

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

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AHMET ADZEMOVIC,

Plaintiff(s),

-against-

Index No.: 150069/2024

VERIFIED ANSWER

SAN ANDRES OM CONSTRUCTION CORP. and
MARIO ORTEGA MARTINEZ,

Defendant(s).

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Defendants, SAN ANDRES OM CONSTRUCTION CORP. and MARIO ORTEGA
MARTINEZ, by their attorneys, GALLO VITUCCI & KLAR LLP, as and for their answer to the
Verified Complaint of the plaintiff, respectfully set forth as follows:

AS AND FOR AN ANSWER TO THE FIRST CAUSE OF ACTION

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the Verified Complaint.
2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "2", "3", "4", "5", "6", "11", "12", "13", "14", "15", "16", "17", "18", "20", "21" and "22" of the Verified Complaint and refer all questions of law to the Court at the time of trial.
3. Deny the allegations contained in paragraphs "8", "23", "24", "25", "26", "27", "28", "29" and "30" of the Verified Complaint.
4. Admit to the allegations contained in paragraphs "7", "9", "10" and "19" of the Verified Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

5. Upon information and belief, any damage or damages sustained by the plaintiff herein were not caused by the wrongdoing on the part of the answering defendants, their servants, agents or employees, but were caused solely or in part by the wrongdoing of the plaintiff and that such conduct requires diminution of any award, verdict or judgment that plaintiff may recover against said answering defendants.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

6. Upon information and belief, plaintiff's economic loss, if any, as specified in §4545 of the CPLR, was replaced or indemnified, in whole or in part, from collateral sources, and the answering defendants are entitled to have the Court consider same in determining such special damages as provided in §4545 of the CPLR.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

7. Upon information and belief, the injuries sustained by plaintiff are such that they do not fall within the requirements of Insurance Law Section 5101, et seq.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

8. Upon information and belief, this Court lacks jurisdiction over the answering defendants by reason of improper service of process.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

9. Upon information and belief, this action must be dismissed for plaintiffs' failure to state a cause of action.

WHEREFORE, defendants, SAN ANDRES OM CONSTRUCTION CORP. and MARIO ORTEGA MARTINEZ demand:

1. Judgment dismissing the complaint; together with the costs and disbursements of this action.

Dated: New York, New York
March 26, 2024

Yours, etc.,

GALLO VITUCCI & KLAL LLP

By: Grant M. Meisels

Grant M. Meisels

Attorneys for Defendant
SAN ANDRES OM CONSTRUCTION CORP. and
MARIO ORTEGA MARTINEZ

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

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AHMET ADZEMOVIC,

Index No.: 150069/2024

Plaintiff(s),

-against-

SAN ANDRES OM CONSTRUCTION CORP. and
MARIO ORTEGA MARTINEZ,

**DEMAND FOR A VERIFIED
BILL OF PARTICULARS**

Defendant(s).

-----X
S I R S:

PLEASE TAKE NOTICE that, pursuant to this Demand, you are required to serve a verified Bill of Particulars with the following information with thirty (30) days:

1. Age of plaintiff(s), date of birth and place of birth.
2. Date of accident.
3. Time of accident.
4. Place of accident.
5. General description of the occurrence together with identification of the parts of any motor vehicle or other instrumentality involved in said occurrence.
6. Acts of wrongdoing claimed separately, against each defendant.
7. Whether actual notice of a defective, deficient or unsafe condition is alleged,

and, if so:

- (a) The person or persons to whom given;
- (b) The place or places where given;
- (c) The date or dates when given;
- (d) The person or persons by whom given.

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