

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF MULTNOMAH
3 1200 SW First Avenue Portland Oregon 97204

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5 HENRY MICHAEL FUHRER,

6 Plaintiff,

7 vs.

8 AVIS BUDGET CAR RENTAL, LLC; PV
9 HOLDING CORP; AB CAR RENTAL
10 SERVICES, INC.; AVIS RENT A CAR
11 SYSTEM, LLC; CONTINENTAL
CASUALTY COMPANY; AVIS BUDGET
GROUP INC.

12 Defendant

Case No. 19CV38807

**ORDER GRANTING IN PART
DEFENDANT'S SECOND MOTION FOR
SUMMARY JUDGMENT AND
GRANTING IN PART PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

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15 This matter came before the court on April 8th, 2022, on cross motions for
16 summary judgment. The court ruled from the bench, taking under advisement two issues from
17 defendant's second motion for summary judgment and plaintiff's motion for partial summary
18 judgment.

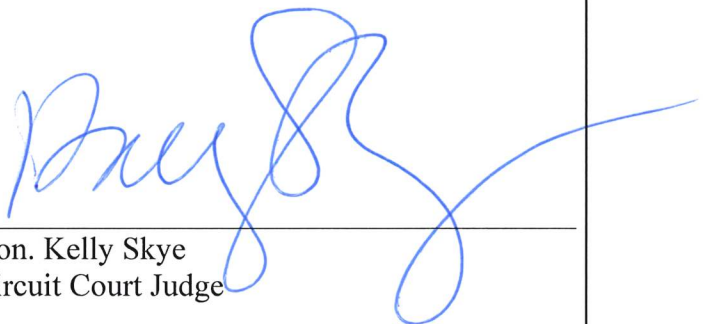
19 The court hereby grants defendant's motion for summary judgment on Plaintiff's
20 Employer Liability Law (ELL) claims against PV Holding Corp. On the summary judgement
21 record, PV Holding Corp. is not subject to the Employer Liability Law. PV Holding Corp. held
22 the title to the shuttle van involved in the accident that gives rise to this action. However, PV
23 Holding Corp. was not engaged in a common enterprise with AB Car Rental, did not retain the
24 right to control and did not actually control the manner in which the shuttle van was driven.
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28 ORDER GRANTING IN PART DEFENDANT'S SECOND MOTION FOR SUMMARY JUDGMENT AND
GRANTING IN PART PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT - 1

1 Plaintiff's motion for summary judgment on defendant's comparative fault affirmative
2 defense is granted. Pursuant to ORS 31.600, Defendants are not permitted to compare their fault
3 to that of Gaspar David Mateo and Gaspar David Pablo, as they are no longer parties to the
4 case. The language of ORS 31.600(2) at issue in this matter is substantially the same as the
5 language of the predecessor statute, ORS 18.470. Several cases interpret that language to limit
6 comparison of fault to those persons against whom recovery is sought when the case is submitted
7 to the trier of fact. *Mills v. Brown*, 303 Or. 223 (1987), *Davis v. Obrien*, 320 v. 729 (1995) and
8 *Faverty v. McDonald's*, 133 Or App. 514 (1995). Additionally, there is no evidence in the
9 record from which a fact-finder could find that Plaintiff settled claims with Mateo and Pablo.
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14 Dated this 15th day of April 2022.
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Hon. Kelly Skye
Circuit Court Judge