowledge to admit or deny the allegations that the collision forced “the van  
2 onto its side” and caused “it to burst into flames and melt to the roadway” and, therefore,  
3 deny the same. Defendants deny the remaining allegations in paragraph 20.

4 12.

5 In response to paragraph 21 of the Complaint, including all subparts, Defendants  
6 admit that Plaintiff was injured as a result of the collision. Defendants are without  
7 sufficient knowledge to admit or deny the remaining allegations and, therefore, deny the  
8 same.

9 13.

10 In response to paragraph 22 of the Complaint, the allegations therein consist solely  
11 of legal conclusions to which no response is required of Defendants. To the extent a  
12 response is required, Defendants are without sufficient knowledge to admit or deny the  
13 allegations and, therefore, deny the same.

14 14.

15 Defendants deny the allegations in paragraph 23 of the Complaint.

16 **FIRST CLAIM FOR RELIEF**

17 **(NEGLIGENCE - EMORI)**

18 15.

19 In responding to paragraph 24 of the Complaint, Defendants re-assert their answers  
20 in paragraphs 1 through 14, above.

21 16.

22 Defendants deny the allegations in paragraph 25 of the Complaint, including all  
23 subparts.

24 17.

25 Defendants deny the allegations in paragraph 26 of the Complaint.

26 /// ///

27 /// ///

1 **SECOND CLAIM FOR RELIEF**  
2 **(AVIS DEFENDANTS - NEGLIGENCE)**

3 18.

4 In responding to paragraph 27 of the Complaint, Defendants re-assert their answers  
5 in paragraphs 1 through 17, above.

6 19.

7 Defendants deny the allegations in paragraph 28 of the Complaint, including all  
8 subparts.

9 20.

10 Defendants deny the allegations in paragraph 29 of the Complaint.

11 **THIRD CLAIM FOR RELIEF**  
12 **(AVIS DEFENDANTS – EMPLOYER LIABILITY LAW)**

13 21.

14 In responding to paragraph 30 of the Complaint, Defendants re-assert their answers in  
15 paragraphs 1 through 20, above.

16 22.

17 In responding to paragraph 31 of the Complaint, Defendants admit the allegations that  
18 Plaintiff was directly employed by AB Car Rental Services, Inc. Defendants deny the  
19 remaining allegations.

20 23.

21 The allegations in paragraph 32 of the Complaint consist solely of legal conclusions to  
22 which no response is required of Defendants. To the extent a response is required, Defendants  
23 deny the same.

24 24.

25 The allegations in paragraphs 33 and 34 of the Complaint consist solely of legal  
26 conclusions to which no response is required of Defendants. To the extent a response is  
27 required, Defendants deny the same.

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25.

In response to the allegations in paragraph 35 of the Complaint that Emori was the “lead driver” who was in charge of the “operation of the subject van” at the time of the collision, Defendants admit the same. Defendants are without sufficient knowledge to admit or deny the remaining allegations and, therefore, deny the same.

26.

Defendants deny the allegations in paragraph 36 of the Complaint.

27.

Defendants deny the allegations in paragraph 37 of the Complaint, including all subparts.

28.

Defendants deny the allegations in paragraph 38 of the Complaint.

29.

The allegations in paragraph 39 of the Complaint consist solely of legal conclusions to which no response is required of Defendants. To the extent a response is required, Defendants deny the same.

**FIRST AFFIRMATIVE DEFENSE**  
**(Failure to State a Claim)**

30.

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

**SECOND AFFIRMATIVE DEFENSE**  
**(Comparative Fault)**

31.

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, including, but not limited to, any

1 parties previously named as defendants in this case who were voluntarily dismissed by  
2 plaintiff.

3 **THIRD AFFIRMATIVE DEFENSE**

4 **(Exclusive Remedy – ORS 656.018)**

5 32.

6 Defendants Avis Budget Group, Inc., Avis Budget Car Rental, LLC, PV Holding  
7 Corp, and AB Car Rental Services, Inc. are immune from liability given that they were in  
8 compliance with the Workers' Compensation Law.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 **(Exclusive Remedy – ORS 656.018(3))**

11 33.

12 Defendant Emori is immune from liability under ORS 656.018(3).

13 **FIFTH AFFIRMATIVE DEFENSE**

14 **(Negligence of Fellow Servant)**

15 34.

16 Defendants deny that Emori was negligent. However, to the extent Emori is found  
17 to be negligent, then defendants Avis Budget Group, Inc., Avis Budget Car Rental, LLC,  
18 PV Holding Corp., and AB Car Rental Services, Inc. are immune from liability under the  
19 Employer Liability Law given that plaintiff's injuries were caused by the negligence of a  
20 fellow servant.

21 **SIXTH AFFIRMATIVE DEFENSE**

22 **(Failure to Mitigate)**

23 35.

24 Plaintiff failed to mitigate his damages and that failure to mitigate caused or  
25 contributed to the matters complained of, and the damages alleged in, the Complaint.  
26 Therefore, the amount of damages to which Plaintiff is entitled, if any, should be barred or  
27 reduced by the amount of damages which would have otherwise been mitigated.

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**SEVENTH AFFIRMATIVE DEFENSE**

**(Offset)**

36.

To the extent Plaintiff recovers any damages in this case, Defendants are entitled to a setoff, offset, and/or credit for all payments made to Plaintiff in relation to the injuries and damages he alleges in this case from the subject auto accident, including, but not limited to, Workers' Compensation benefits, settlement amounts received from other parties in this case, PIP benefits, or any other similar monetary amounts.

WHEREFORE, having fully answered the Complaint, Defendants pray for judgment in their favor, for a dismissal with prejudice of the Complaint, and for Defendants' costs and disbursements incurred herein to the extent recoverable by law or otherwise.

DATED this 5<sup>th</sup> day of October, 2021.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Ben F. Veralrud  
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*Of Attorneys for Defendants*

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**CERTIFICATE OF SERVICE**

I certify that I served the foregoing **DEFENDANTS' ANSWER TO SECOND AMENDED COMPLAINT** on the following attorneys by the method indicated below on the 5<sup>th</sup> day of October, 2021:

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***Continental Casualty Company dismissed 8.6.2021***

/s/ Ben F. Veralrud  
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