

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF CHEMUNG

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CAPREECE MOORE,

Plaintiff,

v.

LESHA P. MASSOUP, DUKE HUR,  
J.B. HUNT TRANSPORT INC., and  
COSTCO WHOLESALE CORPORATION,

Defendants.

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**Answer**

**Index No: 2023-5539**

**Judge:**

The defendant, Lesha P. Massoup (Massop), by the Law Office of Keith D. Miller, answers the complaint of the plaintiff, as follows:

1. ADMITS the allegations contained in paragraphs 2, 4, 5, 6, 7, 8, 16, 62, 63, 64, 70.
2. DENIES knowledge and information sufficient to form a belief as to the allegations contained in paragraphs 1, 3, 9-15, 17-61, 67, 68.
3. DENIES the allegations contained in paragraphs 65, 66, 69, 71.
4. DENIES each and every other allegation not hereinbefore specifically admitted, controverted or denied.

**AS AND FOR A FIRST AFFIRMATIVE  
DEFENSE, THE DEFENDANT ALLEGES:**

5. That whatever injuries the plaintiff sustained were caused or were contributed to by the culpable conduct of the plaintiff and the plaintiff's damages, if any, shall be diminished in the proportion which the culpable conduct attributable to the

plaintiff bears to the culpable conduct which caused the damages.

**AS AND FOR A SECOND AFFIRMATIVE  
DEFENSE, THE DEFENDANT ALLEGES:**

6. In the event plaintiff has judgment against the defendant, the defendant is entitled to set-off or reduction of any damage award, liability for which is expressly denied, for amounts received from any collateral sources as defined by CPLR §4545, including but not limited to, insurance, Social Security, Workers' Compensation, or employee benefit programs.

**AS AND FOR A THIRD AFFIRMATIVE  
DEFENSE, THE DEFENDANT ALLEGES:**

7. Plaintiff failed to make proper use of an available seat belt and defendant is entitled to a reduction or set off for those damages that would not have been sustained or would have been less severe had the plaintiff made proper use of said seat belt.

**AS AND FOR A FOURTH AFFIRMATIVE  
DEFENSE, THE DEFENDANT ALLEGES:**

8. Plaintiff has failed to sustain a serious injury as defined by Insurance Law 5102.

**AS AND FOR A FIFTH AFFIRMATIVE  
DEFENSE, THE DEFENDANT ALLEGES:**

9. Plaintiff has failed to mitigate his/her damages.

**AS AND FOR A SIXTH AFFIRMATIVE  
DEFENSE, THE DEFENDANT ALLEGES:**

10. Defendant was confronted with an emergency situation, without contribution thereto, as is entitled to the benefits of the emergency doctrine.

**AS AND FOR A SEVENTH AFFIRMATIVE  
DEFENSE, THE DEFENDANT ALLEGES:**

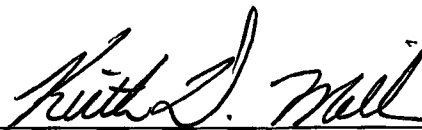
11. Plaintiff has failed to obtain jurisdiction over the person(s) of the defendant(s).

**AS AND FOR A CROSS-CLAIM AGAINST  
Duke Hur and J.B. Hunt Transport and  
Costco Wholesale Corp.,  
THIS DEFENDANT ALLEGES:**

12. That if the plaintiff sustained any damages at the time and place alleged in the complaint through any acts or omissions other than the plaintiff's own, such damages were caused by the culpable conduct of Duke Hur and J.B. Hunt Transport and Costco Wholesale Corp., and if any judgment is obtained against this defendant, then this defendant demands judgment over against Duke Hur and J.B. Hunt Transport and Costco Wholesale Corp., for contribution pursuant to CPLR Article 14 and/or indemnity for any part or all of the judgment awarded.

WHEREFORE, the defendant, Leshia P. Massoup (Massop), demands judgment dismissing the complaint, or alternatively that any recovery be reduced according to the plaintiff's degree of culpability. That if any recovery is awarded to the plaintiff, defendant demands judgment on the cross-claim against Duke Hur and J.B. Hunt Transport and Costco Wholesale Corp., for any part or all of the judgment found against this defendant, together with the costs and disbursements of this action.

Dated: September 5, 2023



Keith D. Miller, Esq.  
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**COSTCO WHOLESALE CORP.**