

DISTRICT COURT, JEFFERSON COUNTY COMBINED COURT, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401	DATE FILED February 08, 2024 12:36 PM
<p style="text-align: center;">WILLIAM MONTGOMERY,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p style="text-align: center;">BEST BUY, L.P.,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Attorneys for Defendant Best Buy L.P.: Lori K. Bell, Reg. No. 31714 Glenn D. Germany, Reg. No. 59722 Montgomery Amatuzio Chase Bell Jones, LLP 4100 East Mississippi Avenue, Suite 1600 Denver, CO 80246-3048 Telephone: 303-592-6600 lbell@mac-legal.com ggermany@mac-legal.com	Case No.: 2023CV00226 Division: 6
DEFENDANT BEST BUY STORES, L.P. ANSWER TO PLAINTIFF'S COMPLAINT AND JURY DEMAND UNDER SIMPLIFIED CIVIL PROCEDURE	

Best Buy Stores, L.P. (“Best Buy”), by and through its attorneys of record, Lori K. Bell and Glenn D. Germany at Montgomery Amatuzio Chase Bell Jones, LLP, hereby responds to Plaintiff William Montgomery (“Plaintiff”) Complaint and Jury Demand Under Simplified Civil Procedure (“Complaint”) as follows:

RESPONSE TO GENERAL ALLEGATIONS

1. Best Buy asserts that the Complaint, and the resolution of the same, are not subject to the Simplified Procedure proscribed by C.R.C.P. 16.1 as they do not apply to the allegations in the Complaint. Plaintiff, by his own admission in the Case Cover Sheet, admits that C.R.C.P. 16.1 does not apply because Plaintiff is seeking a monetary judgment against Defendant of more than \$100,000.00, exclusive of interest and costs.

2. Defendant admits that it operates a store located at 9369 Sheridan Blvd, Westminster, CO 80031 (“the store”).

3. As to the allegation that Plaintiff was at the store on November 25, 2022, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations and, accordingly, denies the same.

4. As to the False Imprisonment allegation wherein Plaintiff claims he was approached and surrounded by three Best Buy employees that did not allow Plaintiff to leave the store premises for 12 minutes, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations and, accordingly, denies the same.

5. As to the Defamation *Per Se* allegation wherein Plaintiff claims the three Best Buy employees falsely, loudly, rudely, and publicly accused Plaintiff of stealing in front of many others, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations and, accordingly, denies the same.

6. As to the Assault allegation wherein Plaintiff claims the three Best Buy employees threatened to “jump” Plaintiff around the corner and off camera, Defendant is without knowledge or information sufficient to form a belief regarding the truth of the allegations and, accordingly, denies the same.

AFFIRMATIVE DEFENSES

Having fully answered Plaintiff’s Complaint, Best Buy pleads the following defenses and/or affirmative defenses, without waiving any argument that it may be entitled to assert regarding the burden of proof, legal presumptions, or other legal characterizations.

1. Plaintiff’s Complaint fails to state a claim against Best Buy upon which relief can be granted.

2. Plaintiff’s claims are substantially frivolous, groundless, and vexatious and, as such, the Complaint lacks substantial justification. Therefore, Defendant requests the court award reasonable attorney fees against Plaintiff pursuant to C.R.S. § 13-17-102 et seq. See **Exhibit 1**, *Montgomery v. Walmart*, No. 22CA0625, 2023 WL 3794022 (Colo. App. June 1, 2023).

3. Plaintiff entered Best Buy with the intent to and then actually acted in a manner intended to provoke Best Buy employees into believing he was concealing property of the store, thus triggering the shopkeepers’ privilege created by C.R.S. § 18-4-407. Defendant cannot be found liable for false imprisonment or defamation.

4. Defendant’s employees’ statements, if any were made, pertained to a potential criminal activity and thus were a matter of public concern and subject to a qualified privilege. See *Lawson v. Stow*, 2014 COA 26, ¶ 18.

5. Plaintiff may have failed to take reasonable steps under the circumstances to minimize, avoid, or mitigate whatever damages, if any, he may have sustained.
6. Any liability or fault assessed against Best Buy must be reduced pursuant to the *pro rata* liability provisions of C.R.S. § 13-21-111.5.
7. Best Buy reserves the right, and affirmatively requests leave of the Court to add, delete, or amend its affirmative defenses in this case as investigation and discovery are completed.

WHEREFORE, having fully answered Plaintiffs' Complaint, Best Buy prays that the Complaint against it be dismissed with prejudice and the relief requested herein denied, for judgment for costs and fees against Plaintiffs, and for such other and further relief as the court may deem just and proper.

DEFENDANT BEST BUY DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Filed on February 8, 2024.

MONTGOMERY AMATUZIO
CHASE BELL JONES, LLP

By: s/ Lori K. Bell
Lori K. Bell
Glenn D. Germany

Attorneys for Defendant Best Buy Stores,
L.P.

CERTIFICATE OF SERVICE

I hereby certify that, on February 8, 2024, a true and correct copy of the foregoing was **DEFENDANT BEST BUY STORES, L.P. ANSWER TO PLAINTIFF'S COMPLAINT AND JURY DEMAND UNDER SIMPLIFIED CIVIL PROCEDURE** prepared for service to the following in the manner indicated below:

Per Se:

William Montgomery
2443 S University Blvd #129
Denver, CO 80210

U.S. Mail Email CCES

s/ Samantha Trujillo

Samantha Trujillo, Legal Assistant