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5 *Attorney for KO Transportation, Inc.*

6 UNITED STATES DISTRICT COURT  
 7  
 8 DISTRICT OF NEVADA

9 RICHARD MELCHIORRE, an individual,  
 Plaintiff,

10 vs.

11 CHASE MICHAEL CAIMI, an individual; KO  
 TRANSPORTATION, INC., a Utah  
 12 Corporation; DOES 1 through 10, inclusive; and  
 ROE BUSINESS ENTITIES 1 through 10,  
 13 inclusive,  
 14 Defendants.

CASE NO. 2:24-cv-01411-CDS-DJA

**STIPULATION AND ORDER TO  
 AMEND DEFENDANT KO  
 TRANSPORTATION, INC.’S  
 ANSWER AND AFFIRMATIVE  
 DEFENSES TO PLAINTIFF’S  
 COMPLAINT**

WINNER & BOOZE  
 LAWYERS



15 Defendant KO TRANSPORTATION, INC., by and through its counsel of record, the law  
 16 firm WINNER & BOOZE, and Plaintiff RICHARD MELCHIORRE, by and through his counsel of  
 17 record, the firm RALPH A. SCHWARTZ, P.C., respectfully submit the following stipulation and  
 18 order to amend Defendant KO TRANSPORTATION, INC.’s Answer and Affirmative Defense to  
 19 Plaintiff’s Complaint to assert a demand for jury trial.

20 **I. INTRODUCTION**

21 This case involves a motor vehicle incident that took place on February 1, 2023, in the  
 22 County of Clark, State of Nevada, wherein plaintiff RICHARD MELCHIORRE claims he sustained  
 23 injuries in excess of \$75,000.00, exclusive of interest and costs. Plaintiff filed a Complaint in the  
 24 Eighth Judicial District Court for the State of Nevada, in and for Clark County, on June 26, 2024.  
 25 The case is identified as Case Number A-24-896242-C. On or around August 1, 2024, defendant  
 26 KO Transportation, Inc. filed its Petition for Removal in the United States District Court, District of  
 27 Nevada, based on diversity jurisdiction. On or about August 1, 2024, Defendant KO Transportation,  
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1 Inc. filed its answer to plaintiff's complaint in the United States District Court, District of Nevada.  
2 On or about August 16, 2024, defendant KO Transportation, Inc. filed its Statement Regarding  
3 Removal in this Court. The parties held a conference pursuant to Fed. R. Civ. P. 26(f) on August  
4 30, 2024, and will prepare a stipulated discovery plan and scheduling order for this Honorable  
5 Court's review.

6 **II. REASONS WHY DEFENDANT KO TRANSPORTATION, INC.'S ANSWER**  
7 **AND AFFIRMATIVE DEFENSES SHOULD BE AMENDED**

8 The parties hereby stipulate that Defendant KO TRANSPORTATION, INC.'s Answer and  
9 Affirmative Defenses be amended to include a demand for jury trial. This request is being timely  
10 submitted, and no trial date and been set in this instant litigation.

11 DATED this 20<sup>th</sup> day of September, 2024.

DATED this 20<sup>th</sup> day of September, 2024.

12 WINNER & BOOZE

RALPH A. SCHWARTZ, P.C.

13  
14 By: Christine Booze  
15 Christine M. Booze  
16 Nevada Bar No. 7610  
17 1117 South Rancho Drive  
18 Las Vegas, Nevada 89102  
*Attorney for Defendant*  
*KO Transportation, Inc*

By: /s/ Ralph A. Schwartz  
Ralph A. Schwartz  
Nevada Bar No. 5488  
400 South Seventh Street, Suite 100  
Las Vegas, Nevada 89101  
*Attorney for Plaintiff Richard Melchiorre*

19  
20 **ORDER**

21 **IT IS THEREFORE ORDERED** that the parties' stipulation (ECF No. 15) is **GRANTED**.  
22 Defendant must file and serve the amended pleading as required by Local Rule 15-1(b).

23 DATED: 9/24/2024

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25   
26 DANIEL J. ALBREGTS  
27 UNITED STATES MAGISTRATE JUDGE  
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9 Plaintiff,

10 vs.

11 CHASE MICHAEL CAIMI, an individual; KO  
TRANSPORTATION, INC., a Utah  
12 Corporation; DOES 1 through 10, inclusive; and  
ROE BUSINESS ENTITIES 1 through 10,  
13 inclusive,  
14 Defendants.

CASE NO. 2:24-cv-01411-CDS-DJA

**DEFENDANT KO  
TRANSPORTATION, INC.'S  
APPENDIX OF EXHIBITS TO  
STIPULATION TO AMEND  
ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S  
COMPLAINT**

<i>Exhibit</i>	<i>Document Description or Title</i>
<i>Exhibit A</i>	Defendant KO Transportation, Inc.'s (Proposed) Amended Answer

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Exhibit “A”

1 CHRISTINE M. BOOZE  
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9 RICHARD MELCHIORRE, an individual,  
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10 vs.

11 CHASE MICHAEL CAIMI, an individual; KO  
TRANSPORTATION, INC., a Utah  
12 Corporation; DOES 1 through 10, inclusive; and  
ROE BUSINESS ENTITIES 1 through 10,  
13 inclusive,  
14 Defendants.

CASE NO.

**DEFENDANT KO  
TRANSPORTATION, INC.'S  
ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S  
COMPLAINT**

**DEMAND FOR JURY TRIAL**

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16 Defendant KO TRANSPORTATION, INC. by and through its counsel of record the law firm  
17 WINNER & BOOZE and hereby submits its response to plaintiff's complaint (hereinafter referred  
18 to as "Complaint"). Pursuant to FRCP 8(b), Defendant denies generally each and every allegation  
19 of matter, fact, and thing asserted against it in the Complaint, unless otherwise admitted or qualified.  
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21 **I.**

22 **JURISDICTION**

23 1. Responding to Paragraph 1 of the Complaint, Defendant KO TRANSPORTATION,  
24 INC. objects to this paragraph because the plaintiff's statements and allegations call for a legal  
25 conclusion, which is beyond the ken of Defendant and as such no response is required. Without  
26 waiving the foregoing objection and, to the extent a response is required, Defendant states it lacks  
27 knowledge or information sufficient to form a belief about the truth of the allegations contained in  
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1 the paragraph and upon said grounds, denies the allegations and holds the plaintiff to his burden of  
2 proof.

3 2. Responding to Paragraph 2 of the Complaint, Defendant KO TRANSPORTATION,  
4 INC. states that it lacks knowledge or information sufficient to form a belief about the truth of the  
5 allegation contained in the paragraph and upon said grounds, denies the allegations.

6 3. Responding to Paragraph 3 of the Complaint, Defendant KO TRANSPORTATION,  
7 INC. states upon information and belief, defendant CHASE MICHAEL CAIMI was a resident of  
8 Springville, Utah and is a resident within the state of Utah.

9 4. Responding to Paragraph 4 of the Complaint, Defendant KO TRANSPORTATION,  
10 INC. admits it is a Utah corporation doing business in the State of Nevada. As to the remaining  
11 allegations, Defendant objects because the remaining statements are vague and seek a legal  
12 conclusion which is beyond the ken of Defendant and as such no response is required. Without  
13 waiving the foregoing objection and, to the extent a response is required, Defendant states it lacks  
14 knowledge or information sufficient to form a belief about the truth of the allegations and upon said  
15 grounds, denies and holds the plaintiff to his burden of proof.  
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17 5. Responding to Paragraph 5 of the Complaint, Defendant KO TRANSPORTATION,  
18 INC. states the paragraph contains statements, assumptions, and conclusions of law which Defendant  
19 can neither admit nor deny. Defendant is unable to assert a position as to the legal or factual basis  
20 or claims made by the plaintiff, and therefore denies the allegations and holds the plaintiff to his  
21 burden of proof. Once the proposed DOE defendants are identified and served, Defendant will assert  
22 its position on plaintiff's allegations at that time.  
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24 6. Responding to Paragraph 6 of the Complaint, Defendant KO TRANSPORTATION,  
25 INC. states the paragraph contains statements, assumptions, and conclusions of law which Defendant  
26 can neither admit nor deny. Defendant is unable to assert a position as to the legal or factual basis  
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1 or claims made by the plaintiff, and therefore denies the allegations and holds the plaintiff to his  
2 burden of proof. Once the proposed ROE BUSINESS ENTITY defendants are identified and served,  
3 Defendant will assert its position on plaintiff's allegations at that time.

4 7. Responding to Paragraph 7 of the Complaint, Defendant KO TRANSPORTATION,  
5 INC. states that it lacks knowledge or information sufficient to form a belief about the truth of the  
6 allegation contained in the paragraph and upon said grounds, denies the allegations and holds  
7 plaintiff to his burden of proof.

8 **II.**

9 **GENERAL ALLEGATIONS**

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11 8. Responding to Paragraph 8 of the Complaint, Defendant KO TRANSPORTATION,  
12 INC. realleges and reasserts its responses contained in Paragraphs 1 through 7 above as if fully set  
13 forth at this point and incorporates them herein by reference, and as such no response is required.

14 9. Responding to Paragraph 9 of the Complaint, Defendant KO TRANSPORTATION,  
15 INC. states that it lacks knowledge or information sufficient to form a belief about the truth of the  
16 allegation contained in the paragraph and upon said grounds, denies the allegations and holds  
17 plaintiff to his burden of proof.

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19 10. Responding to Paragraph 10 of the Complaint, and based upon information and  
20 belief, Defendant KO TRANSPORTATION, INC. admits that defendant CHASE MICHAEL  
21 CAIMI was the operator of a 2021 Kenworth DS tractor that it owned. As to the remaining  
22 allegations, it lacks knowledge or information sufficient to form a belief about the truth of the  
23 allegations and upon said grounds, denies the allegations and holds the plaintiff to his burden of  
24 proof.

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26 11. Responding to Paragraph 11 of the Complaint, Defendant KO TRANSPORTATION,  
27 INC. objects to this paragraph because the plaintiff's statements and allegations call for a legal  
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1 conclusion and expert opinion, which is beyond the ken of Defendant and as such no response is  
2 required. Without waiving the foregoing objection and, to the extent a response is required,  
3 Defendant denies the allegations and holds the plaintiff to his burden of proof.

4 12. Responding to Paragraph 12 of the Complaint, Defendant KO TRANSPORTATION,  
5 INC. objects to this paragraph because the plaintiff's statements and allegations call for a legal  
6 conclusion, which is beyond the ken of Defendant and as such no response is required. Without  
7 waiving the foregoing objection and, to the extent a response is required, Defendant denies the  
8 allegations and holds the plaintiff to his burden of proof.

9 13. Responding to Paragraph 13 of the Complaint, Defendant KO TRANSPORTATION,  
10 INC. objects to this paragraph because the plaintiff's statements and allegations call for a legal  
11 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
12 required. Without waiving the foregoing objection and, to the extent a response is required,  
13 Defendant denies the allegations and holds the plaintiff to his burden of proof.

14 14. Responding to Paragraph 14 of the Complaint, Defendant KO TRANSPORTATION,  
15 INC. objects to this paragraph because the plaintiff's statements and allegations call for a legal  
16 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
17 required. Without waiving the foregoing objection and, to the extent a response is required,  
18 Defendant denies the allegations and holds the plaintiff to his burden of proof.

19 15. Responding to Paragraph 15 of the Complaint, Defendant KO TRANSPORTATION,  
20 INC. denies the allegation and holds the plaintiff to his burden of proof.

21 **III.**

22 **FIRST CLAIM FOR RELIEF**  
23 **(Negligence)**

24 16. Responding to Paragraph 16 of the Complaint, Defendant KO TRANSPORTATION,  
25 INC. realleges and reasserts its responses contained in Paragraphs 1 through 15 above as if fully  
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1 forth at this point and incorporates them herein by reference, and as such no response is required.

2 17. Responding to Paragraph 17 of the Complaint, Defendant KO TRANSPORTATION,  
3 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
4 conclusion, which is beyond the ken of Defendant and as such no response is required. Without  
5 waiving the foregoing objection and, to the extent a response is required, Defendant admits only that  
6 it is the duty of all drivers, including the plaintiff driver, to operate any vehicle pursuant to law. As  
7 to the remaining allegations, Defendant lacks knowledge or information sufficient to form a belief  
8 about the truth of the allegations and upon said grounds, denies the allegations and holds the plaintiff  
9 to his burden of proof.  
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11 18. Responding to Paragraph 18 of the Complaint, Defendant KO TRANSPORTATION,  
12 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
13 conclusion, which is beyond the ken of Defendant and as such no response is required. Without  
14 waiving the foregoing objection and, to the extent a response is required, Defendant states that it  
15 lacks knowledge or information sufficient to form a belief about the truth of the allegation contained  
16 in the paragraph and upon said grounds, denies the allegations and holds plaintiff to his burden of  
17 proof.  
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19 19. Responding to Paragraph 19 of the Complaint, Defendant KO TRANSPORTATION,  
20 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
21 conclusion, which is beyond the ken of Defendant and as such no response is required. Without  
22 waiving the foregoing objection and, to the extent a response is required, Defendant states that it  
23 lacks knowledge or information sufficient to form a belief about the truth of the allegation contained  
24 in the paragraph and upon said grounds, denies the allegations and holds plaintiff to his burden of  
25 proof.  
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1 forth at this point and incorporates them herein by reference, and as such no response is required.

2 25. Responding to Paragraph 25 of the Complaint, Defendant KO TRANSPORTATION,  
3 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
4 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
5 required. Without waiving the foregoing objection and, to the extent a response is required,  
6 Defendant states that it lacks knowledge or information sufficient to form a belief about the truth of  
7 the allegation contained in the paragraph and upon said grounds, denies the allegations and holds  
8 plaintiff to his burden of proof.

9 26. Responding to Paragraph 26 of the Complaint, Defendant KO TRANSPORTATION,  
10 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
11 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
12 required. Without waiving the foregoing objection and, to the extent a response is required,  
13 Defendant states that it lacks knowledge or information sufficient to form a belief about the truth of  
14 the allegation contained in the paragraph and upon said grounds, denies the allegations and holds  
15 plaintiff to his burden of proof.

16 27. Responding to Paragraph 27 of the Complaint, Defendant KO TRANSPORTATION,  
17 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
18 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
19 required. Without waiving the foregoing objection and, to the extent a response is required,  
20 Defendant states that it lacks knowledge or information sufficient to form a belief about the truth of  
21 the allegation contained in the paragraph and upon said grounds, denies the allegations and holds  
22 plaintiff to his burden of proof.

23 28. Responding to Paragraph 28 of the Complaint, Defendant KO TRANSPORTATION,  
24 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
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1 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
2 required. Without waiving the foregoing objection and, to the extent a response is required,  
3 Defendant states that it lacks knowledge or information sufficient to form a belief about the truth of  
4 the allegation contained in the paragraph and upon said grounds, denies the allegations and holds  
5 plaintiff to his burden of proof.

6 29. Responding to Paragraph 29 of the Complaint, Defendant KO TRANSPORTATION,  
7 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
8 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
9 required. Without waiving the foregoing objection and, to the extent a response is required,  
10 Defendant states that it lacks knowledge or information sufficient to form a belief about the truth of  
11 the allegation contained in the paragraph and upon said grounds, denies the allegations and holds  
12 plaintiff to his burden of proof.

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14 30. Responding to Paragraph 30 of the Complaint, Defendant KO TRANSPORTATION,  
15 INC. denies the allegation and holds the plaintiff to his burden of proof.  
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17 V.

18 **THIRD CLAIM FOR RELIEF**  
19 **(Negligent Entrustment/Joint & Several Liability/Agency**  
20 **Respondeat Superior/Vicarious Liability)**

21 31. Responding to Paragraph 31 of the Complaint, Defendant KO TRANSPORTATION,  
22 INC. realleges and reasserts its responses contained in Paragraphs 1 through 30 above as if fully set  
23 forth at this point and incorporates them herein by reference, and as such no response is required.

24 32. Responding to Paragraph 32 of the Complaint, Defendant KO TRANSPORTATION,  
25 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
26 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
27 required. Further, the terms "maintained" and "controlled" are ambiguous. Without waiving the  
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1 foregoing objections and, to the extent a response is required, Defendant admits only that it owned  
2 the Kenworth defendant Chase was driving at the time of the event that is the subject of plaintiff's  
3 complaint. Defendant holds the plaintiff to his burden of proof.

4 33. Responding to Paragraph 33 of the Complaint, Defendant KO TRANSPORTATION,  
5 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
6 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
7 required. Without waiving the foregoing objection and, to the extent a response is required,  
8 Defendant denies the allegations and holds the plaintiff to his burden of proof.

9 34. Responding to Paragraph 34 of the Complaint, Defendant KO TRANSPORTATION,  
10 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
11 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
12 required. Without waiving the foregoing objection and, to the extent a response is required,  
13 Defendant denies the allegations and holds the plaintiff to his burden of proof.

14 35. Responding to Paragraph 35 of the Complaint, Defendant KO TRANSPORTATION,  
15 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
16 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
17 required. Without waiving the foregoing objection and, to the extent a response is required,  
18 Defendant denies the allegations and holds the plaintiff to his burden of proof.

19 36. Responding to Paragraph 36 of the Complaint, Defendant KO TRANSPORTATION,  
20 INC. objects to this paragraph because the plaintiff's statement and allegation calls for a legal  
21 conclusion and/or expert opinion, which is beyond the ken of Defendant and as such no response is  
22 required. Without waiving the foregoing objection and, to the extent a response is required,  
23 Defendant denies the allegations and holds the plaintiff to his burden of proof.  
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**FOURTH AFFIRMATIVE DEFENSE**

As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that the causes of action alleged herein are barred in that Defendant did not cause the damages alleged by the plaintiff. Defendant holds plaintiff to all proofs.

**FIFTH AFFIRMATIVE DEFENSE**

As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges the Complaint and each cause of action thereof, is barred on the grounds that Defendant's conduct referred to in the Complaint was not a factor in bringing about the alleged damages complained of by the plaintiff.

**SIXTH AFFIRMATIVE DEFENSE**

Defendant relies on Nevada statutes and case law to define the legal standards and duties that apply to the facts of this case, and not upon the wording of plaintiff's Complaint.

**SEVENTH AFFIRMATIVE DEFENSE**

As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that at the time and place alleged in the Complaint, plaintiff did not exercise ordinary care, caution, or prudence in the premises to avoid said incident and the resulting injuries, if any, complained of were directly and proximately contributed to and caused by the fault, carelessness, and negligence of the plaintiff.

**EIGHTH AFFIRMATIVE DEFENSE**

As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that if plaintiff sustained damages as a result of the incident as alleged, such damages, if any, were caused and contributed to by the negligence or other wrongful conduct of plaintiff and such negligence or other wrongful conduct constitutes a bar to any recovery or, in the alternative, any recovery obtained

1 by plaintiff should be reduced to the extent such negligence or other wrongful conduct was a cause  
2 of claimed damages.

3 **NINTH AFFIRMATIVE DEFENSE**

4 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges the  
5 incident referred to in the Complaint and any and all damages and/or injuries resulting therefrom, if  
6 any, were proximately caused, in whole or in part, or were contributed to by the plaintiff's own  
7 negligence or other conduct, and such negligence was greater than any of the Defendant's alleged  
8 negligence.

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10 **TENTH AFFIRMATIVE DEFENSE**

11 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that  
12 the causes of action alleged herein are barred in that any alleged act or omission of Defendant herein  
13 was superseded by the acts or omissions of others, including plaintiff and/or plaintiff's agent, which  
14 were the sole cause of any damage or loss to plaintiff herein. Defendant holds plaintiff to all proofs.

15 **ELEVENTH AFFIRMATIVE DEFENSE**

16 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that  
17 the injuries or damage sustained by the plaintiff is a direct and proximate result of the intervening  
18 or other acts of a person or persons over whom this Defendant exercised no control and with whom  
19 this Defendant has no legal relationship.

20 **TWELFTH AFFIRMATIVE DEFENSE**

21 As and for a separate, distinct affirmative defense to the Complaint, Defendant is not legally  
22 responsible for the acts and/or omissions of those who are named as fictitious defendants.

23 **THIRTEENTH AFFIRMATIVE DEFENSE**

24 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that  
25 it is not legally responsible in any fashion for the damages claimed by plaintiff. However, if  
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1 Defendant is found to be legally responsible, then Defendant conditionally alleges that its legal  
2 responsibility is not the sole legal cause of plaintiff's purported damages, if any, and that the  
3 damages awarded to the plaintiff, if any, should be apportioned according to the respective fault and  
4 legal responsibility of all parties, persons and entities, or their agents, servants and employees who  
5 contributed to and/or caused the subject incidents, according to proof presented at the time of trial.

6 **FOURTEENTH AFFIRMATIVE DEFENSE**

7 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that  
8 if responsible for plaintiff's injuries and medical expenses, Defendant is only obligated to the extent  
9 that such expenses are reasonable and lawfully incurred.

10 **FIFTEENTH AFFIRMATIVE DEFENSE**

11 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that  
12 should it be held liable to the plaintiff herein, Defendant is entitled to comparative contribution  
13 and/or indemnity from all other persons, parties and/or organizations who are, in whole or in part,  
14 responsible for plaintiff's damages.

15 **SIXTEENTH AFFIRMATIVE DEFENSE**

16 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that  
17 pursuant to NRS §41.141, in the event recovery is allowed against more than one defendant in this  
18 action, then the liability of KO TRANSPORTATION, INC., if any, shall be several to the plaintiff  
19 only for that portion of the judgment which represents the percentage of negligence attributable to  
20 Defendant KO TRANSPORTATION, INC.

21 **SEVENTEENTH AFFIRMATIVE DEFENSE**

22 As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that  
23 plaintiff is not entitled to punitive damages against Defendant because Defendant did not commit  
24 any act of fraud, malice or oppression.

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**EIGHTEENTH AFFIRMATIVE DEFENSE**

As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that plaintiff's claims for punitive damages are barred by both the United States and Nevada Constitutions. Specifically, under the current rules governing discovery and trial practices, current evidentiary rules, and current vague substantive standards, such an award would violate KO TRANSPORTATION, INC.'S rights under article I, sections 8, 9, and 10 of the United States Constitution, the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, and Article 1, sections 6, 8, and 18 of the Nevada Constitution.

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**NINETEENTH AFFIRMATIVE DEFENSE**

As and for a separate, distinct affirmative defense to the Complaint, Defendant alleges that the Complaint, to the extent that it seeks punitive damages, violates this Defendant's right to protection from "excessive fines" as provided in the 8<sup>th</sup> Amendment of the United States Constitution and/or the provisions of the Constitution of the State of Nevada and violates Defendant's right to substantive due process as provided in the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution and/or the Constitution of the State of Nevada, and therefore, fails to state a cause of action supporting punitive damages claimed.

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**TWENTIETH AFFIRMATIVE DEFENSE**

That is has been necessary for the Defendant to employ the services of an attorney to defend this action and a reasonable sum should be allowed Defendant as and for attorney's fees, together with the costs expended in this action.

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**TWENTY-FIRST AFFIRMATIVE DEFENSE**

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Defendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 and 12 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendant reserves the right

1 to seek leave of court to amend this Answer to assert specifically any such defenses. Such defenses  
2 are incorporated herein by reference for the specific purpose of not waiving any such defenses.

3 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

4 Pursuant to NRCP 11, all affirmative defenses that have not been alleged herein insofar as  
5 sufficient facts are not available after reasonable inquiry upon the filing of this Answer. Defendant  
6 reserves the right to allege additional affirmative defenses, or to remove affirmative defenses, if  
7 further investigation and/or discovery reveals facts supporting such defenses.  
8

9 **PRAYER**

10 WHEREFORE, Defendant prays for judgment in accordance with the facts and law, holding  
11 plaintiff to her burden of proof. Where appropriate under applicable law, Defendant's request for  
12 attorney's fees and costs against the plaintiff. Defendant further request's for such other and further  
13 relief as the Court deems just, equitable and proper.

14 DATED this 20<sup>th</sup> day of September, 2024.

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16 WINNER & BOOZE  
17 *Christine Booze*  
18 \_\_\_\_\_  
19 Christine M. Booze  
20 Nevada Bar No. 7610  
21 1117 South Rancho Drive  
22 Las Vegas, Nevada 89128  
23 *Attorneys for Defendant*  
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