

David Hernandez

CAUSE NO. DC-15-09782

MATTHEW SEEBACHAN AND	§	IN THE DISTRICT COURT
MARCIA SEEBACHAN	§	
	§	192 ND JUDICIAL DISTRICT
V.	§	
	§	DALLAS COUNTY, TEXAS
JOHN EAGLE COLLISION CTR, JOHN		
EAGLE COLLISION CENTER A/K/A		
JOHN EAGLE LINCOLN-MERCURY-		
ASTON MARTIN, L.P., HUFFINES		
KIA A/K/A HUFFINES DENTON		
AUTOS, INC.		

**DEFENDANT'S SPECIAL EXCEPTIONS, ORIGINAL ANSWER AND REQUEST
FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW EAGLE IMPORTS, LP, misnamed as JOHN EAGLE COLLISION CENTER AKA JOHN EAGLE LINCOLN-MERCURY-ASTON MARTIN, L.P. AND JOHN EAGLE COLLISION CTR., Defendant in the above-styled and numbered cause, and makes and files this its Special Exceptions, Original Answer to Plaintiffs' Original Petition on file herein, and for such answer would respectfully show unto the Court the following:

Special Exceptions

By way of special exception, Defendant pleads that it is misnamed, and requests that Plaintiff be ordered to re-plead to correctly name the Defendant. Further, and as a separate Special Exception, Defendant request the Court order Plaintiff to re-plead to specify the maximum amount claimed, pursuant to TRCP 47(d).

Original Answer

1.

General Denial

Defendant generally denies the allegations contained in Plaintiffs' Original Petition and demands strict proof thereof by a preponderance of evidence in the trial of this cause.

2.

Paid or Incurred

Defendant asks that evidence concerning economic damages be limited to the amount actually paid or incurred by or on behalf of Plaintiffs, in compliance with Texas Civil Practice & Remedies Code §41.0105. Pleading further, Defendants plead the protections contained in §18.091 of the Texas Civil Practice & Remedies Code.

3.

Jury Demand

Defendant demands a trial by jury in this cause.

4.

Comparative Negligence

Defendant says that Plaintiffs were guilty of various acts and/or omissions, including but not limited to failure to keep a proper lookout for their own safety, which acts and/or omissions were negligent and the sole proximate cause, or alternatively only, a proximate cause of Plaintiffs' alleged injuries and damages, if any.

5.

Third Party Negligence

Defendant says that the injuries alleged in Plaintiffs' Petition were proximately and solely caused by the negligent acts of third parties over whom Defendant could not, and did not, exercise any control whatsoever.

6.

Unavoidable Accident

Defendant says that it was not guilty of any negligence that proximately caused or contributed to the happening of Plaintiffs' injuries. In the event Plaintiffs' own negligence was not the major producing cause of Plaintiffs' injuries, then such injuries and the resulting damages were caused solely by an unavoidable accident.

7.

Prior or Subsequent Injuries

Defendant says that some or all of Plaintiffs' alleged injuries and damages are the result of pre-existing and/or subsequently occurring bodily injuries, ailments, conditions or stressors unrelated to the incident that is the basis of this lawsuit.

8.

Failure to Mitigate

Defendant says that Plaintiffs did not use ordinary care in reducing or avoiding their alleged injuries and damages, and thus failed to mitigate their damages.

9.

Request for Disclosure

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiffs are requested to disclose, within 30 days of service of this request, the information or material described in Rule 194.2.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiffs take nothing by reason of this suit and that Defendant be granted judgment for costs and for such other and further relief, both general and special, at law or in equity, to which it may show itself justly entitled.

Respectfully submitted,

/s/ D. Keith Harrison

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served in accordance with Rules 21 and 21a of the TEXAS RULES OF CIVIL PROCEDURE on this 9th day of October, 2015 upon the following attorney(s) of record:

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Attorney for Plaintiffs

/s/ D. Keith Harrison

D. Keith Harrison