

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFF

VS.

NO.

, AND DEFENDANTS

THIRD PARTY DEFENDANT ANSWER AND DEFENSES
OF TO THIRD-PARTY COMPLAINT

COMES NOW the Third Party Defendant, , by and through counsel, and responds to the allegations of the Third-Party Complaint filed against his/her as follows, to-wit:

FIRST DEFENSE

The Third-Party Complaint fails to state a claim from which relief can be granted against for negligence; therefore, this claim must be dismissed with prejudice.

AND NOW, without waiving his/her previous defense, , would respond to the allegations of the Third-Party Complaint, paragraph by paragraph, as follows, to-wit:

1. Admitted.
2. The first sentence of paragraph 2 is denied as stated. Affirmatively, would show that his/her son, was involved in an automobile accident with a vehicle driven by , who was acting within the scope of his/her employment, on the date and at the place alleged. The remaining allegations of paragraph 2 are admitted.
3. admits that he/she signed the driver's license application for his/her minor son, , and admits that he/she was under the age of at the time of the accident, but denies the remaining allegations contained in paragraph 3. admits that a copy of driver's license application is attached to the Complaint as Exhibit "C", the terms of which speak for themselves.

4. Denied.

In response to the unnumbered ad damnum paragraph, denies that is entitled to a judgment in the amounts demanded or any amount whatsoever and further denies that he/she is entitled to court costs. further demands to be dismissed with prejudice as to the allegations of the Third-Party Complaint, with all costs being charged to d/b/a .

AND NOW responding affirmatively, would show as follows, to-wit:

FIRST AFFIRMATIVE DEFENSE

, at all times pertinent hereto, operated his/her vehicle in a reasonable and prudent manner and in conformity with all rules of the road and laws of the State of Mississippi.

SECOND AFFIRMATIVE DEFENSE

affirmatively pleads and alleges that the sole proximate cause or a proximate contributing cause of the accident and alleged injuries and damages was the negligence of the Plaintiff's employee, , who, inter alia, was operating his/her vehicle in a careless and unreasonable manner. Specifically, negligence included, but is not limited to, the following:

- (a) Failure to operate his/her vehicle in a reasonable and prudent manner;
- (b) Failure to maintain reasonable and proper control of his/her vehicle;
- (c) Failure to keep a reasonable and proper lookout for other traffic and observe that which should have been seen;
- (d) Operating his/her vehicle at an excessive rate of speed for the circumstances then and there existing;
- (e) Failure to exercise reasonable care for his/her own safety and the safety of others in the operation of his/her vehicle under the circumstances existing at the time;
- (f) Failure to yield the right of way;
- (g) Running a red light; and
- (h) Any other acts of negligence revealed in discovery and/or shown at trial.

THIRD AFFIRMATIVE DEFENSE

Affirmatively, would show that on or about , , at approximately a.m/p.m., was driving . Upon approaching and , who was traveling in the lane of , having a light, proceeded through the intersection. As entered the intersection, he/she was struck by a truck driven by . truck had been traveling and failed to . At all times pertinent hereto, had the and when failed to and entered the and , he/she struck vehicle and caused the accident.

FOURTH AFFIRMATIVE DEFENSE

In the alternative, if it is found that was negligent in some degree, and if it is also found that was negligent thereby contributing to the proximate cause of alleged

damages, if any, then the damages assessed against _____, if any, should be apportioned to the degree of negligence, if any, that _____ and _____ contributed to _____ damages pursuant to the Mississippi Law of Comparative Negligence.

FIFTH AFFIRMATIVE DEFENSE

_____ denies each and every material allegation of the Complaint by which _____ seeks to impose liability upon him/her, and further denies any and all responsibility in the premises.

SIXTH AFFIRMATIVE DEFENSE

As to _____, the accident in question was unavoidable due to the actions of _____, who was driving a _____ truck.

AND NOW, having responded to the allegations of the Third Party's Complaint, demands to be dismissed with prejudice, and also demands payment of all reasonable and necessary costs in defending this cause of action.

RESPECTFULLY SUBMITTED this the _____ day of _____, _____.

BY: _____

His/Her Attorney

OF COUNSEL:

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed, by United States mail, postage prepaid, a true and correct copy of the above and foregoing Answer and Defenses to Third-Party Complaint to:

This the _____ day of _____, _____.
