

85368-7

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

AUDREY GASSNER-DUNAYER, as
Personal Representative of the Estate of
JEROME BARSON,

CIRCUIT CIVIL DIVISION

CASE NO. 502017CA007322XXXXMB

Plaintiff,

vs.

VENUS WILLIAMS,

Defendant.

_____ /

ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW THE DEFENDANT, VENUS WILLIAMS, by and through the undersigned attorneys and denies each and every material allegation contained in the Plaintiff's initial complaint unless specifically admitted herein.

1. At the time and place alleged in the Complaint, the Plaintiff was guilty of negligence and/or assumed the risk which proximately caused or proximately contributed to any injuries or damages which the Plaintiff sustained, if any, and therefore, any award to which the Plaintiff may be entitled should be either barred or reduced proportionately pursuant to the doctrine of comparative negligence.

2. Defendant states that it is entitled to all setoffs and limitations of liability pursuant to the doctrine of comparative fault, including but not limited to the provisions of Florida Statute Section 768.81

3. If there was any negligence that caused or contributed to the Plaintiff's alleged injuries, it was solely the result of negligence on the part of third parties who

were not under the care, custody, control or supervision of this Defendant, and therefore, the Plaintiff cannot recover against this Defendant.

4. Defendant states that the Plaintiff has failed to mitigate damages as required under Florida law and any such recovery should be proportionately reduced as a result of this failure.

5. Defendant specifically claims any credit or set-off to which the Defendant may be entitled for any and all payments paid or payable to the Plaintiff for any damages alleged in the Complaint from any collateral source whatsoever.

6. Defendant states that the Plaintiff failed to adequately maintain and repair the vehicle which is the subject of the Complaint in a safe condition.

7 Defendant states that the accident may fall under the provisions of the Florida Automobile Reparations Reform Act, and the Defendant pleads all the defenses and exemptions available to her under the provisions of this act.

8. Defendant states that the injuries and/or damages to the Plaintiff were solely and/or proximately caused by the unreasonable failure of the Plaintiff to use an available and operational seat belt at the time of the accident and therefore the Plaintiff's recovery should be barred or reduced accordingly.

9. Plaintiff has not sustained a permanent injury, scarring, disfigurement, or other injury sufficient to meet the tort liability threshold as required under Florida's No - Fault Threshold Statute, 627.737, et seq.

10. Defendant would state that it intends to utilize the doctrine of Fabre v. Marin as information is obtained both through investigation and discovery. Defendant

reserves the right to amend this affirmative defense which specifically named any Fabre Defendants in accordance with this Court's trial order.

11. Defendant demands a trial by jury of all issues so triable as of right by a jury.

WE HEREBY CERTIFY that a copy hereof has been electronically served via Florida ePortal to: Ian Duncan, Esquire, nanthony@injurylawyers.com; estockett@injurylawyers.com; akelley@injurylawyers.com; on this 21st day of July, 20 17.

/s/ Robert E. Paradela

Robert E. Paradela, Esquire

Florida Bar No. 842095

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