Rule 14.04

No Cl-14-97888

**IN THE COUNTY COURT OF VICTORIA AT MELBOURNE**

**DAMAGES & COMPENSATION LIST GENERAL DIVISION**

BETWEEN

**6DC PTY LTD**

Plaintiff

and

**DAVID DUNLEAVY**

Defendant

**DEFENCE**

Date of document: 2 September 2014 Filed on behalf of: The Defendant Prepared by:

**Wells Thompson Lawyers**

Level 26

53 Lonsdale Street

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In answer to the Plaintiff's statement of claim indorsed on the Writ and dated

27 June 2014, the Defendant says as follows:

1. Subject to the production of a certificate of registration, the Defendant admits that the Plaintiff is the owner of the vehicle W41 IE ("plaintiff's vehicle") as pleaded in paragraph 1 (a).
2. The Defendant admits paragraph 1 (b).
3. In response to paragraph 2, the Defendant:
   1. Admits that there was a collision between the 'Plaintiff's vehicle' and a motor vehicle driven by the Defendant ("collision").
   2. Admits that the collision occurred on or about 3 September

2012 at or the Hume Highway, Glenrowan.

* 1. Denies causing the collision or the allegation of negligence. The Defendant refers to and repeats paragraphs 2 and 3 of the complaint in the Magistrates' Court proceeding, Court Number: 013202625.
  2. Does not admit that the Plaintiff is the owner of the 'Plaintiff's vehicle' and refers to and repeats paragraph 1 (a) of the Defence herein.

1. The Defendant denies paragraph 3 and denies the particulars of negligence thereunder. The Defendant says that the collision occurred as a result of the negligence of the driver of the Plaintiff's vehicle.

**PARTICULARS**

(i) The Defendant refers to and repeats paragraphs 2 and 3 of the complaint in the Magistrates' Court proceeding, Court Number: 0135888.

1. The Defendant denies paragraph 4 and denies any obligation to meet the claimed loss and damage of the Plaintiff on the basis that the collision was caused by or contributed to by the negligence of the driver of the Plaintiff's vehicle. The Defendant refers to and repeats paragraph 3 of the Defence herein.
2. Further, or in the alternative to the preceding paragraph, the Defendant denies paragraph 5 and says:
   1. The loss and damage being claimed by the Plaintiff is excessive, unreasonable and is not supported by the documentation annexed to the Statement of Claim.
   2. The loss of profits being claimed is excessive, extravagant or unreasonable, and is not supported by the documentation annexed to the Statement of Claim.
3. The Defendant denies that the Plaintiff is entitled to:

(a) The sum of $144,465.67

1. Interest pursuant to statute
2. Costs
3. Any other Orders deemed necessary by the Court.
4. The Defendant requires the following parties to be present at the determination of this proceeding for the purpose of cross-examination:
   1. The Plaintiff.
   2. The repairer of the Plaintiff's vehicle.
   3. The assessor of the Plaintiff's vehicle.

Dated: 2 September 2014

**Wells Thompson Lawyers**

Solicitors for the Defendant