

23-SAH-338 JPC

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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ANDRE DIXON,

Index No.: 512123/23

Plaintiff,

-against-

**VERIFIED ANSWER**

CHRISTINA GRIFFITH,

Defendant.

-----X

Defendant, CHRISTINA GRIFFITH, by her attorneys, McCABE, COLLINS, McGEOUGH, FOWLER, LEVINE & NOGAN, LLP, answering the Verified Complaint herein, upon information and belief, alleges:

FIRST: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs "1" and "2" and each and every part thereof.

**AS TO THE FIRST CAUSE OF ACTION:**

SECOND: Defendant repeats and reiterates each and every denial in answer to paragraphs numbered "1" through "4" of the Complaint as if more particularly hereinafter set forth in answer to paragraph numbered "5" and each and every part thereof.

THIRD: Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs "6" and "7" and each and every part thereof.

FOURTH: Defendant denies the allegations set forth in paragraphs "9", "10", "11", "12", "13", "14", "15" and "16" and respectfully refers all questions of law to the determination of the trial court.

**AS AND FOR A FIRST DEFENSE**

FIFTH: The plaintiff did not sustain serious injuries as defined by Section 5102 of the Insurance Law of the State of New York and plaintiff's exclusive remedy, therefore, is confined and limited to the benefits and provisions of Article 51 of the Insurance Law of the State of New York.

**AS AND FOR A SECOND DEFENSE**

SIXTH: The plaintiff's sole and exclusive remedy is confined and limited to benefits and provisions of Article 51 of the Insurance Law of the State of New York.

**AS AND FOR A THIRD DEFENSE**

SEVENTH: The plaintiff's causes of action are barred by Article 51, Section 5104 of the Insurance Law of the State of New York.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

EIGHTH: The plaintiff was guilty of culpable conduct, including contributory negligence and/or assumption of risk, and should an award be made to the plaintiff, same should be diminished in the proportion which the culpable conduct and/or contributory negligence and/or assumption of risk attributable to the plaintiff bears to the culpable conduct and/or negligence which caused the damages.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

NINTH: That if the plaintiff sustained injuries at the time and place as alleged in the complaint, said injuries, if any, were caused and/or exacerbated by the plaintiff's failure to use the seat belts installed in the motor vehicle in which they were riding, and by otherwise failing to comply with the Vehicle and Traffic Law Section 1229-C and defendants will seek exemption from and/or mitigation of damages at the time of trial.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

TENTH: In the event that plaintiff recovers judgment against this answering defendant and it is determined that plaintiff's damages were caused in whole or in part by two or more joint tortfeasors, then defendant's liability herein for non-economic loss may not exceed its equitable share of said damages in accordance with its relative culpability, as provided by Section 1601 of the CPLR.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

ELEVENTH: This Court lacks jurisdiction of the person of the defendant due to failure to properly serve him.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

TWELFTH: The Complaint, as drawn, fails to state a cause of action.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

THIRTEENTH: Plaintiff's recovery, if any, shall be reduced by the amount of any collateral payments received, in accordance with CPLR Section 4545.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

FOURTEENTH: That if, at the time of trial, any of the issues herein have finally been determined against the plaintiff by a tribunal, forum or Court, all of competent jurisdiction, then, in that event, the plaintiff will be estopped from relitigating said issues.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

FIFTEENTH: Plaintiff failed to take all reasonable measures to reduce, mitigate and/or minimize the damages alleged.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

SIXTEENTH: The undersigned defendant(s) action(s) in connection with the matters alleged

in the Complaint were at all times reasonable under the circumstances and/or the product of an emergency situation that was due to environmental, mechanical, human or animal causes to which the emergency doctrine applies.

**AS A FOR A TENTH AFFIRMATIVE DEFENSE**

SEVENTEENTH: These defendants are entitled to a set-off if any tortfeasor has or will settle with plaintiff pursuant to General Obligations Law §15-108.

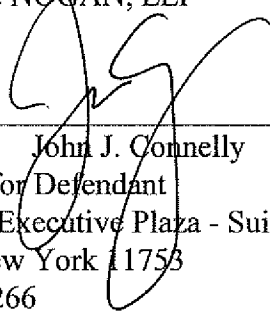
WHEREFORE, defendant, CHRISTINA GRIFFITH, demands judgment dismissing the Complaint herein, together with the costs, disbursements and expenses of this action.

Dated: Jericho, New York  
May 24, 2023

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: \_\_\_\_\_

  
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