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IN THE FIFTH JUDICIAL DISTRICT COURT OF WASHINGTON COUNTY
STATE OF UTAH

MEHO CAMIL LIZDE and NADJA
LIZDE,

Plaintiff(s),

vs.

JUSTIN S. LUTHER and NEW PRIME,
INC.,

Defendants.

**ANSWER, COUNTERCLAIMS,
AND JURY DEMAND**

Civil No. 150500339

Judge: John J. Walton

Defendants, Justin S. Luther and Prime, Inc., by and through counsel, answer the
Complaint of Plaintiffs and allege as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Answering the specific allegations of plaintiffs' complaint, defendants admit, deny and
allege as follows:

1. Deny paragraph 1 of plaintiffs' complaint for insufficient information.
2. Admit.
3. Admit.
4. Deny. Venue is appropriate in Beaver County, Utah, where the cause of action arises.
5. Deny for insufficient information.
6. Paragraph 6 is an election of discovery tier, to which no response is required. In the event that a response is required, Defendants deny for insufficient information.
7. No response required. If a response is required, see responses to preceding paragraphs, which are incorporated by reference.
8. Admit that a collision between a Prime truck and Plaintiff's vehicle occurred on July 14, 2014 on southbound I-15 in Beaver County, State of Utah. Deny the remaining allegations contained in paragraph 8.
9. Deny for insufficient information.
10. Deny for insufficient information.
11. Deny for insufficient information.
12. Deny for insufficient information.
13. Deny for insufficient information.
14. Deny for insufficient information.
15. Deny for insufficient information.
16. Deny for insufficient information.
17. Deny for insufficient information.
18. No response required. If a response is required, see responses to preceding

- paragraphs, which are incorporated by reference.
19. Deny.
20. Deny.
21. Deny.
22. No response required. If a response is required, see responses to preceding paragraphs, which are incorporated by reference.
23. Deny for insufficient information.
24. Deny for insufficient information.
25. Deny.
26. No response required. If a response is required, see responses to preceding paragraphs, which are incorporated by reference.
27. Deny.
28. Deny.
29. No response required. If a response is required, see responses to preceding paragraphs, which are incorporated by reference.
30. Deny.
31. Deny.
32. Deny.
33. Deny.

THIRD AFFIRMATIVE DEFENSE

Defendants deny each and every other allegation contained in plaintiffs' complaint not expressly admitted herein.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' injuries and damages were caused by or contributed to by the actions of third parties over whom these defendants exercised no control or right of control and therefore, these defendants are liable, if at all, for only that percentage or apportion of fault or negligence attributable to these defendants.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their damages.

SIXTH AFFIRMATIVE DEFENSE

The conduct of all the parties to this action must be compared to determine the degree of fault, if any, among the parties. Any damages or loss must be apportioned accordingly.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs received certain benefits from no fault automobile insurance coverage for which they are not entitled to recover in the above-entitled action and defendants are entitled to an offset for any amount received by plaintiff from no fault insurance coverage for the medical expenses, loss of income and other related special damages.

EIGHTH AFFIRMATIVE DEFENSE

As of this date, defendants are still conducting discovery, the ultimate result of which may disclose the existence of further additional defenses. Defendants therefore raise each and every affirmative defense which would be justified by future discovery.

WHEREFORE, Defendants, having fully answered plaintiffs' complaint, pray that the same be dismissed for no cause of action and for costs and other relief which the court deems proper.

COUNTERCLAIM

Justin Luther, appearing pro se, hereby counterclaims against Meho Lizde and in support thereof, alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Justin Luther is an individual residing in Boone County, Missouri.
2. Upon information and belief, Meho Lizde was and continues to be a resident of Salt Lake County, Utah.
3. The Court has jurisdiction pursuant to Utah Code Ann. § 78A-5-102.
4. Venue in this court was selected by Plaintiffs and so is proper for the purpose of this counterclaim, but venue in the Fifth Judicial District Court located in St. George, Washington County, Utah is more proper pursuant to Utah Code Ann. § 78B-3-307.

STATEMENT OF FACTS

5. On or about July 14, 2014 on I-15 at approximately mile post 126.5, approximately 16 miles north of Beaver, Utah, Meho Lizde collided with the rear of a semi-truck and trailer owned or leased by Justin Luther.
6. Mr. Luther's truck had its hazard lights flashing to warn approaching vehicles that the truck was going at a slow speed due to the uphill grade of the road.
7. As a result of this collision, Mr. Luther suffered damage to his vehicle and incurred monetary loss to repair his vehicle, and lost income.

CAUSE OF ACTION

8. Meho Lizde was negligent in colliding with Luther's vehicle in the following respects:

- a. He failed to pay attention to the conditions of traffic.
 - b. He failed to operate her vehicle in a safe and reasonable manner.
 - c. He failed to brake in time to avoid colliding with the Luther vehicle.
 - d. He failed to yield the right-of-way to the Luther vehicle.
 - e. He failed to maintain proper lookout.
 - f. He failed to maintain proper control of his vehicle.
 - g. Otherwise acting without that degree of care required of him under the circumstances.
9. Meho Lizde's actions and/or omissions caused the collision.

DAMAGES

10. Luther's vehicle was damaged in the collision.
11. As a result of its vehicle's property damage, Luther incurred costs and lost income.
12. Luther is entitled to a judgment against Meho Lizde for his damages as alleged above or as may be proved at trial, which hare believed to be not less than \$3,000.00.

PRAYER FOR RELIEF

Wherefore, Luther prays for relief as follows:

13. Damages as alleged above.
14. Together with such additional relief is fair and just, together with statutory interest, costs, expert witness fees and attorney fees.

COUNTERCLAIM

Prime, Inc., by and through counsel of Strong and Hanni listed above, hereby counterclaims against Meho Lizde and in support thereof, alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Prime, Inc. is a Missouri corporation authorized to do business in the State of Utah.
2. Upon information and belief, Meho Lizde was and continues to be a resident of Salt Lake County, Utah.
3. The Court has jurisdiction pursuant to Utah Code Ann. § 78A-5-102.
4. Venue in this court was selected by Plaintiffs and so is proper for the purpose of this counterclaim, but venue in the Fifth Judicial District Court located in St. George, Washington County, Utah is more proper pursuant to Utah Code Ann. § 78B-3-307.

STATEMENT OF FACTS

5. On or about July 14, 2014 on I-15 at approximately mile post 126.5, approximately 16 miles north of Beaver, Utah, Meho Lizde collided with the rear of a semi-truck and trailer owned by Prime, Inc.
6. The truck had its hazard lights flashing to warn approaching vehicles that the truck was going at a slow speed due to the uphill grade of the road.
7. As a result of this collision, Prime suffered damage to its vehicle and damages due to loss of use of the vehicle.

CAUSE OF ACTION

8. Meho Lizde was negligent in colliding with the Prime vehicle in the following respects:

- h. He failed to pay attention to the conditions of traffic.
 - i. He failed to operate her vehicle in a safe and reasonable manner.
 - j. He failed to brake in time to avoid colliding with the Luther vehicle.
 - k. He failed to yield the right-of-way to the Luther vehicle.
 - l. He failed to maintain proper lookout.
 - m. He failed to maintain proper control of his vehicle.
 - n. Otherwise acting without that degree of care required of him under the circumstances.
9. Meho Lizde's actions and/or omissions caused the collision.

DAMAGES

10. Prime's vehicle was damaged in the collision.
11. As a result of its vehicle's property damage, Prime incurred costs and lost revenue.
12. Prime is entitled to a judgment against Meho Lizde for his damages as alleged above or as may be proved at trial, which hare believed to be not less than \$31,144.43 in property damage and repairs to the truck and trailer and \$1,494.93 for loss of use of the truck.

PRAYER FOR RELIEF

Wherefore, Prime prays for relief as follows:

13. Damages as alleged above.
14. Together with such additional relief is fair and just, together with statutory interest, costs, expert witness fees and attorney fees.

JURY DEMAND

Defendants/Counterclaim Plaintiffs demand that the above case be set on the jury calendar for trial and tender herewith the jury fee in the amount of \$250.

DATED this 14th day of August, 2015.

STRONG & HANNI

/s/ Kathryn T. Smith
Peter H. Christensen
Kathryn T. Smith
Attorneys for Defendants Prime and Luther

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of August, 2015 a true and correct copy of the foregoing **ANSWER, COUNTERCLAIMS, AND JURY DEMAND** was served by the method indicated below, to the following:

Kevin D. Swenson	<input checked="" type="checkbox"/> X) Electronic Filing Notification
Nathan Langston	<input type="checkbox"/> () U. S. Mail, Postage Prepaid
ROBERT J. DeBRY & ASSOCIATES	<input type="checkbox"/> () Hand Delivered
134 North 200 East, Suite 304	<input type="checkbox"/> () Overnight Mail
St. George, UT 84770	<input type="checkbox"/> () Email

/s/ Amy Segal