

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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DEANGELIS ACOSTA TORRES,

Index No.: 602202/2024

Plaintiff,

VERIFIED ANSWER

-against-

SCOTT BUTLER,

Defendant.

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The defendant, **SCOTT BUTLER**, answering the Verified Complaint of plaintiff, alleges upon information and belief, the following:

1. Denies any knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs of the Verified Complaint designated **1, 5, 6, 8 and 9**.

2. Denies each and every allegation contained in the paragraphs of the Verified Complaint designated **10**, except admits that on July 6, 2021 at approximately 5:25 p.m., the defendant’s motor vehicle came into contact with plaintiff’s motor vehicle.

3. Denies each and every allegation contained in the paragraphs of the Verified Complaint designated **11, 12, 13, 14, 15, 16, 17 and 18**.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

That the plaintiff’s alleged damages representing the cost of medical care, dental care, custodial care or rehabilitation services, loss of earnings or other economic loss were or will, with reasonable certainty, be replaced or indemnified, in whole or in part, by or from a collateral source and this Court shall, pursuant to CPLR Section 4545, reduce the amount of such alleged damages by the amount such damages were or will be replaced or indemnified by such collateral source.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Answering defendant(s) responsibility for non-economic loss, if any, which is expressly denied herein, is less than 50% of any responsibility attributed to any tortfeasor, whether or not a party hereto, who is or may be responsible for the happening of plaintiff's alleged accident and, thus, such party is entitled to a limitation of damages as set forth in CPLR Article 16.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

The injuries and damages allegedly sustained by plaintiff were caused in whole or in part by the culpable conduct of plaintiff, including negligence and assumption of risk, as a result of which the claim of plaintiff is therefore barred or diminished in the proportion that such culpable conduct of plaintiff bears to the total culpable conduct causing the alleged injuries and damages.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Upon information and belief plaintiff(s) failed to mitigate damages.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

That if it is determined that plaintiff failed to use available seatbelts, defendant hereby pleads such fact in mitigation of damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

That this action is barred by reason of the fact that plaintiff did not sustained a "serious injury" as defined in Section 5102 of the Insurance Law and, thus, has no right of recovery under Sec. 5104 of the Insurance Law.

WHEREFORE, this party demands judgment dismissing the action herein, together with costs and disbursements.

Dated: April 19, 2024
Melville, New York

Yours, etc.

LAW OFFICE OF ERIC D. FELDMAN

By: 

JOHN J. KEARNEY

Attorneys for Defendant

SCOTT BUTLER

Mailing Address:¹

P.O. Box 2903

Hartford, CT 06104-2903

(631) 501-3100

Matter No.: 2024042645

TO:

OREMLAND LAW GROUP, P.C.

Attorney for Plaintiff

DEANGELIS ACOSTA TORRES

1700 Grand Concourse, Suite 3K

Bronx, New York 10457

(718) 367-1700

¹ **Office Address:** 2 Corporate Center Drive, Suite 300, Melville, NY 11747

ATTORNEY VERIFICATION

JOHN J. KEARNEY, affirms as follows:

I am an attorney at law admitted to practice in the Courts of the State of New York, and am associated with the LAW OFFICE OF ERIC D.FELDMAN, attorneys for defendant, **SCOTT BUTLER**, in the within action, and as such, I am fully familiar with all the facts and circumstances therein.

That the foregoing Answer is true to the knowledge of affirmant, except as to those matters therein stated to be alleged upon information and belief, and that as to those matters affirmant believes it to be true.

Affirmant further states that the reason that this verification is made by affirmant and not by defendant(s) is that the defendant(s) is/are not within this County of Suffolk where affirmant maintains his/her office.

Affirmant further states that the sources of her knowledge and information are reports of investigations, conversations, writings, memoranda, and other data concerning the subject matter of the litigation.

The undersigned attorney affirms that the foregoing statements are true, under the penalties of perjury pursuant to Rule 2106 of the CPLR.

Dated: April 19, 2024
Melville, New York



JOHN J. KEARNEY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
DEANGELIS ACOSTA TORRES,

Index No.: 602202/2024

Plaintiff,

-against-

**EXCHANGE OF INSURANCE
INFORMATION PURSUANT
TO CPLR §3101(f) and §3122(b)**

SCOTT BUTLER,

Defendant.

-----X

Defendant, **SCOTT BUTLER**, by his attorney the Law Office of ERIC D. FELDMAN, as and for its Exchange of Insurance Information Pursuant to CPLR §3101(f) and §3122(b) sets forth the following:

1. Annexed hereto as **Exhibit A** is a copy of the Declaration Sheet for the policy in force on the alleged date of loss.
2. The Claim Professional assigned to the handling of this action is **C. Sheldon Bassarath** and his email address is: cbassara@travelers.com

Should you require additional documentation or certification pursuant to the CPLR, please advise and we shall further supplement this response accordingly. Otherwise, we will assume this disclosure is sufficient compliance.

Dated: April 19, 2024
Melville, New York

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