

IN THE COUNTY COURT OF THE SEVENTH JUDICIAL CIRCUIT  
IN AND FOR SAINT JOHNS COUNTY, FLORIDA

BRADLEY BYRD, an individual, and  
ANNA BYRD, an individual,

Plaintiffs,

v.

CASE NUMBER: CA25-1320

COSTCO WHOLESALE CORPORATION, a  
foreign for profit corporation,  
COSTCOINNOVEL SOLUTIONS, LLC, d/b/a  
COSTCO WHOLESALE LOGISTICS, a foreign  
limited liability company, and RXO LAST  
MILE, INC., a foreign for profit  
corporation,

Defendant.

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**ANSWER AND AFFIRMATIVE DEFENSES**

Defendant, RXO Last Mile, Inc., by and through its undersigned counsel, files this  
Answer and Affirmative Defenses and states:

**PRELIMINARY ALLEGATIONS**

1. Without knowledge, therefore denied.
2. Without full knowledge, therefore denied.
3. Without full knowledge, therefore denied.
4. Admitted as to the first sentence in paragraph 4 only, otherwise denied.
5. Denied.
6. Admitted for venue purposes, otherwise denied.
7. Denied. The Plaintiffs lack standing to assert the instant causes of action.

## **FACTS**

8. Without full knowledge, therefore denied.
9. Denied as pled.
10. Denied.
11. Denied.
12. Denied.
13. Denied

## **COUNT I**

14. Defendant XPO Last Mile, Inc. restates and reavers its responses to paragraphs 1-13.
15. Denied as pled.
16. Denied.

WHEREFORE, XPO LAST MILE, INC. seeks judgment in its favor and against Plaintiffs awarding it the costs of defending this action together with such further relief this Court deems just and appropriate.

## **COUNT II**

17. Defendant XPO Last Mile, Inc. restates and reavers its responses to paragraphs 1-13.
18. Denied as pled.
19. Denied.

WHEREFORE, XPO LAST MILE, INC. seeks judgment in its favor and against Plaintiffs awarding it the costs of defending this action together with such further relief this Court deems just and appropriate.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

Plaintiffs have failed to state a cause of action against Defendant, XPO Last Mile, Inc. and lack standing to pursue the instant causes of action.

### **SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' damages, if any, were caused in whole or in part by the Plaintiffs' own negligence in failing to properly operate the subject appliance, failing to timely and reasonably detect and prevent the alleged damages thereby barring in part or in whole recovery in this action against this Defendant.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' damages, if any, were proximately caused or contributed by intervening causes other than any act or omission by Defendant, XPO Last Mile, Inc. by reason of negligence by other persons, firms, corporations or entities.

### **FOURTH AFFIRMATIVE DEFENSE**

To the extent Plaintiffs failed to follow instructions, warnings and/or customary usage as to the subject appliance, the Plaintiffs' claims against Defendant, XPO Last Mile, Inc. are barred in whole or in part.

### **FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs failed to mitigate their damages as required under Florida law and any such recovery should be proportionately reduced as a result of this failure. The failure to mitigate includes but is not limited to failing to detect and/or prevent the claimed damages in this case and failing to act timely and reasonably in preventing additional damages alleged in this case. In

addition, the Plaintiff incurred unreasonable and/or unnecessary expenses in the remediation and/or repair of the alleged damages.

**SIXTH AFFIRMATIVE DEFENSE**

The Plaintiffs lack standing to pursue the instant causes of action.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims and/or damages should be reduced by any and all payments received or to be received by Plaintiffs as well as payments from any collateral sources received or to be received by Plaintiff. The Defendants are further entitled to a set off for any prior or future recoveries in this action obtained by the Plaintiffs.

**EIGHTH AFFIRMATIVE DEFENSE**

Defendant reserves the right to assert additional affirmative defenses.

**DEMAND FOR JURY TRIAL**

Defendant XPO Last Mile, Inc. demands trial by Jury for all issues so triable by right.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 10th day of December, 2025, I electronically filed the foregoing with the Clerk of the Court by using the Florida Court E-Filing Portal, which will send a Notice of Electronic Filing to the following: John D. Webb, Esq., JOHN D. WEBB, P.A., 1662 Stockton St., Ste. 201, Jacksonville, FL 32204, [jwebb@jackwebblaw.com](mailto:jwebb@jackwebblaw.com); [arichey@jackwebblaw.com](mailto:arichey@jackwebblaw.com); [jupton@jackwebblaw.com](mailto:jupton@jackwebblaw.com).

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