FILE START

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TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION
JUN 06 2007
LARAYNE CLEEK, CLERK
BY:_____

CURTIS M. SPOTT #060045
Attorney at Law
136 North E Street
P.O. Box 336
Exeter, CA 93221
(559) 592-3101

Attorney for Plaintiff,
CARL HILL LEASING

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF TULARE

CARL HILL LEASING, Plaintiff, vs. TOYOTA MOTOR SALES, USA, INC, and DOES 1 through 10 inclusive, Defendants.	Case No. 07--224004 COMPLAINT FOR DAMAGES, CIVIL PENALTY, AND ATTORNEY FEES [Song-Beverly Consumer Warranty Act] UNLIMITED CIVIL CASE

COMES NOW Plaintiff CARL HILL LEASING, who alleges as follows:

GENERAL ALLEGATIONS

1. At all times mentioned herein CARL HILL LEASING, doing business in Exeter, Tulare County, California (hereinafter referred to as HILL) was and now is a dba of CARL HILL AUTO, doing business in Exeter, Tulare County,

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TOY-RQ-05E-00003239

California. CARL HILL AUTO is a proprietorship owned by CARL M. HILL and HEIDI L. HILL, residents of the Hartland area, Tulare County, California.

2. At all times mentioned herein TOYOTA MOTOR SALES, USA, INC. (hereinafter referred to as TOYOTA) was and is a corporation authorized to do business in the City of Visalia, County of Tulare, State of California.

3. HILL is ignorant of the true names and capacities of Defendants sued herein as DOES 1 through 10, and therefore sues those Defendants by such fictitious names under the provisions of Section 474 of the Code of Civil Procedure. HILL is informed and believes, and thereon alleges, that Defendants DOES 1 through 10 are in some manner responsible for the events and happenings herein alleged.

4. At all times herein mentioned, Defendants DOES 1 through 10 were the agents, servants and employees of the other named Defendants, and were acting at all times within the scope of their agency and employment, and with the knowledge and consent of their principal and employer.

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FIRST CAUSE OF ACTION

[Breach of Song-Beverly Consumer Warranty Act]

5. HILL incorporates Paragraphs 1, 2, 3 and 4 of the GENERAL ALLEGATIONS into this First Cause of Action as though set out in full herein.

6. On or about April 19, 2006, at Visalia, California, HILL purchased from VISALIA TOYOTA/SCION, an automobile dealer, for the sum of $39,500.00 (exclusive of tax and licensing fees), a 2006 Toyota Highlander HYB 4WD automobile, vehicle identification number (VIN) JTEEW21A860021741 (hereinafter referred to as the HIGHLANDER), manufactured by TOYOYA.

The HIGHLANDER was a new motor vehicle within the meaning of Civil Code Section 1793.22(e)(2) at the time HILL purchased it. A copy of the contract between HILL and TOYOTA is attached hereto and marked Exhibit A, and incorporated in full by reference.

7. HILL bought the HIGHLANDER primarily for personal, family, or household purposes, and the HIGHLANDER has a gross vehicle weight under 10,000 pounds.

8. TOYOTA appended to the HIGHLANDER an express written 150,000 mile warranty undertaking to preserve and maintain the utility and performance of the HIGHLANDER and/or provide compensation in the event of failure in

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utility or performance. Said express warranty was returned to VISALIA TOYOTA/SCION when the HIGHLANDER was traded in as set forth in Paragraph 12 below.

9. On or about from April 19, 2006 through October 27, 2006 HILL discovered that the HIGHLANDER would **accelerate on its own** while slowing and coming down a steep grade with many switchback turns [a 2,000 foot drop in three (3) miles coming from their home in the mountains in Tulare County] while under medium to light braking (hereinafter referred to as the PROBLEM). During each descent the driver's foot was off the gas pedal and on the brake pedal. This PROBLEM became progressively worse over time.

The PROBLEM that the HIGHLANDER exhibited constituted a failure in utility and performance. This failure of utility and performance resulted in a condition that was likely to cause death, or serious bodily injury if the HIGHLANDER was driven down a steep grade with switchback turns.

HILL delivered the HIGHLANDER to VISALIA TOYOTA/SCION in Visalia, California (a TOYOTA authorized repair facility) on October 17, 2006, as a result of the PROBLEM, for the purposes of having the PROBLEM corrected under warranty repair. VISALIA TOYOTA/SCION noted on its invoice

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number W37883 that the cause of the PROBLEM was a "normal condition" and that the correction required was "none".

10. The PROBLEM continued and HILL again took the HIGHLANDER to VISALIA TOYOTA/SCION for warranty repair on October 20, 2006. This time VISALIA TOYOTA/SCION noted on its invoice number W38171 that the cause of the PROBLEM was "car pushes or accelerates when regenerative braking has shut down when the HV battery is at full capacity", and that the correction required was "to open a case with tech line #TA062930253".

The PROBLEM was explained to HILL by VISALIA TOYOTA/SCION, in layman's terms, that when the HIGHLANDER is descending hills with the driver's foot off the gas pedal and on the brake pedal the HIGHLANDER automatically goes to a recharge mode. During this recharge mode the HIGHLANDER, while under braking, automatically transfers from regenerative braking to normal braking. During this transfer (transition phase) a lag occurs, and during this lag the HIGHLANDER accelerates and increases speed even with the foot fully on the brake pedal attempting to slow the HIGHLANDER down.

11. As a result of the October 20, 2006 warranty repair attempt TOYOTA VISALIA/SCION advised HILL that

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it would take six (6) to twelve (12) months before new software would be available to correct the PROBLEM. HILL could not wait that long with the HIGHLANDER being considered unsafe to drive on steep and soon to be wet, snow covered and icy roads.

Accordingly HILL elected not to subject the HIGHLANDER to further repair as the PROBLEM could not be corrected in a timely manner. HILL relies on the presumption under Civil Code Section 1793.22(b)(1) that the two (2) attempts to have the PROBLEM corrected are a reasonable number of attempts in view of the PROBLEM being likely to cause death or serious bodily injury if the HIGHLANDER is driven down steep grades. The two (2) attempts to have the PROBLEM corrected both occurred within the earlier of eighteen (18) months from the initial delivery of the HIGHLANDER to HILL or 18,000 miles on the odometer.

12. After the unsuccessful attempts at repair, and the fact that HILL could not wait up to twelve (12) months to have the PROBLEM with the HIGHLANDER corrected, HILL traded the HIGHLANDER in at VISALIA TOYOTA/SCION on October 27, 2006 for a new 2007 Toyota Tacoma 4x4 pick up truck.

VISALIA TOYOTA/SCION accepted the HIGHLANDER as a trade-in on the purchase of the pick up truck, indicating

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to HILL it could not be sold until the PROBLEM had been corrected.

As a result of the trade-in HILL suffered a loss of $6,907.75 from the April 19, 2006 HIGHLANDER purchase price to the trade-in allowance for the HIGHLANDER.

13. In early November 2006 HILL attempted to obtain restitution of the $6,907.75 directly from TOYOTA when HILL called and discussed the PROBLEM with representatives of TOYOTA in accordance with Civil Code Section 1793.2(d)(2)(B). TOYOTA advised HILL at that time that about the California Dispute Settlement Program (hereinafter CDSP).

14. HILL filed a Customer Claim Form on November 10, 2006 and sent it to CDSP; a copy of this form is attached hereto and marked Exhibit B, and incorporated in full by reference. On November 29, 2006 CDSP advised HILL in writing that the PROBLEM situation fell outside the bounds of the arbitration process as the HIGHLANDER had been traded in and was no longer owned by HILL; a copy of this letter is attached hereto and marked Exhibit C, and incorporated in full by reference.

Accordingly HILL takes the position that a qualified third-party dispute resolution process does not exist

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[CC §§ 1793.22 (c) and (d)] as HILL'S attempt at dispute resolution was rejected by CDSP.

15. After HILL'S unsuccessful attempts to recover the $6,907.75 HILL requested CURTIS M. SPOTT, Attorney at Law, to write a letter to TOYOTA demanding that the sum of $6,907.75 to be paid; a copy of said latter is attached hereto and marked as Exhibit D.

16. TOYOTA has failed and refused, and continues to fail and refuse, to make restitution to HILL. As a result HILL has been damaged in the amount of $6,907.75.

17. As a further proximate result of TOYOTA'S failure to comply with its obligations to HILL, HILL has been required to incur attorney's fees and litigation costs.

18. TOYOTA willfully violated the Song-Beverly Consumer Warranty Act and breached the express warranty made in the sale to HILL in that the HIGHLANDER was clearly unsafe to drive, and death or serious bodily injury could have resulted by HILL'S continued driving of the HIGHLANDER, particularly down steep grades.

WHEREFORE, HILL prays judgment as follows:

1. For actual damages in the sum of $6,907.75;

2. For a civil penalty of two (2) times the amount of actual damages;

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3. For reasonable attorney fees in an amount to be proven at the time of trial;

4. For costs of suit; and

5. For such other and further relief that the Court deems just and proper under the circumstances.

June 5, 2007

CURTIS M. SPOTT,
Attorney at Law

CHLSG2

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SIMPLE INTEREST FINANCE CHARGE

Dealer Number 3259 Contract Number 415684 R.O.S. Number 10209860 Stock Number T12658

SALESPERSON: HARPAL SINGH

Buyer (and Co-Buyer) Name and Address (Including County and Zip Code)	Creditor - Seller (Name and Address)
CARL HILL LEASING CARL HILL 212 2ND ST EXETER TULARE CA 93221	VISALIA TOYOTA 1313 E MAIN ST VISALIA CA 93291

You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract. You agree to pay the Creditor - Seller (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-In-Lending Disclosures below are part of this contract.

New Used	Year	Make and Model	Odometer	Vehicle Identification Number	Primary Use For Which Purchased
NEW	2006	TOYOTA HIGHLANDER	158	JTEEW21A860021741	☒ personal, family or household ☐ business or commercial

FEDERAL TRUTH-IN-LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit, including your down payment of $ N/A is
N/A %	$ N/A (e)	$ 39,907.75	$ 39,907.75 (e)	$ 39,907.75 (e)

(e) means an estimate

YOUR PAYMENT SCHEDULE WILL BE:

Number of Payments:	Amount of Payments:	When Payments Are Due:
One Payment of	39,907.75	
One Payment of	N/A	
N/A Payments	N/A	Monthly, Beginning N/A
Payments	N/A	Monthly, Beginning
One Final Payment	N/A	N/A

Late Charge. If payment is not received in full within 10 days after it is due, you will pay a late charge of 5% of the part of the payment that is late.
Prepayment. If you pay off all your debt early, you may be charged a minimum finance charge.
Security Interest. You are giving a security interest in the vehicle being purchased.
Additional Information: See this contract for more information including information about nonpayment, default, any required repayment in full before the scheduled date, minimum finance charges, and security interest.

ITEMIZATION OF THE AMOUNT FINANCED

1. **Total Cash Price**
   - A. Cash Price of Motor Vehicle and Accessories $ 39500.00 (A)
     - 1. Cash Price Vehicle $ 39500.00
     - 2. Cash Price Accessories $ N/A
     - 3. Other (Nontaxable)
       - Describe N/A $ N/A
       - Describe ____ $ N/A
   - B. Document Preparation Fee (not a governmental fee) $ 45.00 (B)
   - C. Smog Fee Paid to Seller $ N/A (C)
   - D. Sales Tax (on taxable items in A+B+C) $ N/A (D)
   - E. Optional DMV Electronic Filing Fee* $ 28.00 (E)
   - F. (Optional) Service Contract* $ N/A (F)
   - G. (Optional) Service Contract* $ N/A (G)
   - H. Prior Credit or Lease Balance paid by Seller to ____ $ N/A (H)
     (see downpayment and trade-in calculation)
   - I. (Optional) Gap Contract (to whom paid)* ____ $ N/A (I)
   - J. Other (to whom paid)* ____ $ N/A (J)
     For ____

   Total Cash Price (A through J) $ 39573.00 (1)
2. ***Amounts Paid to Public Officials***
   - A. License Fees ESTIMATED $ 326.00 (A)
   - B. Registration/Transfer/Titling Fees $ N/A (B)
   - C. California Tire Fees* $ 8.75 (C)
   - D. Other ____ $ N/A (D)
   - E. Other ____ $ N/A (E)

   Total Official Fees (A through E) $ 334.75 (2)

STATEMENT OF INSURANCE

NOTICE. No person is required as a condition of financing the purchase of a motor vehicle to purchase or negotiate any insurance through a particular insurance company, agent or broker. You are not required to buy any other insurance to obtain credit. Your decision to buy or not buy other insurance will not be a factor in the credit approval process.

Vehicle Insurance

		Term	Premium
$ N/A	Ded. Comp., Fire & Theft	N/A Mos.	$ N/A
$ N/A	Ded. Collision	N/A Mos.	$ N/A
Bodily Injury	$ N/A Limits	N/A Mos.	$ N/A
Property Damage	$ N/A Limits	N/A Mos.	$ N/A
Medical	N/A	N/A Mos.	$ N/A
N/A		N/A Mos.	$ N/A
Total Vehicle Insurance Premiums			$ (a)

UNLESS A CHARGE IS INCLUDED IN THIS AGREEMENT FOR PUBLIC LIABILITY OR PROPERTY DAMAGE INSURANCE, PAYMENT FOR SUCH COVERAGE IS NOT PROVIDED BY THIS AGREEMENT.

You may buy the physical damage insurance this contract requires (see back) from anyone you choose who is acceptable to us. You are not required to buy any other insurance to obtain credit.

Buyer X
Co-Buyer X
Seller X

If any insurance is checked below, policies or certificates from the named insurance companies will describe the terms and conditions.

Application for Optional Credit Insurance

☐ Credit Life: ☒ Buyer ☐ Co-Buyer ☐ Both
☐ Credit Disability (Buyer Only)

	Term	Exp.	Premium
Credit Life	N/A Mos.	____	$ N/A
Credit Disability	N/A Mos.	____	$ N/A
Total Credit Insurance Premiums			$ N/A (b)

Insurance Company Name
N/A
Home Office Address
N/A

Credit life insurance and credit disability insurance are not required to obtain credit. Your decision to buy or not buy credit life and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the extra cost. Credit life insurance is based on your original payment schedule. This insurance may not pay all you owe on this contract if you make late payments. Credit disability insurance does not cover any increase in your payment or in the number of payments. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown above.

You are applying for the credit insurance marked above. Your signature below means that you agree that: (1) You are not eligible for insurance if you have reached your 65th birthday. (2) You are eligible for disability insurance only if you are working for wages or profit 30 hours a week or more on the Effective Date. (3) Only the Primary Buyer is eligible for disability insurance. DISABILITY INSURANCE MAY

3. **Amount Paid to Insurance Companies**
(Total premiums from Statement of Insurance column a + b)* $ N/A (3)

4. **Smog Certification or Exemption Fee Paid to State** $ N/A (4)

5. **Subtotal** (1 through 4) $ 39907.75 (5)

6. **Total Downpayment**

A. Agreed Trade-In Value Yr _____ Make _____ $ N/A (A)
Model _____ Odom _____
VIN _____

B. Less Prior Credit or Lease Balance $ N/A (B)

C. Net Trade-In (A less B) (Indicate if a negative number) $ N/A (C)

D. Deferred Downpayment $ N/A (D)

E. Manufacturer's Rebate $ N/A (E)

F. Other _____ $ N/A (F)

G. Cash $ N/A (G)

Total Downpayment (C through G) $ N/A (6)

(If negative, enter zero on line 6 and enter the amount less than zero as a positive number on line 1H above)

7. **Amount Financed** (5 less 6) $ 39907.75 (7)

*Seller may keep part of these amounts.

EXHIBIT A

NOT COVER CONDITIONS FOR WHICH YOU HAVE SEEN A DOCTOR OR CHIROPRACTOR IN THE LAST 6 MONTHS (Refer to "Total Disabilities Not Covered" in your policy for details).
You want to buy the credit insurance.

Date	X Buyer Signature	Age
Date	X Co-Buyer Signature	Age

OPTIONAL GAP CONTRACT A gap contract (debt cancellation contract) is not required to obtain credit and will not be provided unless you sign below and agree to pay the extra charge. If you choose to buy a gap contract, the charge is shown in item 1I. See your gap contract for details on the protection it provides. It is a part of this contract.

Term N/A Mos N/A
Name of Gap Contract

You want to buy a gap contract.

Buyer X _____

FOR CDSP USE

CASE NUMBER:

Customer Claim Form

CUSTOMER NAME AND ADDRESS

☒ Mr. ☐ Mrs. ☐ Ms. First name: CARI MI: M. Last name: Hill

Street address: 212 2nd St

City: EXETER State: CA Zip code: 93221

Daytime phone: (559) 592-2166 Evening phone: (559) 337-0771 Fax: (559) 592-6467

VEHICLE INFORMATION

Name(s) that appears on the vehicle title: CARI Hill LEASING CARI Hill LESSOR

Is this a leased vehicle?: Yes ☐ No ☐ Delivery date: 4/19/06

If YES, lessor's name and address:

Make: Toyota Model: HIGHLANDER Year: 2006 Current mileage: 12313

Vehicle Identification Number: JTEEW21AB600217471

Selling dealer and address: VISALIA Toyota
1313 E. MAIN ST VISALIA CA 93292

Dominant servicing dealer: SAME.

VEHICLE PROBLEM(S) (Attach legible copies of applicable repair orders or other documents that support your complaint)

Problem	List dealer(s) which have repaired or attempted repair (include city and state)	List the date, mileage, and repair order number for each repair attempt	Does the problem currently exist?
Example: A/C won't cool properly	Autoworld Inc. Anytown, VA	4/23/02 3,500 miles #B73540	Yes ☑ No ☐
BRAKING Problem	VISALIA Toyota.	10-17-06 11,984 IN 3-7883	Yes ☒ No ☐
BRAKING Problem	" "	10-20-06 12,267 W38171	Yes ☒ No ☐
			Yes ☐ No ☐
			Yes ☐ No ☐
			Yes ☐ No ☐

Has the vehicle been involved in an accident? Yes ☐ No ☒

If YES, give date of accident: Specify damaged area:

Resolution sought: I had To Get Rid of This Vehicle because Toyota Did not have a repair software for the computer for 6 to 12 months and my Icy season was starting. My Loss of $ 19,000.75 Vehicle back at Visalia Toyota. Bought a Tacoma. 10-27-06

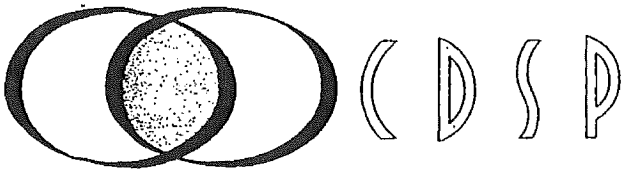
Carl Hill 11-10-06

SIGNATURE(S) DATE

Return all copies of this form to:
California Dispute Settlement Program
P.O. Box 561109
Dallas, TX 75356-1109

EXHIBIT B

CDSP



Administered by NCDS

November 29, 2006

California Dispute Settlement Program
22500 Metropolitan Parkway • Suite 200
Clinton Township, MI 48035
(800) 936-4303
Fax: (586) 790-4774

Mr. Carl M. Hill
212 2nd Street
Exeter, CA 93221

RE: CASE # 1206145

Dear Mr. Carl M. Hill:

Your request for arbitration within the California Dispute Settlement Program (CDSP) as administered by the National Center for Dispute Settlement (NCDS) has been received and assigned the above referenced case number. The CDSP has jurisdiction over issues related to Toyota Motor Sales, U.S.A., Inc.'s new vehicle limited warranties.

On the "Customer Claim Form" that you completed, you stated you no longer possess the vehicle in question. Therefore, your situation falls outside the bounds of the arbitration process.

If you feel the above determination of lack of jurisdiction was made in error, a three (3) member panel of arbitrators will consider your written appeal if received by the panel within Thirty (30) days of this notice of ineligibility. Please indicate on your correspondence to CDSP that this is an appeal and include your case number as identified above. Be sure to include all supporting documents to your appeal claim.

Although, we are unable to assist you with this matter, we are pleased that you took the time to explore this situation with CDSP.

Sincerely,

Michael Kaiser
Case Administrator

cc: San Francisco Regional Office

EXHIBIT C

Where interests converge, agreements emerge

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FAX (559) 592-9807

March 28, 2007

TOYOTA MOTOR SALES, USA, INC.
19001 50 Western Avenue
Department WC11
Torrance, CA 90501

RE: CARL HILL LEASING
2006 Toyota Highlander HYB 4WD
VIN JTEEW21A860021741

Dear Department WC11 Manager:

The above-described vehicle was purchased new from VISALIA TOYOTA/SCION on April 19, 2006.

From after date of purchase the vehicle was used to access their home located in the mountains in Tulare County. The person driving said vehicle experienced that the vehicle would **accelerate on its own** while slowing and coming down a steep grade (2,000 foot drop in 3 miles) while under medium to light braking. During the descent the driver's foot was off the gas pedal and on the brake pedal. This problem became progressively worse.

The vehicle was taken to VISALIA TOYOTA/SCION on October 17, 2006 for warranty repair. The maintenance department indicated on invoice number W37883 that the cause was "normal condition"; and that the correction required was "none".

EXHIBIT D

The problem continued and the vehicle was taken again to VISALIA TOYOTA/SCION on October 20, 2006 for warranty repair. This time the maintenance department indicated on invoice number W38171 that the cause was "car pushes or accelerates when regenerative braking has shut down when the HV battery is at full capacity"; and that the correction required was "to open a case with tech line #TA062930253".

It is the owner's understanding, in layman's terms, that while descending hills with the driver's foot off the gas pedal and on the brake pedal the vehicle automatically goes to a recharge mode. During this recharge mode the vehicle, while under braking, automatically transfers from regenerative braking to normal braking. During this transition phase a lag occurs, and during this lag the vehicle accelerates and increases speed even with the foot fully on the brake pedal attempting to slow the vehicle down.

VISALIA TOYOTA/SCION advised the owner that it would be six (6) to twelve (12) months before new software would be available to correct the "accelerating while under braking problem." The owner could not wait that long with a vehicle that was considered unsafe to drive on steep, wet, snow covered and icy roads.

As a result of the foregoing described descending problem, and the predicted time frame to correct the problem, the above-described vehicle was traded in for a different new vehicle at VISALIA TOYOTA/SCION. The replacement vehicle, purchased on October 27, 2006, was a new 2007 Toyota Tacoma 4x4 pick up truck.

VISALIA TOYOTA/SCION had to accept the 2006 HYB 4WD, and indicated that it could not sell the same until the problem had been corrected.

CARL HILL LEASING had a loss of $6,907.75 from the April 19, 2006 purchase price to the VISALIA TOYOTA/SCION trade-in allowance.

We are requesting that TOYOTA MOTOR SALES, USA, INC. immediately reimburse CARL HILL LEASING the sum of $6,907.75. A call was made to your Customer Relations Representative [(800) 331-4331], and upon relating all of the foregoing circumstances, said representative that took the call stated that CARL HILL LEASING should get its money back.

We anticipate a favorable response to this letter on or before May 1, 2007. If no response is received by May 1, 2007, or if an unfavorable response is received on or before May 1, 2007, CARL HILL LEASING will file a lawsuit to recover the $6,907.75 together with permissible attorney fees and costs of suit under breach of contract, breach of express warranty, beach of implied warranty theories, but not limited thereto.

If litigation is required arbitration is not an option. Upon advice from CALIFORNIA DISPUTE SETTLEMENT PROGRAM this situation falls outside the bounds of the arbitration process in view of the fact that CARL HILL LEASING no longer owns the 2006 HYB 4WD.

Very truly yours,

CURTIS M. SPOTT
CMS:lal

CHLSG1

TOY-RQ-05E-00003254

SUM-100

COPY

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

RECEIVED
JUN 15 2007
LEGAL DEPT.

NOTICE TO DEFENDANT: TOYOTA MOTOR SALES, USA, INC. and DOES 1 through 10 inclusive
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY PLAINTIFF: CARL HILL LEASING
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: Tulare County Superior Court
(El nombre y dirección de la corte es): Visalia Division
County Civic Center

CASE NUMBER: *(Número del Caso):* 07 - 224004

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

CURTIS M. SPOTT #060045
P.O. Box 336, Exeter, CA 93221 (559) 592-3101

DATE: *(Fecha)* JUN 06 2007

Clerk, by LaRayne Cleek *(Secretario)* Deputy Rachel Wellman *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010)).*

[SEAL]
COURT SEAL

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify):*
3. ☒ on behalf of *(specify):* THE PRENTICE-HALL CORPORATION SYSTEM, INC
   under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
   ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
   ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
   ☐ other *(specify):*
4. ☐ by personal delivery on *(date):*

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. January 1, 2004]

SUMMONS

Code of Civil Procedure §§ 412.20, 465

American LegalNet, Inc.
www.USCourtForms.com

TOY-RQ-05E-00003255

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF TULARE

I have read the foregoing COMPLAINT FOR DAMAGES, CIVIL PENALTY, AND ATTORNEY FEES and know its contents.

☒ CHECK APPLICABLE PARAGRAPH

XX I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner ☐ a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for

a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on 06-05, 2007, at Exeter California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

CARL M. HILL
Type or Print Name

X
Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT
(other than summons and complaint)

Received copy of document described as

on 20 .

Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of , State of California.

I am over the age of 18 and not a party to the within action; my business address is:

On 20 , I served the foregoing document described as

on

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

☐ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at , California.

Executed on 20 , at , California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on 20 , at , California.

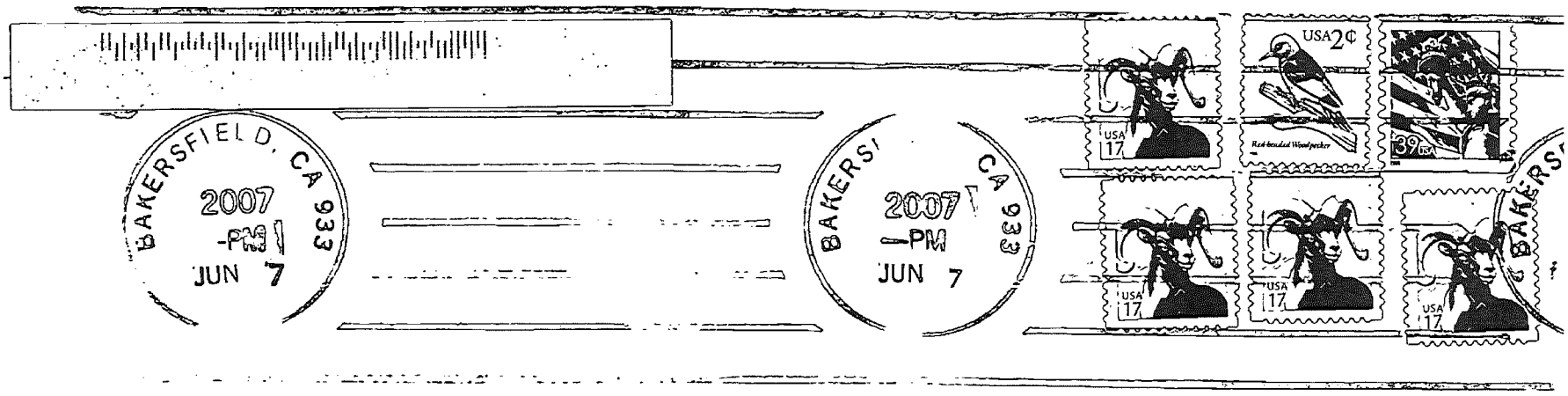
☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

STUART'S EXBROOK TIMESAVER (REVISED 6/83)
(May be used in California State or Federal Courts)



CURTIS M. SPOTT
ATTORNEY AT LAW
136 NORTH E STREET, P.O. BOX 336
EXETER, CALIFORNIA 93221

To

THE PRENTICE-HALL CORPORATION
SYSTEM, INC.
Post Office Box 526036
Sacramento, CA 95852

TOY-RQ-05E-00003257

CARL HILL LEASING

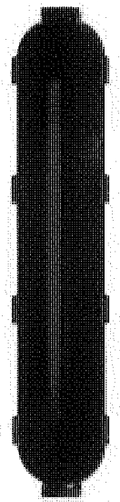
PLEADING

TOY-RQ-05E-00003258

[redacted]

2007-10-43467
CLAIM

228721



TOY-RQ-05E-00003259

ALLSTATE INSURANCE COMPANY	NUMBER: 280 74892 DIVISION: C
FILED 9-4-07	
VERSUS	14th JUDICIAL DISTRICT COURT
	PARISH OF CALCASIEU
TOYOTA MOTOR SALES, U.S.A, INC.	STATE OF LOUISIANA

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Allstate Insurance Company (hereinafter "ALLSTATE"), a foreign insurer authorized to do and doing business in the State of Louisiana, as subrogee of its insured, Frances Raley ("Raley"), which, in filing this *Petition for Damages*, respectfully represents as follows:

1.

Made Defendants herein is **Toyota Motor Sales, U.S.A., Inc. ("Toyota")**, upon information and belief a foreign corporation authorized to do and doing business in the State of Louisiana, which is indebted to Plaintiff for the full and true amount for which Plaintiff is subrogated, together with legal interest from the date of judicial demand until paid, and for all costs of these proceedings for reasons which follow.

2.

On or about September 3, 2006, Frances Raley was attempting to park her 2006 Toyota Avalon at a Dollar General located at 4940 Lake Street in the Parish of Calcasieu, State of Louisiana.

3.

At the relevant time, Raley applied the brakes, and rather than stopping the vehicle as designed, the vehicle accelerated forward.

4.

In an effort to avoid colliding with a column due to the vehicle's unexpected acceleration from application of the brakes, Raley swerved, but she was unable to avoid striking the Dollar General store building and an adjacent soft drink machine, thereby causing property damage to Raley's vehicle.

LEGAL SERVICES

SEP 17 2007

GROUP RECEIVED

5.

Following the subject accident, the investigating officer inspected Raley's vehicle, and he verified that when the brakes of the subject vehicle were applied, the vehicle accelerated.

6.

Plaintiff alleges that the automobile accident and resulting damages were caused by the sole fault of Toyota, which fault includes, but is not limited to, the following:

a. Manufacturing a product that is unreasonably dangerous in construction or composition as defined by the Louisiana Products Liability Act;

b. In addition to, or alternatively, manufacturing a product that is unreasonably dangerous in design as defined by the Louisiana Products Liability Act;

c. In addition to, or alternatively, manufacturing a product that is unreasonably dangerous because an adequate warning was not provided to Raley as defined by the Louisiana Products Liability Act;

d. In addition to, or alternatively, manufacturing a product that is unreasonably dangerous because it did not conform to an express warranty about the product as defined by the Louisiana Products Liability Act;

e. Placing a vehicle with a faulty braking system in the stream of commerce;

f. Any other acts of negligence, fault, and/or strict liability as revealed through the discovery process

7.

At all times pertinent hereto, Plaintiff, Allstate, had in full force and effect a policy of automobile insurance on the vehicle operated by Raley, and the policy of automobile insurance provided for payment of resulting physical damage losses. Pursuant to its policy, Allstate paid to, or on behalf of, its insured the sum of $9,348.47 as a result of the subject accident.

8.

Plaintiff, Allstate, is legally and conventionally subrogated to the rights of its insured for all amounts tendered under the subject policy; therefore, Allstate is entitled to recover the same from the Defendant herein.

9.

Allstate reserves its right to seek the applicable policy deductible on behalf of its

TOY-RQ-05E-00003261

insured.

WHEREFORE, Plaintiff prays that Defendant be duly cited and served with a copy of this *Petition for Damages* and that, after all due proceedings are had, there be judgment rendered in favor of your Plaintiff, Allstate Insurance Company, and against Defendant, Toyota Motor Sales, U.S.A., Inc. for damages as are reasonable in the premises, plus legal interest from the date of judicial demand, and for all costs of these proceedings.

AND FOR ALL GENERAL AND EQUITABLE RELIEF.

By Attorneys:

FORRESTER & DICK, L.L.C.

DAVID C. FORRESTER, Bar Roll No. 5710
MARK G. MURPHEY, Bar Roll No. 26438
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
Telephone: (225) 928-5400
Facsimile: (225) 928-7733
Attorneys for Plaintiff

PLEASE SERVE:

Toyota Motor Sales, U.S.A., Inc.
Through its agent for service of process
CSC of St. Tammany Parish
215 St. Ann Drive, Ste. 2
Mandeville, LA 70471

TRUE COPY
Lake Charles, Louisiana
7-10-
Deputy Clerk of Court
Calcasieu Parish, Louisiana

TOY-RQ-05E-00003262

LEGAL SERVICES

SEP 17 2007

GROUP RECEIVED

CORPORATION SERVICE COMPANY®

Notice of Service of Process

JG2 / ALL
Transmittal Number: 5340401
Date Processed: 09/14/2007

Primary Contact: Eric Taira
Toyota Motor Sales, U.S.A., Inc.
19001 S. Western Ave.
Torrance, CA 90501

Copy of transmittal only provided to: Dorothy Sutton

Entity:	Toyota Motor Sales, U.S.A., Inc. Entity ID Number 0290437
Entity Served:	Toyota Motor Sales, U.S.A., Inc.
Title of Action:	Allstate Insurance Company vs. Toyota Motor Sales, U.S.A., Inc.
Document(s) Type:	Citation/Petition
Nature of Action:	Product Liability
Court:	Calcasieu Parish District Court, Louisiana
Case Number:	2007-4892
Jurisdiction Served:	Louisiana
Date Served on CSC:	09/14/2007
Answer or Appearance Due:	15 Days
Originally Served On:	CSC
How Served:	Personal Service
Plaintiff's Attorney:	David C. Forrester 225-928-5400

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

CSC is SAS70 Type II certified for its Litigation Management System.

2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

Form: 1600

CITATION

ALLSTATE INSURANCE COMPANY

VERSUS

TOYOTA MOTOR SALES U S A INC

No: 2007-004892 Div: G

14th Judicial District Court
State of Louisiana
Parish of Calcasieu

4:25 pm 9/14/07 personal

THE STATE OF LOUISIANA TO:
TOYOTA MOTOR SALES, U.S.A., INC. THRU AGENT FOR SERVICE
CSC OF ST. TAMMANY PARISH
215 ST. ANN DRIVE, STE 2
MANDEVILLE, LA 70471

Parish of ST. TAMMANY , Louisiana, defendant - in said suit:

You are hereby cited to appear before said Court, for said Parish, and to comply with the demand contained in the petition of ALLSTATE INSURANCE COMPANY

against you, certified copy of which petition accompanies this citation, or file your answers thereto in writing in the office of the Clerk of Court, at the Court House, in the City of Lake Charles, in said Parish, within fifteen (15) days after the service hereof, under penalty of default.

LEGAL SERVICES

SEP 17 2007

GROUP RECEIVED

RECEIVED
COVINGTON-CIVIL
2007 SEP 13 A 11:20
J. STRAUMFJR.
SHERIFF

Witness the Honorable Judges of said Court at Lake Charles, La. this 4TH day of SEPTEMBER, A.D., 2007.

Issued and delivered SEPTEMBER 10, A.D., 2007.

Deputy Clerk of Court

SERVICE INFORMATION

Received on the _____ day of _____, 20____ and on the _____ day of _____, 20____ served the above named party as follows:

PERSONAL SERVICE on the party herein named _____

DOMICILIARY SERVICE on the party herein named by leaving the same at his domicile in the parish in the hands of _____, a person apparently over the age of seventeen years, living and residing in said domicile and whose name and other facts connected with this service, I learned by interrogating the said person, said party herein being absent from his residence at the time of said service.

RETURNED:
PARISH OF _____ this _____ day of _____, 20____.

SERVICE $_____

MILEAGE $_____

TOTAL $_____

By: _____
Deputy Sheriff

Party No. P1/SZ_____ [Service Copy]

ALLSTATE INSURANCE COMPANY	NUMBER: 2007-4892 DIVISION: C
FILED 9-4-07	
VERSUS	14th JUDICIAL DISTRICT COURT
	PARISH OF CALCASIEU
TOYOTA MOTOR SALES, U.S.A, INC.	STATE OF LOUISIANA

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes Plaintiff, Allstate Insurance Company (hereinafter "ALLSTATE"), a foreign insurer authorized to do and doing business in the State of Louisiana, as subrogee of its insured, Frances Raley ("Raley"), which, in filing this *Petition for Damages*, respectfully represents as follows:

1.

Made Defendants herein is **Toyota Motor Sales, U.S.A., Inc. ("Toyota")**, upon information and belief a foreign corporation authorized to do and doing business in the State of Louisiana, which is indebted to Plaintiff for the full and true amount for which Plaintiff is subrogated, together with legal interest from the date of judicial demand until paid, and for all costs of these proceedings for reasons which follow.

2.

On or about September 3, 2006, Frances Raley was attempting to park her 2006 Toyota Avalon at a Dollar General located at 4940 Lake Street in the Parish of Calcasieu, State of Louisiana.

3.

At the relevant time, Raley applied the brakes, and rather than stopping the vehicle as designed, the vehicle accelerated forward.

4.

In an effort to avoid colliding with a column due to the vehicle's unexpected acceleration from application of the brakes, Raley swerved, but she was unable to avoid striking the Dollar General store building and an adjacent soft drink machine, thereby causing property damage to Raley's vehicle.

LEGAL SERVICES

SEP 17 2007

GROUP RECEIVED

5.

Following the subject accident, the investigating officer inspected Raley's vehicle, and he verified that when the brakes of the subject vehicle were applied, the vehicle accelerated.

6.

Plaintiff alleges that the automobile accident and resulting damages were caused by the sole fault of Toyota, which fault includes, but is not limited to, the following:

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b. In addition to, or alternatively, manufacturing a product that is unreasonably dangerous in design as defined by the Louisiana Products Liability Act;

c. In addition to, or alternatively, manufacturing a product that is unreasonably dangerous because an adequate warning was not provided to Raley as defined by the Louisiana Products Liability Act;

d. In addition to, or alternatively, manufacturing a product that is unreasonably dangerous because it did not conform to an express warranty about the product as defined by the Louisiana Products Liability Act;

e. Placing a vehicle with a faulty braking system in the stream of commerce;

f. Any other acts of negligence, fault, and/or strict liability as revealed through the discovery process

7.

At all times pertinent hereto, Plaintiff, Allstate, had in full force and effect a policy of automobile insurance on the vehicle operated by Raley, and the policy of automobile insurance provided for payment of resulting physical damage losses. Pursuant to its policy, Allstate paid to, or on behalf of, its insured the sum of $9,348.47 as a result of the subject accident.

8.

Plaintiff, Allstate, is legally and conventionally subrogated to the rights of its insured for all amounts tendered under the subject policy; therefore, Allstate is entitled to recover the same from the Defendant herein.

9.

Allstate reserves its right to seek the applicable policy deductible on behalf of its

TOY-RQ-05E-00003266

insured.

WHEREFORE, Plaintiff prays that Defendant be duly cited and served with a copy of this *Petition for Damages* and that, after all due proceedings are had, there be judgment rendered in favor of your Plaintiff, Allstate Insurance Company, and against Defendant, Toyota Motor Sales, U.S.A., Inc. for damages as are reasonable in the premises, plus legal interest from the date of judicial demand, and for all costs of these proceedings.

AND FOR ALL GENERAL AND EQUITABLE RELIEF.

By Attorneys:

FORRESTER & DICK, L.L.C.

DAVID C. FORRESTER, Bar Roll No. 5710
MARK G. MURPHEY, Bar Roll No. 26438
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
Telephone: (225) 928-5400
Facsimile: (225) 928-7733
Attorneys for Plaintiff

PLEASE SERVE:

Toyota Motor Sales, U.S.A., Inc.
Through its agent for service of process
CSC of St. Tammany Parish
215 St. Ann Drive, Ste. 2
Mandeville, LA 70471

TRUE COPY
Lake Charles, Louisiana
7-10-
Deputy Clerk of Court
Parish, Louisiana

TOY-RQ-05E-00003267

File Allstate (Rodgers)
Veh data

Fax Cover

RECEIVED
OCT 09 2007
LEGAL DEPT.

To: Melissa Maddela
From: ~~Bob Rodgers~~
Lake Charles Toyota
Voice: (337) 478-3511

Re: [redacted]

This Sheet plus 4

This is the only remaining repair order. It is both W82488 and K82488 as one line was the "warranty" PDI and the other was the "internal" State inspection.

TARVER MOTOR CO., INC.

DBA **LAKE CHARLES TOYOTA**

3601 HWY 14 • LAKE CHARLES, LA 70607 • (337) 478-3511

TERMS	APPOINTMENT	CALL WHEN READY?	SAVE REMOVED PARTS FOR CUSTOMER
CASH ☐	☐		

STRAIGHT TIME (HOURS)	FLAT RATE	R/O NO. 82488	TIME OFF
	.9	OPER. NO. EMP. NO. 671	5/16 ON

15.25 cwo

R/O No.	Tag	Customer Name / Address	Date/Time	Release	VIN
82488	8823	[redacted]	05/16/06 17:19		4T1BK36B5 6U[redacted]

Customer Information

00008823
Email:

Vehicle Information

06 TOYOTA AVALON 4DR SDN LIMITED TAN/BEIGE Model#: 3554 Odometer: 5
ENGINE-3.5L DOHC VVT-I V-6 Stock No: 00008823 Inv Acct: 2320

In	Type	Operation	Customer Concern	Hr./Qty
24*	W	75TOZ01	PDI	
25	CWO	03TOZ02	Customer requests Louisiana State 2 year inspection	

Additional Information

Dist: TOY SVC DLR: 17060 Fuel: UNL Estimated Completion:
Name Verify: Color Code: 04Q2 Trim: LB02

Method of Payment

WAR Warranty WA - Warranty
CWO INT-OTHER

[redacted]

I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and/or your employees permission to operate the car or truck herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car or truck to secure the amount of repairs thereto. I agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, or any other cause beyond your control.

DISCLAIMER AND WAIVER OF ALL WARRANTIES

Any warranties express or implied, on the products sold hereby are made by the manufacturer. Seller, LAKE CHARLES TOYOTA, expressly disclaims all warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and LAKE CHARLES TOYOTA neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

X _____
CUSTOMER SIGNATURE

UCS©2004 ORIGINAL

	Part Number	Description	Price	Avail		Technician comments	Service Advisor Comments

Reverse of 82488

TOYOTA AVALON

2006 PRE-DELIVERY SERVICE CHECK SHEET

A. BEFORE INSPECTION

	OK	Adjust/ Repair
01 INSTALL SHORT PIN	☐	
02 Initialize sliding roof*	☑	
03 Initialize power window	☑	

B. FUNCTIONAL OPERATION

Apply parking brake and turn ignition "ON," place gear selector in reverse, turn on lights and rear defogger. Unlock doors, release fuel door, release trunk hatch.

	OK	Adjust/ Repair
01 Check dome, courtesy, map, and sun visor lights*	☑	☐
02 Check warning/indicator lights, gauges, and horn	☑	☐
03 Check Passenger Airbag System Cutoff switch and light*	☑	☑
04 Check windshield wipers and washers	☑	☐
05 Check headlights, instrument lights, turn signals, emergency flashers, and brake lights	☑	☐
06 Check inside/outside rear view mirror operation/adjustment	☑	☑
07 Check power outlets*	☑	☐
08 Check sliding roof*	☑	☐
09 Check audio/navigation* system and set clock	☑	☑
10 Install shift-lock override button cover	☑	
11 Confirm Automatic Door Lock (ADL) Function	☑	☐

C. WALKAROUND INSPECTION

Start at left front door. Check window and door lock operation (from master power switch, if equipped). Continue around vehicle in a counterclockwise direction checking each door and window operation, child door locks, seat belts, interior condition, all lights, trunk contents. Remove rubber body plugs from glove box for installation during UNDER VEHICLE inspection. Finish by checking headlight aim and continue into UNDER HOOD checks.

	OK	Adjust/ Repair
Check window operation	☑	☐
02 Check door and door lock operation, including wireless remote control/theft deterrent system*	☑	☑
03 Check Smart Key system entry function*	☑	☑
04 Check that engine starts with all keys	☑	☐
05 Check Smart Key system engine start/stop function*	☑	☐
06 Check that child safety door locks are in normal (unlocked) position	☑	☐
07 Check seats and seat belt operation	☑	☐
08 Check rear defogger/rear view mirror defogger*	☑	☐
09 Check side marker, tail, backup, and license plate lights	☑	☐
10 Check rear power sunshade*	☑	☐
11 Check trunk light and trunk trim appearance	☑	☐
12 Check spare tire pressure and jack and tool installation	☑	☐
13 Check headlight aim	☑	☐

D. UNDER HOOD

	OK	Adjust/ Repair
01 Check engine oil and ATM fluid levels	☑	☐
02 Check brake, power steering, and windshield washer fluid levels	☑	☐
03 Check engine coolant level	☑	☐
04 Check battery state-of-charge using MICROPRO 815 Digital Analyzer	☐	☐
05 Inspect for fuel, oil, coolant, and other fluid leaks	☑	☐

E. UNDER VEHICLE (ON HOIST)

	OK	Adjust/ Repair
01 Remove disc brake anti-rust covers/anti-corrosion wheel film	☐	
02 Install four (4) rubber body plugs* (Stored in glove box or console)	☑	
03 Inspect tires for defects/damage and adjust tire pressure (including spare tire)	☑	☐
04 Install wheel covers/caps/spare tire wheel covers	☑	
05 Inspect for fuel, oil, coolant, and other fluid leaks	☑	☐

F. ROAD TEST

A complete road test helps assure customer satisfaction. Drive vehicle over a variety of road surfaces and driving conditions. Check for unusual noise and driving performance.

Enter Odometer Reading

Reading Before Test 5

Reading After Test 17

	OK	Adjust/ Repair
01 Check cold engine operation	☑	☐
02 Check engine operation during warm-up	☑	☐
03 Check engine at normal operating temperature	☑	☐
04 Check automatic transmission operation	☑	☐
05 Check brake and parking brake operation	☑	☐
06 Check steering operation and off-center/ vehicle pull/flutter	☑	☐
07 Inspect for abnormal noises and vibration	☑	☐
08 Inspect for squeaks and rattles	☑	☐
09 Check heater and A/C operation	☑	☐
10 Check cruise control operation	☑	☐
11 Check front seat heater and ventilation* operation		
12 Check driver's seat memory operation*	☑	☐
13 Set/calibrate compass*		☑

G. FINAL INSPECTION AND CLEANING

	OK	Adjust/ Repair
01 Remove interior protective covers, unnecessary labels, tags, etc. (Remove protective covers just before delivery to the customer)		☐
02 Visually inspect all interior parts for installation, damage, fit, dirt, etc.	☑	☐
03 Remove Rapgard™ protective film		☐
04 Wash and clean vehicle		☐
05 Inspect paint finish for scratches, chips, rust, dents, damage, etc.	☑	☐
06 Inspect exterior body parts for proper installation, damage, rust, etc.	☑	☐
07 Place oil change sticker on inside of windshield, top left corner	☑	
08 Install front license plate mounting bracket and front license plate*		☐

COMMENTS

* Inspect or Install when Equipped/Required

Completion and retention of this form is required to comply with Toyota's Warranty Policy.

TECHNICIAN'S SIGNATURE

NAME (PLEASE PRINT) Jeremy Williams

SERVICE MANAGER'S SIGNATURE

NAME (PLEASE PRINT)

We hereby certify that all items on this form have been checked and corrected for proper operation as required.

Date	Dealer Name	Dealer Code	Vehicle Identification Number (Sticker)
5/16/06	LC Toyota	17060	4T1BK36B56U [redacted]

Harles Toyota
e Inspection Check Sheet

PO #:	
Date:	5/16/06

Previous Sticker #:		License Plate #:	Expiration: [redacted]
Make: Toyota	Model: Avalon	YR: 06	VIN: 4T1BK36B56U[redacted]
Odometer Reading 11			Registration Expiration:
Domicile Code from Registration:		(Do NOT inspect if code begins 03, 17, 24, 32, or 61)	
Driver's License #:			Expiration:
Insurance Carrier:			Expiration:

Item:	Pass	Fail
License, Registration and Insurance	✓	
License Plate	✓	
Mounting	✓	
Lights	✓	
Lights	✓	
Head Lights Bright and Dim	✓	
Tail Lights & Lenses	✓	
Parking Lights (front & rear)	✓	
Turn signals (front & rear)	✓	
Brake Lights (inc. 3rd 85 & newer)	✓	
Back-up Lights	✓	
Horn	✓	
Glass & Mirrors	✓	
Winshield	✓	
Integrity	✓	
Wipers (2 speeds)	✓	
Washer (5yrs & newer)	✓	
Tint	✓	
Side frnt > 39%	✓	
Side rear > 24%	✓	
Rear > 11%	✓	
Interior mirror	✓	
Exterior mirror (left req.)	✓	

Item:	Pass	Fail
Hood	✓	
Latches	✓	
Emission Components	✓	
Leaks	✓	
Bumpers	✓	
Front	✓	
Rear	✓	
Door Latches	✓	
Body Damage	✓	
Wheels and Tires	✓	
Integrity	✓	
Tread Wear	✓	
Underside	✓	
Body	✓	
Exhaust system	✓	
Safety Harnesses	✓	
Test Drive	✓	
Parking/Emergency Brake	✓	
Speedometer & Odometer	✓	
Brakes (from 20 mph)	✓	
Steering & Alignment	✓	
Steering Wheel	✓	
Exhaust	✓	

Results

- ☑ Passed: New Certificate # 08310085 JW
- ☐ Failed: Rejection Certificate # _____
- ☐ Failed: Restricted Rejection # _____

If failed, list specific reasons:

_____

_____

_____

_____

Original Worksheet

PURCHASE AGREEMENT

Lake Charles TOYOTA

3601 HWY. 14 • LAKE CHARLES, LA 70607
PHONE 337-478-3511 • FAX 337-478-3587

DATE 5-23-06

[redacted] | ASSOCIATE: Randy 654
BUS. PHONE: | STOCK NUMBER 8823

C-540-5003

PURCHASERS NAME [redacted] DATE OF BIRTH [redacted] LA DRIVERS LICENSE NO. [redacted]

ADDRESS [redacted] SOCIAL SECURITY NO. [redacted]

CITY Lake Charles STATE LA ZIP [redacted]

PARISH CAL PLEASE ENTER MY ORDER FOR: ☒ NEW ☐ USED ☐ DEMO ☒ CAR ☐ TRUCK

YEAR 06	MAKE Toyota	MODEL Avalon	BODY TYPE Limited	COLOR Tan
SERIAL NO. 4T1BK36B56U[redacted]		LIC. NO.		MILEAGE 40

☆ PROSPECT FOR MY TRADE		MARKET VALUE OF VEHICLE	38298	00
ALL VEHICLES AS EQUIPPED:	ADDITIONS OR CHARGES:			
Power Windows	Navigation			
Power Locks	Dynamic Cruise Control			
Smart Key	Heated & Cooled Leather Seats			
Stereo w/6 Disc CD	Moon Roof			

TRADE INFO	TRADE MARKET VALUE $			*DELIVERY HANDLING AND PREPARATION		
YEAR 02	MAKE Toyota	MODEL Sequoia	0	TOTAL	38298	—
BODY TYPE SUV	COLOR Gray		1	PAY FOR TRADE	18000	00
SERIAL NO. 5TDZT34A32S[redacted]	MILEAGE 34348		2	INVESTMENT	[redacted]	
BAL OWED 4235.47 GOOD TIL 6-3	VERIFIED BY Debbie	LICENSE PLATE	3		[redacted]	
BALANCE OWED TO Chase Dlr				AY @	18300	00
ADDRESS	ACCOUNT NO.		5	SALES TAX @ % 8.5%	[redacted]	
AMOUNT OF CHECK			6	PAYOFF DUE ON TRADE (ADD)	1555	50
AMOUNT OF LIEN			7	LICENSE, TITLE, NOTARY FEES	145	25
BANK			8	ADMINISTRATION FEE Payoff	4235	47
ADDRESS			9	ADD LINES 2 - 8 BALANCE DUE -	24236	22
PHONE	SPOKE TO			REC. # DOWN -	10000	00
ADDITIONAL TRADE:	Chase Auto Fin Box 901045 Ft Worth TX. 76101-2045			REC. # BALANCE -	14236	22
				(If Applicable) REBATE -		
				EXTENDED WARRANTY +		
☆ This agreement is not valid unless signed by Dealer.		☆ MOST LENDERS REQUIRE 25% DOWN $ 247428			[redacted]	

Any warranties on the product sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and seller neither assumes nor authorizes any other person to assume for us any liability in connection with the sale of said products.

The customer certifies that he is 18 years of age or older and warrants the he is the true and lawful owner of the car traded in and that it is free of all encumbrances whatsoever except as noted above.

The undersigned purchaser acknowledges receipt of a copy of this order executed herewith. In addition, purchaser authorizes seller to secure all information from any source to determine credit worthiness of purchaser.

PURCHASER [redacted]

SALESMAN'S NAME Randy Wilson

ACCEPTED BY _____ TITLE _____

BUSINESS OFFICE

A/C [redacted]

THIS IS AN INTERNAL DOCUMENT

PURCHASE AGREEMENT

Lake Charles TOYOTA

3601 HWY. 14 • LAKE CHARLES, LA 70607
PHONE 337-478-3511 • FAX 337-478-3587

DATE 05/24/2006

[redacted] | ASSOCIATE: CHARLES RANDY DEROUE
BUS. PHONE: | STOCK NUMBER 6823

DEAL #: 102326

PURCHASERS NAME [redacted]
DATE OF BIRTH [redacted]
LA DRIVERS LICENSE NO. [redacted]
ADDRESS [redacted]
SOCIAL SECURITY NO.
CITY LAKE CHARLES
STATE LA
ZIP [redacted]
PARISH CALCASIEU
PLEASE ENTER MY ORDER FOR: ☐ X NEW ☐ USED ☐ DEMO ☐ X CAR ☐ TRUCK

YEAR 2006	MAKE TOYOTA	MODEL AVALON	BODY TYPE 4DR SDN	COLOR TAN/BEIGE
SERIAL NO. 4T1BK36B56U[redacted]			LIC. NO.	MILEAGE 5
☆ PROSPECT FOR MY TRADE			MARKET VALUE OF VEHICLE	35,800.00
ALL VEHICLES AS EQUIPPED:		ADDITIONS OR CHARGES:		

TRADE INFO	TRADE MARKET VALUE $ 17,500.00				
YEAR 2002	MAKE TOYOTA	MODEL SEQUOIA			
BODY TYPE 4DR SPTUTY	COLOR				
SERIAL NO. 5TDZT34A32S[redacted]	MILEAGE 34348				
BAL OWED 4,235.47	GOOD TIL	VERIFIED BY	LICENSE PLATE		
BALANCE OWED TO CHASE BANK					
ADDRESS POB 901065 FT WORTH TX 76101	ACCOUNT NO.				
AMOUNT OF CHECK					
AMOUNT OF LIEN					
BANK TOYOTA MOTOR CREDIT CORP					
ADDRESS 260 INTERSTATE N CIRCLE NW 12 ATLANTA GA 30339-2111					
PHONE (800) 433-1031	SPOKE TO				
ADDITIONAL TRADE:					

0	*DELIVERY HANDLING AND PREPARATION TOTAL	35,800.00
1	PAY FOR TRADE	17,500.00
2	INVESTMENT	18,300.00
3		N/A
4	BY @	N/A
5	SALES TAX @ 8.5000 %	1,555 50
6	PAYOFF DUE ON TRADE (ADD)	4,235.47
7	LICENSE, TITLE, NOTARY FEES	145.25
8	ADMINISTRATION FEE	N/A
9	ADD LINES 2 - 8 BALANCE DUE =	24,236.22
	REC. # DOWN -	10,000.00
	REC. # BALANCE -	N/A
	(If Applicable) REBATE -	N/A
	EXTENDED WARRANTY +	
		N/A
		236.22

☆ This agreement is not valid unless signed by Dealer.

☆ MOST LENDERS REQUIRE 25% DOWN $ _____

Any warranties on the product sold hereby are those made by the manufacturer. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and seller neither assumes nor authorizes any other person to assume for us any liability in connection with the sale of said products.

The customer certifies that he is 18 years of age or older and warrants the he is the true and lawful owner of the car traded in and that it is free of all encumbrances whatsoever except as noted above.

The undersigned purchaser acknowledges receipt of a copy of this order executed herewith. In addition, purchaser authorizes seller to secure all information from any source to determine credit worthiness of purchaser.

PURCHASER [redacted]
SALESMAN'S NAME CHARLES RANDY DEROUEN
ACCEPTED BY _____ TITLE _____
BUSINESS OFFICE

THIS IS AN INTERNAL DOCUMENT

TOYOTA FINANCIAL SERVICES SM

AGREEMENT TO PROVIDE INSURANCE

LEXUS Financial Services

I hereby agree to maintain liability, comprehensive, and collision insurance coverage for the referenced vehicle with a maximum deductible of $1,000.00 in the name of the Named Insured as shown below. If I am purchasing the vehicle, the insurance policy will reflect Toyota Motor Credit Corporation (or Lexus Financial Services, if applicable) as the lienholder and loss payee. If I am leasing the vehicle, the insurance policy will reflect Toyota Motor Credit Corporation, Lexus Financial Services, or Toyota Lease Trust (as reflected on the lease agreement) as legal owner of the vehicle and additional insured. I also agree to maintain liability insurance coverage in an amount equal to or greater than minimum requirements for the state in which I reside, or as required in my lease or retail contract, whichever is greater.

NAMED INSURED (SAME AS BUYER/LESSEE)

FIRST NAME [redacted] MIDDLE NAME LAST NAME

STREET ADDRESS [redacted] CITY LAKE CHARLES STATE LA ZIP CODE [redacted]

[redacted]

VEHICLE INSURED

YEAR	MAKE	BODY	MODEL	VIN/SERIAL NUMBER
2006	TOYOTA	4DR SDN	AVALON	4T1BK36B56U[redacted]

INSURANCE AGENT

NAME SCOTT RALEY INS

STREET ADDRESS 4415 LAKE ST B

CITY LAKE CHARLES STATE LA ZIP CODE 70605

TELEPHONE NUMBER (337) 474-3600

INSURANCE COMPANY

NAME ALLSTATE INS

POLICY NUMBER [redacted]

EFFECTIVE DATE FROM 05/24/2006 TO

COVERAGE ☐ LIABILITY ☐ COMPREHENSIVE ☑ COLLISION $ 2,272 DEDUCTIBLE $ 0

[redacted]

INSURED'S SIGNATURE DATE 05/24/2006

TMCC ACCOUNT NUMBER

DEALER CONFIRMATION

☒ AGENCY ☐ INSURANCE COMPANY

CONFIRMED BY [signature] DATE 05/24/2006

NAME OF PERSON [signature] TMCC/LFS/TLT AS LOSS PAYEE/ADDITIONAL INSURED ☐ YES ☐ NO

DEALER SALESPERSON SIGNATURE

X [signature]

DEALER

TARVER MOTOR CO. INC.
DBA LAKE CHARLES TOYOTA

IMPORTANT NOTICE TO BUYER/LESSEE TAKE THE YELLOW COPY OF THIS FORM TO YOUR INSURANCE AGENT TO ASSIST IN PROVIDING PROPER PROOF OF COVERAGE TO LOSS PAYEE/ADDITIONAL INSURED.

IMPORTANT NOTICE TO AGENT

SEND PROOF OF COVERAGE AND ALL CORRESPONDENCE TO:

TOYOTA MOTOR CREDIT CORPORATION
P.O. Box 3025
Coraopolis, PA 15108

3012 (04/04

DISTRIBUTION: WHITE-TMCC; YELLOW-BUYER/LESSEE; PINK-DEALER

CAR INVOICE

TARVER MOTOR CO., INC.
DBA LAKE CHARLES TOYOTA
3601 SOUTH HIGHWAY 14
LAKE CHARLES, LA 70607
PH: (337)478-3511

626

DATE 05/24/2006

SOLD TO [redacted] DEAL NO: 102326

ADDRESS LAKE CHARLES LA [redacted]

SALESMAN: CHARLES RANDY

MAKE	YEAR	MODEL	BODY STYLE	New or Used	STOCK NO.
TOYOTA	2006	AVALON	4DR SDN	NEW	0623

SERIAL NO.	MOTOR NO.	TRANSMISSION
4T1BK36BS6U[redacted]		AA

DEALER NO: 1-2005-00438
ODOMETER READING: 5

TARVER MOTOR CO. INC.,
DBA LAKE CHARLES TOYOTA

BY: _____

SALESMAN: CHARLES RANDY DEROUEN

USED CAR TRADE IN:

GROSS TRADE: 17,500.00
LESS PAYOFF: 4,235.47
NET EQUITY: 13,264.53

LIENHOLDER: CHASE BANK
POB 901065
FT WORTH TX 76101

Always Show Serial, Motor and Key Number ORP

NAME OF FINANCE COMPANY:

PRICE OF CAR	35,800.00
LIC. & TITLE	137.25
SALES TAX	1,535.50
DELIVERED PRICE	37,492.75
TIRE FEE	8.00
Total Cash Price	37,500.75
Total Time Price	37,500.75
	10,000.00
DEPOSIT	N/A
CASH ON DELIVERY	13,264.53
USED CAR:	
MAKE TOYOTA	
MODEL SEQUOIA	
BODY STYLE 4DR SPTUTY	
SER. NO. 5TDZT34A32S[redacted]	
MTR. NO.	
UNPAID BALANCE	14,236.22
PAYMENTS:	
48 At $ 337.84	
At $ N/A	16,216.32
TOTAL	14,236.22

MONROE PTG. 952810

THIS IS A TRUE AND CORRECT COPY OF THIS SALE

20 _____

Notary Public

TOY-RQ-05E-00003276

ODOMETER DISCLOSURE STATEMENT

[redacted] 6623

Federal law (and State law, if applicable) requires that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

I, TARVER MOTOR CO. INC. DBA LAKE CHARLES TOYOTA (TRANSFEROR'S NAME - PRINT) state that the odometer now reads 5 (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described below, unless one of the following statements is checked.

☐ (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

☐ (2) I hereby certify that the odometer reading is **NOT** the actual mileage. WARNING - ODOMETER DISCREPANCY.

MAKE: TOYOTA

MODEL: AVALON BODY TYPE: 4DR SDN

VEHICLE IDENTIFICATION NUMBER: 4T1BK36B56U[redacted]

YEAR: 2006

TRANSFEROR'S NAME: TARVER MOTOR CO. INC. DBA LAKE CHARLES TOYOTA (PRINTED NAME)

TRANSFEROR'S ADDRESS (STREET): 3601 HIGHWAY 14

(CITY): LAKE CHARLES (STATE): LA (ZIP CODE): 70605

TRANSFEROR'S NAME X: [signature] (SIGNATURE)

DATE OF STATEMENT: 05/24/06

TRANSFEREE'S NAME: [redacted]

TRANSFEREE'S ADDRESS (STREET): [redacted]

(CITY): LAKE CHARLES (STATE): LA [redacted] (ZIP CODE)

[redacted]

(SIGNATURE)

(PRINTED NAME)

ODDM-65-3

TOYOTA FINANCIAL SERVICES

CREDIT APPLICATION

LEXUS FINANCIAL SERVICES

IMPORTANT: READ THESE DIRECTIONS BEFORE COMPLETING THIS APPLICATION.

Check Appropriate Box

a. ☐ If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete Sections 1 and 3.
b. ☐ If you are married and live in a community property state complete all Sections including Section 2 providing information about your spouse.
c. ☐ If this is an application for joint credit with another person complete all Sections providing information in Section 2 about the co-applicant.

NOTE: APPLICANT, IF MARRIED, MAY APPLY FOR A SEPARATE ACCOUNT.

DEALER NO. (REQ'D) | DEALER NAME

SECTION 1. Information Regarding Applicant:

[redacted] | FIRST [redacted] | INITIAL F | BIRTH DATE [redacted] | DRIVER'S LIC. NO. [redacted] | SOCIAL SECURITY/ FED. ID NO. [redacted]

ADD[redacted] CITY e Dr. Lake Charles STATE [redacted] | HOW LONG? 32 YRS. MOS. | PHONE [redacted]

LEASE BILLING ADDRESS (IF DIFFERENT) CITY COUNTY STATE ZIP

PREVIOUS ADDRESSES (TO COVER 3 YEARS RESIDENCE) | HOW LONG? YRS. MOS.

OCCUPATION OR RANK Retired | EMPLOYER Allstate Insurance | HOW LONG? 30 YRS. MOS. | PHONE 8 ( )

EMPLOYER'S ADDRESS CITY STATE ZIP

PREVIOUS EMPLOYER (TO COVER 2 YEAR HISTORY) | ADDRESS | HOW LONG? YRS. MOS.

NEAREST RELATIVE NOT LIVING WITH ME [redacted] | ADDRESS [redacted] | RELATIONSHIP SON | PHONE [redacted]

EDUCATION ☐ HIGH SCHOOL GRADUATE ☑ SOME COLLEGE ☐ 2 YR. COLLEGE DEGREE ☐ 4 YR. COLLEGE DEGREE ☐ SPECIALIZED TRAINING

INCOME:

Applicant's gross monthly income from employment . . . . . $ 11000

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
Alimony, child support, separate maintenance received under: ☐ court order ☐ written agreement ☐ oral understanding — Amount $ _____

Amount of other monthly income and source(s) . . . . . $ _____

TOTAL GROSS MONTHLY INCOME $ 11000

SECTION 2. Information Regarding Spouse or Co-Applicant (Use separate sheets if necessary.):

LAST NAME (PRINT) | FIRST | INITIAL | BIRTH DATE | DRIVER'S LIC. NO. | SOCIAL SECURITY/ FED. ID NO.

ADDRESS CITY STATE ZIP | HOW LONG? YRS. MOS. | PHONE ( )

PREVIOUS ADDRESSES (TO COVER 3 YEARS RESIDENCE) | HOW LONG? YRS. MOS. | E-MAIL ADDRESS

OCCUPATION OR RANK | EMPLOYER | HOW LONG? YRS. MOS. | PHONE ( )

EMPLOYER'S ADDRESS CITY STATE ZIP

PREVIOUS EMPLOYER (TO COVER 2 YEAR HISTORY) | ADDRESS | HOW LONG? YRS. MOS

INCOME:

Joint Applicant or other party's gross monthly income from employment . . . . . $ _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
Alimony, child support, separate maintenance received under: ☐ court order ☐ written agreement ☐ oral understanding — Amount $ _____

Amount of other monthly income and source(s) . . . . . $ _____

TOTAL GROSS MONTHLY INCOME $ _____

SECTION 3. Asset and Debt Information:

(If Section 2 has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section 2 was not completed, only give information about the Applicant in this Section.)

☑ OWN HOME ☐ RENTING ☐ LIVING WITH RELATIVES | LANDLORD OR MORTGAGE HOLDER Chase | RENT/MORTGAGE PYMT. $ 1700 | 2ND MORTGAGE PYMT. $

CITY STATE PHONE ( )

Please provide any additional credit information not listed on your credit report you would like considered as a part of this Credit Application.

TYPE OF CREDIT	NAME OF COMPANY	NAME IN WHICH ACCOUNT IS CARRIED	☐ OPEN ☐ CLOSED	BALANCE	HIGH	MONTHLY PAYMENTS OR DATE CLOSED
				$	$	$
			☐ OPEN ☐ CLOSED	$	$	$
				$	$	$

Previous TFS Credit? ☐ YES ☐ NO | LAST VEHICLE PURCHASED (MAKE, MODEL, YEAR) 2002 Toyota Sequoia | FINANCED BY Chase | $ 338.91

BANK REFERENCE Chase | BRANCH ADDRESS | ☑ CHECKING ☑ SAVINGS | ACCOUNT NO.

HAVE YOU EVER HAD ANY PROPERTY REPOSSESSED? ☐ YES ☑ NO

DO YOU HAVE ANY SUITS PENDING AGAINST YOU? ☐ YES ☑ NO

HAVE YOU FILED BANKRUPTCY IN THE LAST 10 YEARS? ☐ YES ☑ NO

MINIMUM PHYSICAL DAMAGE INSURANCE IS REQUIRED FOR THE FULL TERM OF THE INSTALLMENT CONTRACT to protect all interests thereunder against collision, fire-th and the additional hazards covered by Combined Additional Coverage. **YOU MAY CHOOSE THE PERSON THROUGH WHICH ANY OF THIS INSURANCE IS OBTAINED.**

MAINE, NEW YORK AND OHIO RESIDENTS: SEE THE REVERSE SIDE OF THIS APPLICATION FOR FURTHER IMPORTANT DISCLOSURES AND INFORMATION.

FAIR CREDIT REPORTING ACT DISCLOSURE.

This application for credit sale will be submitted to TMCC at 8550 United Plaza Blvd., Suite 903, Baton Rouge, LA 70809 for purchase or consideration as to whether it meets purchase requirements. I certify that the above information is complete and accurate. You are authorized to investigate my credit and employment history and to release information about your credit experience with me. I h

Amount of other monthly income and source(s) $ _____ TOTAL GROSS MONTHLY INCOME $ _____

SECTION 3. Asset and Debt Information:
(If Section 2 has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section 2 was not completed, only give information about the Applicant in this Section.)

☒ OWN HOME ☐ RENTING ☐ LIVING WITH RELATIVES

LANDLORD OR MORTGAGE HOLDER: Chase | PHONE ( ) | RENT/MORTGAGE PYMT. $ 1700 00

CITY | STATE | 2ND MORTGAGE PYMT. $

Please provide any additional credit information not listed on your credit report you would like considered as a part of this Credit Application.

TYPE OF CREDIT	NAME OF COMPANY	NAME IN WHICH ACCOUNT IS CARRIED		BALANCE	HIGH	MONTHLY PAYMENTS OR DATE CLOSED
			☐ OPEN ☐ CLOSED	$	$	$
			☐ OPEN ☐ CLOSED	$	$	$
				$	$	$
						$ 338 91

Previous TFS Credit? ☐ YES ☒ NO | LAST VEHICLE PURCHASED (MAKE, MODEL, YEAR) 2002 Toyota Sequoia | FINANCED BY Chase | ☒ CHECKING ☒ SAVINGS | ACCOUNT NO.

BANK REFERENCE Chase | BRANCH ADDRESS

HAVE YOU EVER HAD ANY PROPERTY REPOSSESSED? ☐ YES ☒ NO

DO YOU HAVE ANY SUITS PENDING AGAINST YOU? ☐ YES ☒ NO

HAVE YOU FILED BANKRUPTCY IN THE LAST 10 YEARS? ☐ YES ☒ NO

MINIMUM PHYSICAL DAMAGE INSURANCE IS REQUIRED FOR THE FULL TERM OF THE INSTALLMENT CONTRACT to protect all interests thereunder against collision, fire-ther and the additional hazards covered by Combined Additional Coverage. **YOU MAY CHOOSE THE PERSON THROUGH WHICH ANY OF THIS INSURANCE IS OBTAINED.**

MAINE, NEW YORK AND OHIO RESIDENTS: SEE THE REVERSE SIDE OF THIS APPLICATION FOR FURTHER IMPORTANT DISCLOSURES AND INFORMATION.

FAIR CREDIT REPORTING ACT DISCLOSURE.

This application for credit sale will be [redacted] Rouge, LA 70809 for purchase or consideration as to whether it meets purchase requirements. I certify that the above information [redacted] nd employment history and to release information about your credit experience with me. I hav received a copy of this Credit Appl[redacted]

MONTHLY PAYMENT DATE DESIRED BY CUSTOMER ☐ | CUSTOMER SIGNS | CO-APPLICANT SIGNS (ONLY IF BOX c. CHECKED) X | DATE: _____

TO BE COMPLETED BY DEALER

SPECIAL PROGRAM

☐ NEW ☐ CERTIFIED ☐ USED | YEAR | MILEAGE

MODEL NO./NAME

☐ AUTOMATIC TRANS. ☐ LEATHER INTERIOR ☐ POWER STEERING ☐ ABS BRAKES ☐ POWER WINDOWS ☐ POWER SEATS ☐ AIR CONDITIONING ☐ CD PLAYER ☐ OTHER: ☐ OTHER:

TRADE-IN MAKE | MODEL NO./NAME | YEAR

TERM OF CONTRACT _____ MOS. | PAYMENT AMOUNT $ _____

☐ RETAIL ☐ LEASE ☐ BALLOON

TOTAL CASH PRICE/CAP COST . . . . . $ _____

LESS: NET TRADE $ _____ CASH DOWN/CAP COST REDUCTION $ _____ = $ _____ TOTAL DOWN PYMT

UNPAID BALANCE . . . . . = $ _____

PLUS INSURANCE AND ALL OTHER CHARGES . . . . . + $ _____

TOTAL AMOUNT FINANCED/NET CAP COST: . . . . . = $ _____

RESIDUAL VALUE (LEASE ONLY) . . . . . $ _____

☐ INV ☐ AWV ☐ MSRP $ _____

BATON ROUGE 064010

Please fax application only.
Additional documentation should be sent to your servicing TFS office with contract documentation.

0313 (0

Page 2 Credit Application

TOY-RQ-05E-00003279

TOYOTA FINANCIAL SERVICES SM

RETAIL INSTALLMENT CONTRACT (MOTOR VEHICLE) With Security Interest

Buyer (and Co-Buyer) - Name(s) and Residence Address(es) (include Parish and Zip Code)	Creditor (Seller) - Name and Business Address
[redacted] LAKE CHARLES CALCASIEU LA [redacted]	TARVER MOTOR CO. INC., DBA LAKE CHARLES TOYOTA 3601 HIGHWAY 14 LAKE CHARLES LA 70605

MEANING OF WORDS: In this Contract, the words "you," "your" and "yours" refer to the Buyer and Co-Buyer, if any. The words "Creditor," "we," "us" and "our" refer to the Creditor (Seller) named above. The Creditor intends to assign to Toyota Motor Credit Corporation ("TMCC" or "Assignee"), all of its right, title and interest in the contract. You agree to make all payments thereafter to TMCC.

WHO IS BOUND: You may buy the vehicle described below for cash or on credit. The cash price is shown below as "Cash Price." The credit price is shown below as "Total Sale Price." By signing this Contract, you choose to buy the vehicle on credit under the terms on the front and back of this contract and you are jointly, severally and solidarily liable to the Creditor for any amount due.

DESCRIPTION OF VEHICLE: You agree to buy and the Creditor agrees to sell the following vehicle:

New, Used or Demo	Year	Make	Model	Body Type	Vehicle Identification No.	Odometer Miles	Primary Purpose
NEW	2006	TOYOTA	AVALON	4DR SDN	4T1BK36B6[redacted]	5	☐ Personal, Family or Household ☐ Business or Commercial ☐ Agricultural

FEDERAL TRUTH-IN-LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.	The total cost of your purchase on credit, including your down payment of $ 23,264.53
6.40 %	$ 1,980.10	$ 14,236.22	$ 16,216.32	$ 39,480.85

Your Payment Schedule Will Be:

Number of Payments:	Amount of Each Payment:	When Payments Are Due:
One Deferred Downpayment of	N/A	
47 Regular Payments of	337.34 337.04	Monthly, beginning JUL 6TH 2006 JUN 6TH 2010
One Final Payment of		

LATE CHARGE: If a payment is more than 10 days late, you will be charged 5% of the unpaid amount not to exceed $15.00.

PREPAYMENT: If you pay off this Contract early, you will not have to pay a penalty.

SECURITY: You are giving us a security interest in the vehicle being purchased.

OTHER TERMS: Please read this contract, including the reverse side, for additional information about security interests, nonpayment, default, any required repayment in full before the scheduled date and prepayment refunds and penalties.

ITEMIZATION OF THE AMOUNT FINANCED

1. Cash Price (Including any accessories, services and taxes)	$ 37,355.50	
2. Down Payment		
A. Net Trade-In	$ 13,264.53	
Your Trade-in is a 2002 TOYOTA SEQUOIA (Year Make Model)		
B. Cash Downpayment (including deferred downpayment of $ N/A payable before the due date of the first regularly scheduled payment)	$ 10,000.00	
Total Downpayment (2A+2B)		$ 23,264.53
3. Unpaid Balance of Cash Price (1–2)		$ 14,090.97
4. Amount Paid For Insurance or Mechanical Breakdown Protection On Your Behalf*		
A. Cost of Required Physical Damage Insurance Paid to the Insurance Company Named Below – Covering Damage to the Vehicle	$ N/A	
B. Cost of Optional Credit Insurance Paid to the Insurance Company or Companies Named Below – Life $ N/A, Disability, Accident and Health $ N/A	$ N/A	
C. Cost of Optional Mechanical Breakdown Protection Paid to the MBP Company Named Below–Covering Certain Mechanical Repairs	$ N/A	
D. Price of Optional Debt Cancellation Coverage or Guaranteed Auto Protection ("GAP") Purchased from the GAP Provider Named Below – Covering a Waiver of Deficiency		
5. Amounts Paid to Public Officials for:		
A. Filing Fee	$ 7.50	
B. Department of Public Safety Fee	$ 8.00	
C. Termination Fee	$ N/A	
D. License Fee	$ ~~92.00~~ 16.50	
E. Title Fee	$ 16.50 N/A	
F. Notarizing Act of Sale	$	
Total Amounts Paid to Public Officials (5A+5B+5C+5D+5E+5F)		$ 126.0 N/A
6. Amount Paid to Creditor For Documentation Fee		$
7. Other Charges (Describe who will receive payment and purpose)*		
A. To _____ For _____	$ N/A	
B. To _____ For _____	$ N/A	
C. To _____ For _____	$ N/A	
D. To TARVER MOTOR CO. INC For TEMP TAG/ST. INSPECTION	$ 19.25	
Total Other Charges (7A+7B+7C+7D)		$ 19.25
8. Total Charges for Insurance, Mechanical Breakdown Protection, Documentation Fee, Amounts Paid to Public Officials and Other Charges Paid on Your Behalf (4 + 5 + 6 + 7)		$ 145.25
9. Amount Financed - Unpaid Balance (3 + 8)		$ ~~14,236.22~~

*Seller may retain or receive a portion of these amounts

Page 1

Page C
Retail Installment Contract

Purchased from the GAP Provider Named Below – Covering a Waiver of Deficiency upon Total Loss of Vehicle After Receipt of GAP Payment $ N/A

Total Cost of Insurance or Optional Protection (4A+4B+4C+4D) $ N/A

Required Physical Damage Insurance: Physical damage insurance is required, but you may obtain it from anyone you want who is reasonably acceptable to the Creditor. If you buy it through the Creditor and are **accepted by the insurance company,** the policies or certificates issued by the insurance company will describe the terms and conditions. The cost of this insurance is shown in 4A of the Itemization above.

Insurance Company ALLSTATE INS Term: N/A months

Optional, if desired – ☐ Towing and Labor Costs ☐ Rental Reimbursement ☐ CB Radio Equipment

☐ $ N/A Deductible Collision and either: N/A

☐ $ _____ Deductible Comprehensive including Fire, Theft and Combined Additional Coverage

☐ Fire, Theft and Combined Additional Coverage

All motorists are required by law to be covered by an automobile liability policy with legally prescribed limits, which is not included in the insurance listed above. Failure to obtain liability insurance in legally prescribed amounts may result in penalties, including suspension or revocation of driving privileges.

Optional Credit Insurance: Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost, which is shown below and in 4B of the Itemization above.

Type	Premium	Term (months)	Signature(s)
Credit Life	☐ Single Coverage (Buyer Only) $ N/A ☐ Joint Coverage $ N/A	N/A	I want the specified credit life coverage. Buyer Signature Date Co-Buyer Signature Date
Credit Disability	Single Coverage (Buyer Only) $ N/A	N/A	I want the specified credit disability coverage. Buyer Signature Date Co-Buyer Signature Date

If you elect optional credit insurance coverage and are accepted by the insurance company, the terms and conditions will be as described in the policies or certificates issued by the insurance company. The original amount of the decreasing term credit life insurance will not exceed $ N/A. Credit disability insurance payments will equal the monthly payment amount but will not be more than $ N/A. Insurance Company _____

Optional Mechanical Breakdown Protection: Mechanical breakdown protection is not required to obtain credit and **you may purchase it from anyone you want who is reasonably acceptable to the Creditor.** You may purchase mechanical breakdown protection under this Contract by signing below and agreeing to pay the additional cost, which is shown in 4C of the Itemization above. The term of this protection will be N/A months from the date of delivery or until the odometer of the vehicle shows N/A miles, whichever occurs first. If you purchase this protection, you have reviewed the terms of the Contract which describes this protection and you understand that a copy of the completed Contract will be sent to you as soon as practicable.

MBP Company N/A $ N/A Deductible

Buyer Signature Date Co-Buyer Signature Date

Receipt of Vehicle: You agree that you have received the vehicle and/or services described above, and have accepted delivery of the vehicle in good condition.

Optional Debt Cancellation Contract or Guaranteed Auto Protection ("GAP"). GAP is not required to obtain credit and you may purchase it from anyone you want who is reasonably acceptable to the Creditor. You may purchase GAP under this contract by signing below and agreeing to pay the purchase price to the Creditor, which is shown in 4D of the Itemization above. If you elect this optional GAP coverage and are accepted by the GAP provider, the terms and conditions will be as described in the GAP agreement issued by that provider.

GAP Provider _____

APPROVAL: YOU WANT TO OBTAIN THE GUARANTEED AUTO PROTECTION ("GAP") DESCRIBED ABOVE.

Buyer Signature Date Co-Buyer Signature Date

THE ANNUAL PERCENTAGE RATE MAY BE NEGOTIATED WITH THE DEALER. THE DEALER MAY ASSIGN THIS CONTRACT AND RETAIN ITS RIGHT TO RECEIVE A PART OF THE FINANCE CHARGE.

PROMISSORY NOTE

Promise to Pay: You promise to pay to the above named Creditor or Bearer the Total Sale Price shown above by making the Total Downpayment and paying the Total of Payments in accordance with the Payment Schedule shown above.

Contract Rate	6.40 %
Final Payment Date	06/08/2010

YOU ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS DISCLOSURE STATEMENT, PROMISSORY NOTE AND SECURITY AGREEMENT (CONTINUED ON REVERSE), AND AGREE TO THEIR TERMS. YOU AUTHORIZE US TO MAKE DISBURSEMENTS AS ITEMIZED ABOVE.

Dated 05/08/2006

Buyer [redacted] Co-Buyer _____

This Contract is assigned to TMCC subject to repurchase under the terms of the "Seller's Assignment" on the reverse side.

Seller _____ By _____ (If Corp. or Partnership) (Title)

This Contract is assigned to TMCC without recourse or with limited recourse under the terms of the "Seller's Assignment" on the reverse side.

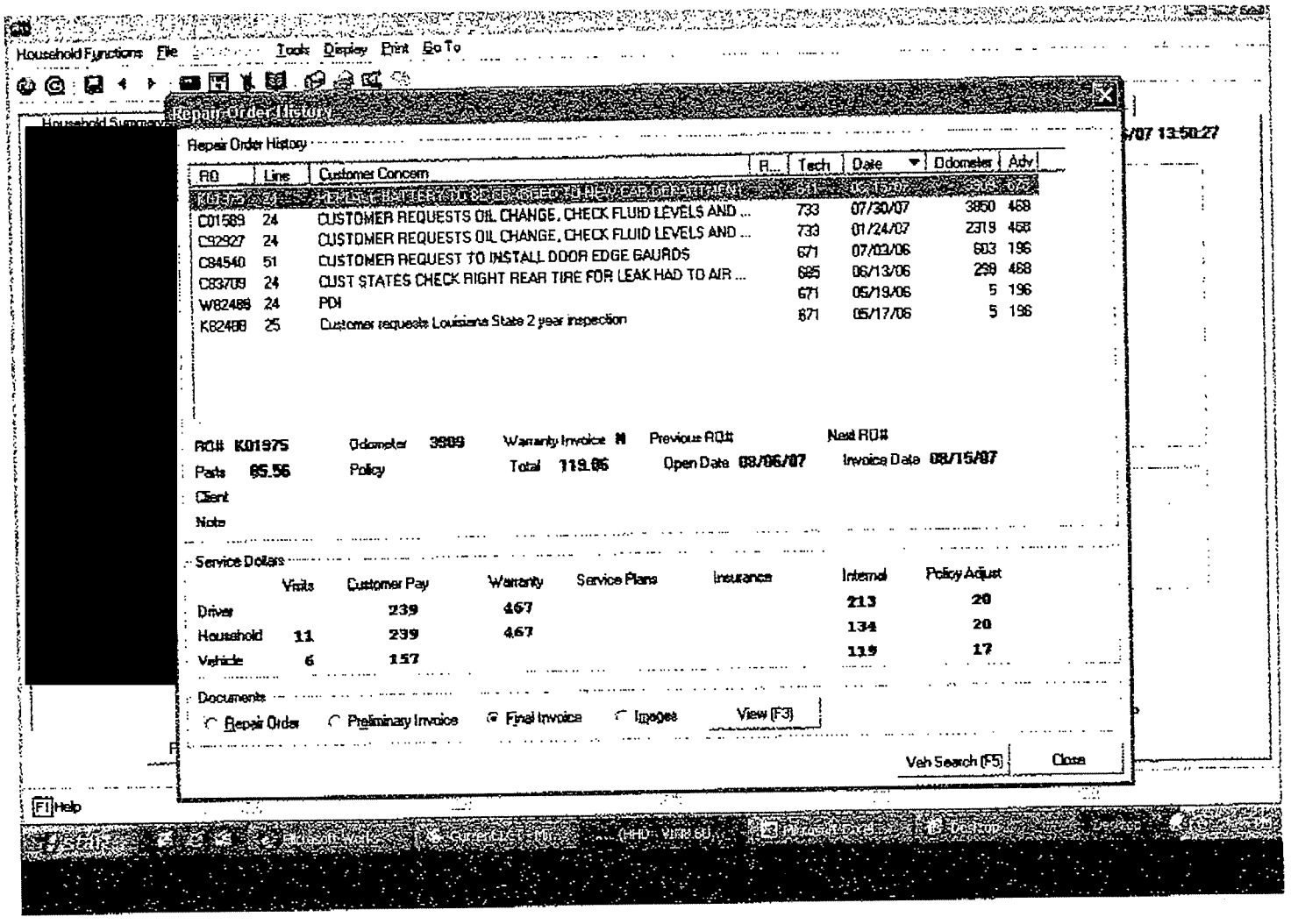
Seller PARVIN MOTOR CO. INC. DBA LAKE CHARLES TOYOTA By _____ (If Corp. or Partnership) (Title)

LOUISIANA (For use in the State of Louisiana) **PREVIOUS EDITIONS MAY NOT BE USED**

DISTRIBUTION: WHITE – TMCC COPY; CANARY – SELLER COPY; PINK – 2 BUYER'S COPIES

3103LA 09/0

TOY-RQ-05E-00003281



Complete Service history on

2006 Toyota Avalon VIN: 4T1BK36B56U [redacted]

belonging to [redacted]

of Lake Charles, LA [redacted]

Copies of the repair orders are included with the exception of W82488 and K82488 which are the pre delivery inspection and state required motor vehicle inspection

TARVER MOTOR CO., INC.

DBA **LAKE CHARLES TOYOTA**

3601 HWY 14 • LAKE CHARLES, LA 70607 • (337) 478-3511

TERMS	APPOINTMENT	CALL WHEN READY?	SAVE REMOVED PARTS FOR CUSTOMER
CASH ☐	☐	☐ YES	☐ YES
CREDIT CARD ☐			
WARRANTY ☐			

#1085 $162.

STRAIGHT TIME (HOURS)	FLAT RATE	R/O NO. 83709	TIME	OFF
	3	OPER. NO.		6-13-06 7
		EMP. NO. 685		ON

RO	Tag	Advisor	Added	Licensed	VIN
83709	0646	468 SANDRA DESHOTEL	06/13/06 13:44	LA TEMP	4T1BK36B5 6U[redacted]

Customer Information — **Customer Waiting**

[redacted]

LAKE CHARLES, LA [redacted]
CALCASIEU
Email:

Cell: [redacted]
Home:

Vehicle Information

06 TOYOTA AVALON 4DR SDN LIMITED TAN/BEIGE — Model#: 3554 — Odometer: 298
ENGINE-3.5L DOHC VVT-I V-6 — Stock No: 00008823
Dates: Production: — Inservice: 05/25/06 — Sold: 05/24/06 — SLSP: 654
Last Svc: Client: 18L001 Date: 05/19/06 Adv: 196 Odom: 5

Ln	Type	Operation	Customer Concern	Hr./Qty
24*	C	46TOZ06	CUST STATES CHECK RIGHT REAR TIRE FOR LEAK HAD TO AIR UP THIS A/M	

Additional Information

Dist: TOY SVC DLR: 17060 Fuel: UNL Estimated Completion:
Name Verify: Color Code: 04Q2 Trim: LB02

Comment

Possible recheck. Last Serviced 5

Method of Payment

CUS Cust Pay CA -Cash

Last Service Performed

RO	Date	Odom	Adv	Tech	Hr	Operation	Description
82488	05/16/06	5	196	671		75TOZ01	Performed PDI
				671		03TOZ02	Performed Louisiana State 2 year inspect

I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and/or your employees permission to operate the car or truck herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car or truck to secure the amount of repairs thereto. I agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, or any other cause beyond your control.

DISCLAIMER AND WAIVER OF ALL WARRANTIES

Any warranties express or implied, on the products sold hereby are made by the manufacturer. Seller, LAKE CHARLES TOYOTA, expressly disclaims all warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and LAKE CHARLES TOYOTA neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

X_____
CUSTOMER SIGNATURE

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ORIGINAL

Qty	Part Number	Description	Price	Avail		Technician comments	Service Advisor Comments
						Nail in Right	
						Rear tire	

Reverse 83709

TARVER MOTOR CO., INC.

DBA **LAKE CHARLES TOYOTA**

3601 HWY 14 • LAKE CHARLES, LA 70607 • (337) 478-3511

Wait
#671

TERMS	APPOINTMENT	CALL WHEN	SAVE REMOVED	
		R/O NO. 84540	TIME OFF	7-3
STRAIGHT TIME (HOURS)	FLAT RATE	OPER. NO.		ON BG
	0.3	EMP. NO. 671		
INTERNAL ☐	NO ☐	☐ NO	☐ NO	

87.66

R/O	Tech	Advisor	Opened	Write-up	VIN
84540	3323	196 JOHN R STRODERD JR	07/03/06 11:08	LA TEMP	4T1BK36B5 60 [redacted]

Customer Information / Customer Waiting

[redacted]
LAKE CHARLES, LA [redacted]

Cell: [redacted]
Home:
Reservation: 003 07/03/06 08:30

CALCASIEU
Email:

Vehicle Information

06 TOYOTA AVALON 4DR SDN LIMITED TAN/BEIGE — Model#: 3554 — Odometer: 603
Stock No: 00008823
ENGINE-3.5L DOHC VVT-I V 6
Dates: Production: Inservice: 05/25/06 Sold: 05/24/06 SLSP: 654
Last Svc: Client: 18L001 Date: 06/13/06 Adv: 468 Odom: 298 Daily Avg: 015 Month Avg: 450

Cat	Type	Operation	Customer Concern	Tech Comments
51*	C		CUSTOMER REQUEST TO INSTALL DOOR EDGE GAURDS	

Dist: TOY SVC DLR: 17060 Fuel: UNL Estimated Completion:
Name Verify: Color Code: 04Q2 Trim: LB02

Comments

Possible recheck. Last Serviced 298

Method of Payment

CUS Cust Pay CA - Cash

Last Service Performed

Date	Odom	Tech	Labor	Service Code	Description
83709 06/13/06	298	468	685	46TOZ06	TECH R/R RIGHT REAR TIRE AND INSTALLED I
82488 05/16/06	5	196	671	75TOZ01	Performed PDI
			671	03TOZ02	Performed Louisiana State 2 year inspect

I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and/or your employees permission to operate the car or truck herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car or truck to secure the amount of repairs thereto. I agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, or any other cause beyond your control.

DISCLAIMER AND WAIVER OF ALL WARRANTIES

Any warranties express or implied, on the products sold hereby are made by the manufacturer. Seller, LAKE CHARLES TOYOTA, expressly disclaims all warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and LAKE CHARLES TOYOTA neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

X _____
CUSTOMER SIGNATURE

ORIGINAL

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Qty	Part Number	Description	Price	Avail		Technician comments	Service Advisor Comments
1	PW12-40519-06	(06174022)				Door Edge Guards	Part in

Reverse 84540

TOY-RQ-05E-00003286

TARVER MOTOR CO., INC.

DBA **LAKE CHARLES TOYOTA**

3601 HWY 14 • LAKE CHARLES, LA 70607 • (337) 478-3511

Wait 733

$30.00

TERMS	APPOINTMENT	CALL WHEN READY?	SAVE REMOVED PARTS FOR CUSTOMER
CASH ☐ CREDIT CARD ☐	☐	☐ YES	☐ YES

STRAIGHT TIME (HOURS)	FLAT RATE	R/O NO. 1589	TIME	OFF 7.30.07
	.3	OPER. NO. 733 EMP. NO.		ON 8

01589	7202	468 SANDRA DESHOTEL	07/30/07 11:21	LA TEMP	4T1BK36B5 60[redacted]

Customer Information

[redacted]

Cell: [redacted]
Home:

LAKE CHARLES, LA [redacted]
CALCASIEU
Email:

Vehicle Information

06 TOYOTA AVALON 4DR SDN LIMITED TAN/BEIGE Model#: 3554 Odometer: 3850
ENGINE-3.5L DOHC VVT-I V-6
State Inspection Due: 05/01/08
Dates: Production: Inservice: 05/25/06 Sold: 05/24/06 SLSP: 654
Last Svc: Client: 18L001 Date: 01/24/07 Adv: 468 Odom: 2319 Daily Avg: 009 Month Avg: 270

In	Type	Operation	Customer Concern	Hrs/Qty
24*	C	00T0Z02	CUSTOMER REQUESTS OIL CHANGE, CHECK FLUID LEVELS AND TIRE PRESSURES	

Additional Information

Dist: TOY Fuel: UNL Estimated Completion:
Name Verify: Color Code: 04Q2 Trim: LB02

Method of Payment

CUS Cust Pay CA -Cash

Last Service Performed

RO	Date	Odom	Adv	Tech	Operation	Description
92927	01/24/07	2319	468	733	00T0Z02	Performed oil change, checked fluid leve
84540	07/03/06	603	196	671	00	TECH INSTALLED DOOR EDGE GUARDS
83709	06/13/06	298	468	685	46T0Z06	TECH R/R RIGHT REAR TIRE AND INSTALLED I
82488	05/16/06	5	196	671	75T0Z01	Performed PDI
				671	03T0Z02	Performed Louisiana State 2 year inspect

I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and/or your employees permission to operate the car or truck herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car or truck to secure the amount of repairs thereto. I agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, or any other cause beyond your control.

DISCLAIMER AND WAIVER OF ALL WARRANTIES

Any warranties express or implied, on the products sold hereby are made by the manufacturer. Seller, LAKE CHARLES TOYOTA, expressly disclaims all warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and LAKE CHARLES TOYOTA neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

X_____
CUSTOMER SIGNATURE

ORIGINAL

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Qty	Part Number	Description	Price	Avail	Hours	Technician comments	Service Advisor Comments
1	PK620	A1	20.50	✓			
		6.25.2020					

Reverse C01589

TOY-RQ-05E-00003288

TARVER MOTOR CO., INC.

DBA **LAKE CHARLES TOYOTA**

3601 HWY 14 • LAKE CHARLES, LA 70607 • (337) 478-3511

641

TERMS		R/O NO. 1975	TIME OFF 8-6
STRAIGHT TIME (HOURS)	FLAT RATE	OPER. NO. 641	ON 86
	0.5	EMP. NO.	
INTERNAL ☐		NO ☐	☐ NO ☐ NO ☐ YES

$119.06

RO	Bay	Customer	Entered	Driven By	VIN
01975	7426	678 BRANDON T. GUINS	08/06/07 14:43	LA TEMP	4T1BK36B5 6U[redacted]

[redacted]
LAKE CHARLES, LA [redacted]
CALCASIEU
Email:

Cell:
Home: [redacted]

06 TOYOTA AVALON 4DR SDN LIMITED TAN/BEIGE Model#: 3554 Odometer: 3909
ENGINE-3.5L DOHC VVT-I V-6
State Inspection Due: 05/01/08
Dates: Production: Inservice: 05/25/06 Sold: 05/24/06 SLSP: 654
Last Svc: Client: 18L001 Date: 07/30/07 Adv: 468 Odom: 3850 Daily Avg: 009 Month Avg: 270

Ln	Type	Operation	Customer Concern	Hr	Qty
24*	CWO	50TOZ	REPLACE BATTERY TO BE CHARGED TO NEW CAR DEPARTMENT		

Dist: TOY Fuel: UNL Estimated Completion:
Name Verify: Color Code: 04Q2 Trim: LB02

Possible recheck. Last Serviced 07/30/07

CWO INT-OTHER

RO	Date	Odom	Adv	Tech	Hrs	Operation	Description
01589	07/30/07	3850	468	733		00TOZ02	Performed oil change, checked fluid leve
92927	01/24/07	2319	468	733		00TOZ02	Performed oil change, checked fluid leve
84540	07/03/06	603	196	671		00	TECH INSTALLED DOOR EDGE GUARDS
83709	06/13/06	298	468	685		46TOZ06	TECH R/R RIGHT REAR TIRE AND INSTALLED I

I hereby authorize the above repair work to be done along with the necessary material, and hereby grant you and/or your employees permission to operate the car or truck herein described on streets, highways or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien is hereby acknowledged on above car or truck to secure the amount of repairs thereto. I agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, or any other cause beyond your control.

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X _____
CUSTOMER SIGNATURE

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ORIGINAL

641

...rt Number	Description	Price	Avail	Hours	Technician comments	Service Advisor Comments
(1) 00544 24F68	24F	89.95	B6		Battery Dead & will Not Charge	

Reverse of K01975

NUMBER OF UNITS 01

STATE OF LOUISIANA
UNIFORM MOTOR VEHICLE TRAFFIC CRASH REPORT

463895

PAGE # 01

DATE OF CRASH: 09/03/2006 | TIME (0000): 1742 | DISTRICT/ZONE: 19 | TROOP:

LAT. ° ' | LONG. ° '

Quadrant: NW SW NE SE | Service Road: N S E W

06-4802

PARISH: CALCASIEU | PARISH CODE: 16

CITY OR TOWN: LAKE CHARLES | CITY CODE: 03

CRASH OCCURRED ON: A INTERSTATE, B U S HWY, C STATE HWY, D PARISH ROAD, E CITY STREET, F OFF ROAD/PRIVATE PROPERTY, G TOLL ROAD — F

HIGHWAY # | MILEPOST | ROADWAY NAME: 4940 LAKE ST PKG LT

DISTANCE | MILES / FEET | NE SW | STREET/HIGHWAY | AT INTERSECTION | NOT AT INTERSECTION

DISTANCE | MILES / FEET | NE SW | STREET/HIGHWAY | AT INTERSECTION | NOT AT INTERSECTION

WORK ZONE | HIT & RUN | PUBLIC PROPERTY DAMAGE | PHOTOS MADE | RR TRAIN INVOLVED | FATALITY | PED | INJURY

CONTRIBUTING FACTORS AND CONDITIONS

WRITE APPROPRIATE LETTER IN BLOCK

ROAD SURFACE (ONE PER COLUMN) — A

A. DRY, B. WET, C. SNOW/SLUSH, D. ICE, E. CONTAMINANT (SAND, MUD, DIRT, OIL, ETC.), Y. UNKNOWN, Z. OTHER

A

A. CONCRETE, B. BLACK TOP, C. BRICK, D. GRAVEL, E. DIRT, Y. UNKNOWN, Z. OTHER

ROADWAY CONDITIONS — A

A. NO ABNORMALITIES, B. SHOULDER ABNORMALITY, C. HOLES, D. DEEP RUTS, E. BUMPS, F. LOOSE SURFACE MATERIAL, G. CONSTRUCTION, REPAIR, H. OVERHEAD CLEARANCE LIMITED, I. CONSTRUCTION - NO WARNING, J. PREVIOUS CRASH, K. WATER ON ROADWAY, L. ANIMAL IN ROADWAY, M. OBJECT IN ROADWAY, Z. OTHER

TYPE OF ROADWAY — Z

A. ONE-WAY ROAD, B. TWO-WAY ROAD WITH NO PHYSICAL SEPARATION, C. TWO-WAY ROAD WITH A PHYSICAL SEPARATION, D. TWO-WAY ROAD WITH A PHYSICAL BARRIER, Y. UNKNOWN, Z. OTHER

ALIGNMENT — A

A. STRAIGHT-LEVEL, B. STRAIGHT-LEVEL ELEVATED, C. CURVE-LEVEL, D. CURVE-LEVEL ELEVATED, E. ON GRADE-STRAIGHT, F. ON GRADE-CURVE, G. HILLCREST-STRAIGHT, H. HILLCREST-CURVE, I. DIP, HUMP-STRAIGHT, J. DIP, HUMP-CURVE, Y. UNKNOWN, Z. OTHER

PRIMARY FACTOR — E

SECONDARY FACTOR — B

A. VIOLATIONS, B. MOVEMENT PRIOR TO CRASH, C. VISION OBSCUREMENTS, D. CONDITION OF DRIVER, E. VEHICLE CONDITIONS, F. ROAD SURFACE, G. ROADWAY CONDITION, H. LIGHTING, I. WEATHER, J. TRAFFIC CONTROL, K. KIND OF LOCATION, L. CONDITION OF PEDESTRIAN, M. PEDESTRIAN ACTIONS

WEATHER — A

A. CLEAR, B. CLOUDY, C. RAIN, D. FOG/SMOKE, E. SLEET/HAIL, F. SNOW, G. SEVERE CROSSWIND, H. BLOWING SAND, SOIL, DIRT, SNOW, Y. UNKNOWN, Z. OTHER

KIND OF LOCATION — B

A. MANUFACTURING OR INDUSTRIAL, B. BUSINESS CONTINUOUS, C. BUSINESS, MIXED RESIDENTIAL, D. RESIDENTIAL DISTRICT, E. RESIDENTIAL, SCATTERED, F. SCHOOL OR PLAYGROUND, G. OPEN COUNTRY, Z. OTHER

RELATION TO ROADWAY — Z

A. ON ROADWAY, B. SHOULDER, C. MEDIAN, D. BEYOND SHOULDER - LEFT, E. BEYOND SHOULDER - RIGHT, F. BEYOND RIGHT OF WAY, G. GORE, Y. UNKNOWN, Z. OTHER

ACCESS CONTROL — Z

A. NO CONTROL (UNLIMITED ACCESS TO ROADWAY), B. PARTIAL CONTROL LIMITED ACCESS TO ROADWAY, C. FULL CONTROL (ONLY RAMP ENTRANCE & EXIT), Y. UNKNOWN, Z. OTHER

LIGHTING — A

A. DAYLIGHT, B. DARK - NO STREET LIGHTS, C. DARK - CONTINUOUS STREET LIGHT, D. DARK - STREET LIGHT AT INTERSECTION ONLY, E. DUSK, F. DAWN, Y. UNKNOWN, Z. OTHER

VEHICLE CONFIGURATION

A PASSENGER CAR	D A, B, G, OR 6 WITH TRAILER	G OFF-ROAD VEHICLE	J BUS W/SEATS FOR 9-15 OCCUPANTS	M SINGLE UNIT TRUCK W/ 3 AXLES OR MORE	Q TRACTOR - SEMI-TRAILER	T FARM EQUIPMENT
B LT. TRUCK (P.U., ETC.)	E MOTORCYCLE	H EMERGENCY VEHICLE IN USE	K BUS W/SEATS FOR 16 OR MORE OCC.	N TRUCK/ TRAILER	R TRUCK DOUBLE	V MOTOR HOME
C VAN	F PEDALCYCLE	I SCHOOL BUS	L SINGLE UNIT TRUCK W/ 2 AXLES	P TRUCK/ TRACTOR	S SUV	Z OTHER

CARGO BODY TYPE

A BUS	D FLATBED	G AUTO TRANSPORTER	J HOPPER		
B VAN/ENCLOSED BOX	E DUMP TRUCK/ TRAILER	H LOG TRUCK/ TRAILER	K POLE TRAILER		
C CARGO TANK	F CONCRETE MIXER	I GARBAGE/ REFUSE	X NO CARGO BODY	Z OTHER	

AMBULANCE | TIME CALLED | ARRIVED SCENE | DEPARTED SCENE | ARRIVED HOSPITAL | RESCUE UNIT | TIME CALLED | ARRIVED SCENE

AMBULANCE SERVICE: NONE

FIRE DEPARTMENT: NONE

NAME OF AGENCY: LAKE CHARLES POLICE DEPT. | TIME OF NOTIFICATION: 1743 | TIME OF ARRIVAL: 1755 | TIME ALL LANES OPENED: 1755

Y/N: Y

INVESTIGATING POLICE AGENCY: B (A. STATE, B. CITY, C. PARISH, Z. OTHER)

DATE REPORT COMPLETED: 09/03/2006

JUSTIN K. WEEKS
INVESTIGATING OFFICER'S NAME (PRINT)

SIGNATURE

BADGE # 040003

SUPERVISOR'S INITIALS OR BADGE# M.W.

DPSSP 3106 (REV. MAR. 2005)

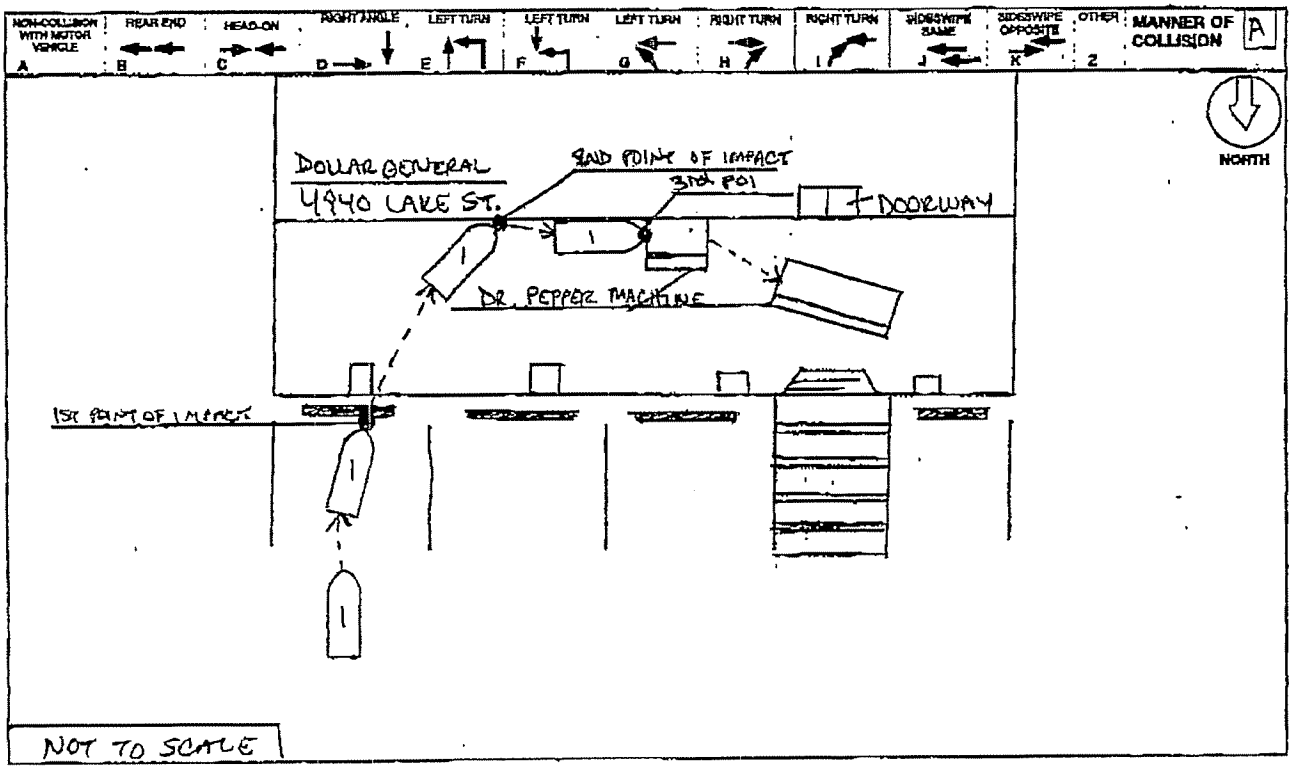
OFFICER'S NARRATIVE: DESCRIBE ANY UNUSUAL CIRCUMSTANCES ASSOCIATED WITH CRASH, INCLUDING OFFICER'S OBSERVATIONS AND OPINIONS. INCLUDE WITNESS NAMES, ADDRESSES, PHONE NUMBERS, ETC.

IF NECESSARY, INDICATE DAMAGE TO PUBLIC OR PRIVATE PROPERTY WITH OWNER'S NAME & ADDRESS AT THE END OF THE NARRATIVE.

REFER TO EACH BY VEHICLE NUMBER

PAGE # 02

DRIVER OF VEHICLE # 1 STATED THAT SHE WAS ATTEMPTING TO PARK HER VEHICLE AT 4940 LAKE ST (DOLLAR GENERAL). DRIVER STATED THAT WHEN SHE APPLIED THE BRAKES, THE VEHICLE ACCELERATED FORWARD. DRIVER STATED THAT SHE TURNED THE VEHICLE TO THE RIGHT TO AVOID STRIKING THE COLUMN. DRIVER STATED THAT SHE CONTINUED TO APPLY THE BRAKES UNTIL THE VEHICLE STOPPED AFTER STRIKING THE BUILDING AND A DR. PEPPER MACHINE. THE VEHICLE STRUCK SOME DOLLAR GENERAL BUGGIES ALSO. THE VEHICLE CAUSED MINOR DAMAGE TO THE BUILDING AND CAUSED THE DR. PEPPER MACHINE TO FALL ON ITS SIDE. OFFICER WEEKS MOVED THE VEHICLE FROM ITS FINAL LOCATION DURING THE ACCIDENT TO THE PARKING LOT. IN DOING SO, OFFICER WEEKS OBSERVED THAT WHEN THE BRAKES WERE APPLIED, THE VEHICLE ACCELERATED AND THEN STOPPED. [redacted] (HUSBAND OF DRIVER) ADVISED OFFICER WEEKS THAT ON THE SAME DATE, HE WAS DRIVING VEHICLE # 1, AND THE VEHICLE SLIGHTLY ACCELERATED AS HE APPLIED THE BRAKES.



STATE OF LOUISIANA
UNIFORM MOTOR VEHICLE TRAFFIC CRASH REPORT
VEHICLE/PEDESTRIAN

COMPUTER NUMBER 4638945 - PAGE # 03
06-9802

01 VEH # OR PEDESTRIAN

CODE A | CARGO BODY TYPE X (see page 1 for selections) | YEAR 2006 | MAKE TOYOTA | MODEL AVALON | # DOORS 4 | # AXLES 02 | # TIRES 04

VIN 4T1BK36B56U [redacted]

VEHICLE TOWED A (A. YES B. NO C. LEFT AT SCENE) REMOVED BY JOHNNIE'S PAINT & BODY

REGISTRATION YEAR 2008 | STATE LA | NUMBER DSP163 | TYPE PRIVATE | OWNER PHONE | REASON TOWED A (A. VEHICLE DAMAGE B. DRIVER ARRESTED C. INSURANCE VIOLATION Z. OTHER)

TRAILER/MOBILE HOME YEAR | MAKE NONE | TYPE | GVWR YEAR | STATE | NUMBER

COMMERCIAL/BUSINESS VEHICLE ☐ GOVERNMENT VEHICLE ☐ PERSONAL VEHICLE ☒

COMPLETE INFORMATION BELOW IF THIS VEHICLE IS BEING USED FOR COMMERCIAL BUSINESS, IS OVER A GVWR/GCWR IN EXCESS OF 10,000 LBS., OR HAS A HAZMAT PLACARD, OR IS A BUS WITH SEATING FOR NINE OR MORE INCLUDING THE DRIVER. US DOT #

CARRIER NAME | CARRIER (DOT) #

STREET ADDRESS | CITY | STATE | ZIP

INTERSTATE CARRIER Y/N | TRANSPORTING HAZARDOUS MATERIAL Y/N | CLASS | ID# | PLACARDS DISPLAYED Y/N | HAZ MAT RELEASED Y/N

NAME (LAST, FIRST, MI) OF ☒ DRIVER ☐ PEDESTRIAN [redacted]

STREET ADDRESS [redacted] TELEPHONE # [redacted]

CITY LAKE CHARLES STATE LA ZIP [redacted]

FOR-TION	SUB-TION	TRAIN ENTRI-CATED	AIR BAG	DOT PHOT SYS	ALC	RACE	AGE	INJURY
A	A	A	B	D	F	W	72	E

STATE LA | CLASS E | ENDORSEMENTS | DRIVER'S LICENSE NUMBER 1514334 | INSTRUCTED TO EXCHANGE INFORMATION? Y/N N | NAME OF FACILITY NONE | TRANSPORTED TO MEDICAL FACILITY (A. YES B. NO C. REFUSED AID Y. UNKNOWN) C

PEDESTRIAN ONLY — UPPER BODY CLOTHING LIGHT ☐ DARK ☐ LOWER BODY CLOTHING LIGHT ☐ DARK ☐ SEX ☐ RACE ☐ AGE ☐☐ INJURY CODE ☐

OWNER'S NAME (LAST, FIRST, MI OR COMPANY NAME) ☒ SAME AS DRIVER

TELEPHONE #

STREET ADDRESS

CITY STATE ZIP

INSURANCE CO. NAME ALLSTATE (NOT AGENCY NAME) POLICY NUMBER [redacted] EXPIRATION DATE 10/03/06

AGENT'S NAME/ADDRESS SCOTT RALEY INS AGC 4415 LAKE ST. LC, LA 70605 PHONE # 337-474-3500

OCCUPANT'S NAME (LAST, FIRST, MI) NONE

POS-TION	SUB-TION	TRAIN ENTRI-CATED	AIR BAG	DOT PHOT SYS	ALC	RACE	AGE	INJURY

STREET ADDRESS

CITY STATE ZIP TRANSPORTED TO MEDICAL FACILITY (A. YES B. NO C. REFUSED AID Y. UNKNOWN) NAME OF FACILITY

OCCUPANT'S NAME (LAST, FIRST, MI) NONE

POS-TION	SUB-TION	TRAIN ENTRI-CATED	AIR BAG	DOT PHOT SYS	ALC	RACE	AGE	INJURY

STREET ADDRESS

CITY STATE ZIP TRANSPORTED TO MEDICAL FACILITY (A. YES B. NO C. REFUSED AID Y. UNKNOWN) NAME OF FACILITY

CODES

SEATING POSITION	EJECTION	TRAPPED/EXTRICATION	AIRBAG	OCCUPANT PROTECTION (SEAT BELT)	INJURY
A - FRONT SEAT-LEFT SIDE (MOTORCYCLE DRIVER) B - FRONT SEAT-MIDDLE C - FRONT SEAT-RIGHT SIDE D - SECOND SEAT-LEFT SIDE (MOTORCYCLE PASSENGER) E - SECOND SEAT-MIDDLE F - SECOND SEAT-RIGHT SIDE G - THIRD ROW-LEFT SIDE (MOTORCYCLE PASSENGER) H - THIRD ROW-MIDDLE I - THIRD ROW-RIGHT SIDE J - SLEEPER SECTION OF CAB (TRUCK) K - PASSENGER IN OTHER ENCLOSED PASSENGER OR CARGO AREA (NON-TRAILING UNIT) L - PASSENGER IN OTHER UNENCLOSED PASSENGER OR CARGO AREA (NON-TRAILING UNIT) M - PASSENGER ON TRAIN OR STREETCAR N - TRAILING UNIT O - RIDING ON VEHICLE EXTERIOR (NON-TRAILING UNIT) Y - UNKNOWN	A - NOT EJECTED B - TOTALLY EJECTED C - PARTIALLY EJECTED Y - UNKNOWN	A - NOT TRAPPED B - TRAPPED/EXTRICATED C - TRAPPED/NOT EXTRICATED Y - UNKNOWN	A - DEPLOYED B - NON DEPLOYED C - NON-DEPLOYED/SWITCH OFF D - NOT APPLICABLE Y - UNKNOWN	A - NONE USED-VEHICLE OCCUPANT B - SHOULDER BELT ONLY USED C - LAP BELT ONLY USED D - SHOULDER AND LAP BELT USED E - CHILD SAFETY SEAT IMPROPERLY USED F - CHILD SAFETY SEAT USED G - HELMET USED Y - RESTRAINT USE UNKNOWN	A - FATAL B - INCAPACITATING/SEVERE C - NON-INCAPACITATING/MODERATE D - POSSIBLE/COMPLAINT E - NO INJURY

DPSSP 3106 (REV. MAR. 2005)

WRITE APPROPRIATE LETTER IN BLOCK

CONTRIBUTING FACTORS AND CONDITIONS

VISION OBSCUREMENTS [N]
A. RAIN, SNOW, ETC. ON WINDSHIELD
B. WINDSHIELD OTHERWISE OBSCURED
C. VISION OBSCURED BY LOAD
D. TREES, BUSHES, ETC.
E. BUILDING
F. EMBANKMENT
G. SIGN BOARDS
H. HILLCREST
I. PARKED VEHICLES
J. MOVING VEHICLES
K. BLINDED BY HEADLIGHTS
L. BLINDED BY SUNGLARE
M. DISTRACTED BY NEON LIGHTS IN FIELD OF VIEW
N. NO OBSCUREMENTS
Y. UNKNOWN
Z. OTHER

VIOLATION [W]
A. EXCEEDING STATED SPEED LIMIT
B. EXCEEDING SAFE SPEED LIMIT
C. FAILURE TO YIELD
D. FOLLOWING TOO CLOSELY
E. DRIVING LEFT OF CENTER
F. CUTTING IN, IMPROPER PASSING
G. FAILURE TO SIGNAL
H. MADE WIDE RIGHT TURN
I. CUT CORNER ON LEFT TURN
J. TURNED FROM WRONG LANE
K. OTHER IMPROPER TURNING
L. DISREGARDED TRAFFIC CONTROL
M. IMPROPER STARTING
N. IMPROPER PARKING
O. FAILED TO SET OUT FLAGS, FLARES
P. FAILED TO DIM HEADLIGHTS
Q. VEHICLE CONDITION
R. DRIVER CONDITION
S. CARELESS OPERATION
T. IMPROPER BACKING
U. NO VIOLATIONS
Y. UNKNOWN
Z. OTHER

TRAFFIC CONTROL [N]
A. STOP SIGN
B. YIELD SIGN
C. RED SIGNAL ON
D. YELLOW SIGNAL ON
E. GREEN SIGNAL ON
F. GREEN TURN ARROW ON
G. RIGHT TURN ON RED
H. LIGHT PHASE UNKNOWN
I. FLASHING YELLOW
J. FLASHING RED
K. OFFICER, FLAGMAN
L. RR CROSSING, SIGN
M. RR CROSSING SIGNAL
N. RR CROSSING, NO CONTROL
O. WARNING SIGN (SCHOOL, ETC.)
P. SCHOOL FLASHING SPEED SIGN
Q. YELLOW NO PASSING LINE
R. WHITE DASHED LINE
S. YELLOW DASHED LINE
T. BIKE LANE
U. CROSSWALK
V. NO CONTROL
Y. UNKNOWN
Z. OTHER

CONDITION OF DRIVER/PED [A]
A. NORMAL
B. INATTENTIVE
C. DISTRACTED
D. ILLNESS
E. FATIGUED
F. APPARENTLY ASLEEP/BLACKOUT
G. DRINKING ALCOHOL - IMPAIRED
H. DRINKING ALCOHOL - NOT IMPAIRED
I. DRUG USE - IMPAIRED
J. DRUG USE - NOT IMPAIRED
K. PHYSICAL IMPAIRMENT (EYES, EAR, LIMB)
Y. UNKNOWN
Z. OTHER

DRIVER DISTRACTION [E]
A. CELL PHONE
B. OTHER ELECTRONIC DEVICE (PAGER, PALM PILOT, NAVIGATION DEVICE, ETC.)
C. OTHER INSIDE THE VEHICLE
D. OTHER OUTSIDE THE VEHICLE
E. NOT DISTRACTED
Y. UNKNOWN

REASON FOR MOVEMENT [M]
A. TO AVOID OTHER VEHICLE
B. TO AVOID PEDESTRIAN
C. TO AVOID ANIMAL
D. TO AVOID OTHER OBJECT
E. PASSING
F. VEHICLE OUT OF CONTROL, NOT PASSING
G. VEHICLE OUT OF CONTROL, PASSING
H. FOR TRAFFIC CONTROL
I. DUE TO CONGESTION
J. DUE TO PRIOR CRASH (COLLISION)
K. DUE TO DRIVER CONDITION
L. DUE TO DRIVER VIOLATION
M. DUE TO VEHICLE CONDITION (FAILURE)
N. DUE TO PAVEMENT CONDITION
O. HIGH WIND
P. NORMAL MOVEMENT
Y. UNKNOWN
Z. OTHER

PEDESTRIAN ACTIONS [ ]
A. CROSSING, ENTERING ROAD AT INTERSECTION
B. CROSSING, ENTERING ROAD NOT AT INTERSECTION
C. WALKING IN ROAD – WITH TRAFFIC
D. WALKING IN ROAD – AGAINST TRAFFIC
E. SLEEPING IN ROADWAY
F. STANDING IN ROADWAY
G. GETTING ON OR OFF OTHER VEHICLE
H. PUSHING, WORKING ON VEHICLE IN ROAD
I. OTHER WORKING IN ROADWAY
J. PLAYING IN ROADWAY
K. NOT IN ROADWAY
Y. UNKNOWN
Z. OTHER

SEQUENCE OF EVENTS/HARMFUL EVENTS

NON COLLISION
A. OVERTURN/ROLLOVER
B. FIRE/EXPLOSION
C. IMMERSION
D. JACKKNIFE
E. CARGO/EQUIPMENT LOSS OR SHIFT
F. FELL/JUMPED FROM MOTOR VEHICLE
G. THROWN OR FALLING OBJECT
H. EQUIPMENT FAILURE (BLOWN TIRE, BRAKE FAILURE, ETC.)
I. SEPARATION OF UNITS IN TRANSPORT
J. RAN OFF ROAD RIGHT
K. RAN OFF ROAD LEFT
L. CROSSED MEDIAN/CENTERLINE
M. DOWNHILL RUNAWAY
N. OTHER NON-COLLISION

COLLISION WITH PERSON, MOTOR VEHICLE, OR NON- FIXED OBJECT
O. PEDESTRIAN
P. PEDALCYCLE
Q. RAILWAY VEHICLE (TRAIN, ENGINE)
R. ANIMAL
S. MOTOR VEHICLE IN TRANSPORT
T. PARKED MOTOR VEHICLE
U. STRUCK BY FALLING, SHIFTING CARGO OR ANYTHING SET IN MOTION BY MOTOR VEHICLE
V. WORK ZONE/MAINTENANCE EQUIPMENT
W. OTHER NON-FIXED OBJECT

COLLISION WITH FIXED OBJECT
X. IMPACT ATTENUATOR/CRASH CUSHION
Y. BRIDGE OVERHEAD STRUCTURE
Z. BRIDGE PIER OR SUPPORT
AA. BRIDGE RAIL
BB. CULVERT
CC. CURB
DD. DITCH
EE. EMBANKMENT
FF. GUARDRAIL FACE
GG. GUARDRAIL END
HH. CONCRETE TRAFFIC BARRIER
II. OTHER TRAFFIC BARRIER
JJ. TREE (STANDING)
KK. UTILITY POLE/LIGHT SUPPORT
LL. TRAFFIC SIGN SUPPORT
MM. TRAFFIC SIGNAL SUPPORT
NN. OTHER POST, POLE, OR SUPPORT
OO. FENCE
PP. MAILBOX
QQ. OTHER FIXED OBJECT (WALL, BUILDING, TUNNEL, ETC.)
YY. UNKNOWN

1st	H
2nd	Q
3rd	Q
4th	

MOST HARMFUL EVENT: Q

MOVEMENT PRIOR TO CRASH [Z]
A. STOPPED
B. PROCEEDING STRAIGHT AHEAD
C. TRAVELING WRONG WAY
D. BACKING
E. CROSSED MEDIAN INTO OPPOSING LANE
F. CROSSED CENTER LINE INTO OPPOSING LANE
G. RAN OFF ROAD (NOT WHILE MAKING TURN AT INTERSECTION)
H. CHANGING LANES ON MULTI-LANE ROAD
I. MAKING LEFT TURN
J. MAKING RIGHT TURN
K. STOPPED PREPARING TO, OR MAKING U-TURN
L. MAKING TURN, DIRECTION UNKNOWN
M. STOPPED, PREPARING TO TURN LEFT
N. STOPPED, PREPARING TO TURN RIGHT
O. SLOWING TO MAKE LEFT TURN
P. SLOWING TO MAKE RIGHT TURN
Q. SLOWING TO STOP
R. PROPERLY PARKED
S. PARKING MANEUVER
T. ENTERING TRAFFIC FROM SHOULDER
U. ENTERING TRAFFIC FROM MEDIAN
V. ENTERING TRAFFIC FROM PARKING LANE
W. ENTERING TRAFFIC FROM PRIVATE LANE OR DRIVEWAY
X. ENTERING FREEWAY FROM ON RAMP
Y. LEAVING FREEWAY VIA OFF RAMP
Z. OTHER OR UNKNOWN

VEHICLE CONDITION [A]
A. DEFECTIVE BRAKES
B. DEFECTIVE HEADLIGHTS
C. DEFECTIVE REAR LIGHTS
D. DEFECTIVE SIGNAL LIGHTS
E. ALL LIGHTS OUT
F. DEFECTIVE STEERING
G. TIRE FAILURE
H. WORN OR SMOOTH TIRES
I. ENGINE FAILURE
J. DEFECTIVE SUSPENSION
K. NO DEFECTS OBSERVED
Y. UNKNOWN
Z. OTHER

VEHICLE LIGHTING [Y]
A. HEADLIGHTS ON
B. HEADLIGHTS OFF
C. DAYTIME RUNNING LIGHTS
Y. UNKNOWN

TRAFFIC CONTROL CONDITIONS [E]
A. CONTROLS FUNCTIONING
B. CONTROLS NOT FUNCTIONING
C. CONTROLS OBSCURED
D. LANE MARKING UNCLEAR OR DEFECTIVE
E. NO CONTROLS
Y. UNKNOWN

ALCOHOL/DRUG INVOLVEMENT

ALCOHOL/DRUGS SUSPECTED: A
A. NEITHER ALCOHOL NOR DRUGS
B. YES-ALCOHOL
C. YES-DRUGS
D. YES-ALCOHOL AND DRUGS
Y. UNKNOWN

ALCOHOL
A. TEST REFUSED
B. NO TEST GIVEN
C. TEST GIVEN, RESULTS PENDING
D. TEST GIVEN, BAC _____ g%

DRUGS
A. TEST NOT GIVEN
B. TEST GIVEN, RESULTS PENDING
C. TEST REFUSED
D. DRUGS REPORTED (SPECIFY IN NARRATIVE)

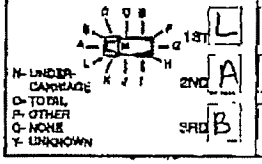
AFFIX BLOOD ALCOHOL KIT LABEL HERE

(OR ENTER BLOOD ALCOHOL KIT NUMBER)

DIRECTION BEFORE CRASH: HEADED	DIRECTION BEFORE CRASH: ON HIGHWAY, STREET OR DRIVE	FINAL LOCATION OF VEHICLES	DISTANCE TRAVELED AFTER IMPACT	SPEED: EST.	SPEED: POSTED	SKIDMARK DATA (FEET): FR / FL	SKIDMARK DATA (FEET): RR / RL
S (N E S W)	4440 LAKE ST. PARKING LOT	OFF ROADWAY	UNK	W N K	0 0	N / A	N / A

DAMAGE TO VEHICLE

AREA DAMAGED



N- UNDER-CARRIAGE
O- TO ROL
P- OTHER
Q- NONE
Y- UNKNOWN

1ST	L	F
2ND	A	E
3RD	B	E

EXTENT OF DEFORMITY
A- NONE
B- VERY MINOR
C- MINOR
D- MINOR/MODERATE
E- MODERATE
F- MODERATE/SEVERE
G- SEVERE
H- VERY SEVERE
Y- UNKNOWN

CITATION NO	VEH.	PED.	R.S. OR ORD. NO
N/A	☐	☐	N/A
	☐	☐	
	☐	☐	
	☐	☐	
	☐	☐	

NOTICE OF INSURANCE VIOLATION ☐

INVESTIGATING OFFICER'S INITIALS

Charles Raley P

RECEIVED
FEB 13 2008
LEGAL DEPT.

14th JUDICIAL DISTRICT COURT FOR THE PARISH OF CALCASIEU

STATE OF LOUISIANA

NO. 2007-4892 **DIVISION "G"**

ALLSTATE INSURANCE COMPANY

VERSUS

TOYOTA MOTOR SALES, U.S.A., INC.

FILED:_____ _____

DEPUTY CLERK

MOTION TO DISMISS WITH PREJUDICE

NOW INTO COURT through undersigned counsel comes plaintiff Allstate Insurance Company which, upon representing that the parties have agreed to amicable settlement of the above captioned matter now moves for an Order of Dismissal with Prejudice, each party to bear its own costs.

Respectfully submitted,

DAVID C. FORRESTER (5710)
MARK G. MURPHEY (26438)
FORRESTER & DICK, LLC
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
Telephone: 225-928-5400
Facsimile: 225-928-7733
ATTORNEYS FOR ALLSTATE INSURANCE COMPANY

TOY-RQ-05E-00003295

14th JUDICIAL DISTRICT COURT FOR THE PARISH OF CALCASIEU

STATE OF LOUISIANA

NO. 2007-4892 **DIVISION "G"**

ALLSTATE INSURANCE COMPANY

VERSUS

TOYOTA MOTOR SALES, U.S.A., INC.

FILED:_____ _____
DEPUTY CLERK

ORDER OF DISMISSAL

Considering the foregoing Motion to Dismiss with Prejudice of plaintiff Allstate Insurance Company, it is hereby ORDERED that the captioned matter be DISMISSED WITH PREJUDICE, each party to bear its own costs of court.

Lake Charles, Louisiana this _____ day of _____, 200___.

_____
DISTRICT JUDGE

TOY-RQ-05E-00003296

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing pleading has been served upon:

DAVID C. FORRESTER
MARK G. MURPHEY
FORRESTER & DICK, L.L.C
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
ATTORNEYS FOR ALLSTATE INSURANCE COMPANY

by placing a copy of same in the U.S. Mail, postage prepaid and properly addressed, this 8th day of February.

JAMES E. SWINNEN

TOY-RQ-05E-00003297

LEGAL SERVICES
SEP 2 8 2007
GROUP RECEIVED

14th JUDICIAL DISTRICT COURT FOR THE PARISH OF CALCASIEU

STATE OF LOUISIANA

NO. 2007-4892 **DIVISION "G"**

ALLSTATE INSURANCE COMPANY

VERSUS

TOYOTA MOTOR SALES, U.S.A., INC.

FILED:_____ _____
DEPUTY CLERK

ANSWER TO PETITION

NOW INTO COURT, through undersigned counsel, comes Toyota Motor Sales, U.S.A., Inc. ("TMS") which, for answer to the Petition for Damages of Allstate Insurance Company, with respect represents:

I.

In response to the allegations of Paragraph 1 of the Petition for Damages, TMS admits its corporate status, but denies all liability to plaintiff herein.

II.

The allegations of Paragraph 2 of the Petition for Damages are denied at this time for lack of sufficient information to justify a belief therein. To the extent that these allegations purport or may be deemed to allege liability on the part of defendant, however, they are hereby expressly denied.

III.

The allegations of Paragraph 3 of the Petition for Damages are denied at this time for lack of sufficient information to justify a belief therein. To the extent that these allegations purport or may be deemed to allege liability on the part of defendant, however, they are hereby expressly denied

IV.

The allegations of Paragraph 4 of the Petition for Damages are denied at this time for lack of sufficient information to justify a belief therein. To the extent that these allegations purport or may be deemed to allege liability on the part of defendant, however, they are hereby expressly denied.

TOY-RQ-05E-00003298

V.

The allegations of Paragraph 5 of the Petition for Damages are denied at this time for lack of sufficient information to justify a belief therein. To the extent that these allegations purport or may be deemed to allege liability on the part of this defendant, however, they are hereby expressly denied.

VI.

The allegations of Paragraph 6 of the Petition for Damages are denied.

VII.

The allegations of Paragraph 7 of the Petition for Damages are denied at this time for lack of sufficient information to justify a belief therein. To the extent that these allegations purport or may be deemed to allege liability on the part of this defendant, however, they are hereby expressly denied.

VIII.

The allegations of Paragraph 8 of the Petition for Damages set forth conclusions of law which require no response by TMS. To the extent that an answer is deemed necessary, however, the allegations of this paragraph are denied.

IX.

The allegations of Paragraph 9 of the Petition for Damages require no response on the part of defendant. To the extent that an answer may be deemed necessary, however, the allegations of this paragraph are denied.

FURTHER ANSWERING Plaintiffs' Petition for Damages, Toyota Motor Sales, U.S.A., Inc. shows:

X.

As an affirmative defense, and to the extent to be established by discovery herein, the damages of which the plaintiff complains were caused by the fault or negligence of persons or entities for whom Toyota Motor Sales, U.S.A., Inc. has no legal responsibility including, but not limited to, the fault of Frances Raley in the following, non-exclusive particulars:

a. failing to follow the manufacturer's instructions and recommendations for the safe use, operation and maintenance of the subject vehicle;

b. failing to properly maintain, service and/or repair the subject vehicle;

c. failing to see what should have been seen and react accordingly;

TOY-RQ-05E-00003299

d. operating the vehicle in a reckless, inattentive and negligent manner; and

e. such other acts of fault and negligence which may be developed during discovery and proven at time of trial;

XI.

As an alternative affirmative defense, and to the extent to be established by discovery herein, and only in the event that TMS is deemed to be at fault for the accident or damages complained of herein, which is at all times specifically denied, TMS pleads the fault of Frances Raley in the particulars described above as a complete bar to recovery herein or, alternatively, serving to diminish petitioner's recovery herein in proportion to that fault.

XII.

While at all times denying any liability to plaintiff, TMS invokes the provisions of La. R.S. 9:2798.4 as a separate and complete affirmative defense to plaintiff's claims, to the extent to be established by discovery herein.

XIII.

Each new vehicle which is distributed by TMS is free from all vices and defects at the time it leaves its care, custody and control, and is reasonably fit for its intended, anticipated and foreseeable use.

XIV.

Each new vehicle which is distributed by TMS meets all Federal Motor Vehicle Safety Standards at the time it leaves its care, custody and control.

XV.

Each new vehicle which is distributed by TMS consists of many thousands of component parts designed, manufactured and distributed by others, for whom TMS has no legal responsibility.

XVI.

In the alternative, if any defects are alleged to exist in the design or manufacture of the subject vehicle, which defects are specifically denied, then TMS would show that at the time the vehicle left its care, custody and control, it did not know and, in light of then existing, reasonably available scientific and technological knowledge, could not have known of the design or manufacturing characteristics that allegedly caused petitioners' alleged damage or the danger of such characteristic, nor could it have known of any alternative design that was capable of preventing plaintiff's damages. Furthermore, TMS would show that any alternative design which may be identified by petitioner was not feasible in light of then existing, reasonably available scientific and technological knowledge, or then existing economic practicality, all as such terms are defined in the Louisiana Products Liability Act (LPLA).

TOY-RQ-05E-00003300

XVII.

In the further alternative, TMS would show that the vehicle at issue was not dangerous to an extent beyond that which would be contemplated by the ordinary user or handler of the product, with the ordinary knowledge common to the community as to the product's characteristics, or the user or handler of the product already knew or reasonably should have been expected to know of the characteristic of the product that may cause damage and the danger of such characteristic.

XVIII.

To the extent to be established by discovery herein, TMS would plead as an affirmative defense that, at the time of the accident in suit, the subject vehicle was no longer in the same condition as when it left TMS's custody and control, by reason of alterations, modifications, accident damage, abuse, or failure to properly maintain it by Frances Raley or others for whom TMS has no legal responsibility.

XIX.

As an affirmative defense, and to the extent to be established by discovery herein, TMS pleads the affirmative defense of failure to mitigate damages.

XX.

The Louisiana Products Liability Act provides the exclusive basis for any recovery by plaintiffs to this suit. To the extent that plaintiff seeks recovery under theories of negligence, warranty or any other legal theory not permitted by the LPLA, such claims are barred.

XXI.

As a further affirmative defense, plaintiffs' claims may be barred by prescription or the applicable statute of limitations.

XXII.

Without admitting that TMS is in any way responsible for any of petitioners' damages, TMS reserves its right to trial by jury of all issues of fact in the event discovery shows that plaintiffs' damages exceed the necessary jurisdictional amount.

WHEREFORE, Toyota Motor Sales, U.S.A., Inc. prays that this Answer be deemed good and sufficient, and after due proceedings are had, there be judgment herein rejecting the demands

TOY-RQ-05E-00003301

of the petitioner, at its cost, and for full, general and equitable relief as the nature of this case may permit.

Respectfully submitted,

MARK N. BODIN (#18803)
JAMES E. SWINNEN (#2137)
MCGLINCHEY STAFFORD, PLLC
643 Magazine Street
New Orleans, Louisiana 70130
Telephone: (504) 586-1200
Facsimile: (504) 596-2861
ATTORNEYS FOR TOYOTA MOTOR SALES, U.S.A., INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing pleading has been served upon:

DAVID C. FORRESTER
MARK G. MURPHEY
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
ATTORNEYS FOR ALLSTATE INSURANCE COMPANY

by placing a copy of same in the U.S. Mail, postage prepaid and properly addressed, this 24th day of September, 2007.

JAMES E. SWINNEN

TOY-RQ-05E-00003302

P

14th JUDICIAL DISTRICT COURT FOR THE PARISH OF CALCASIEU

STATE OF LOUISIANA

NO. 2007-4892 **DIVISION "G"**

ALLSTATE INSURANCE COMPANY

VERSUS

TOYOTA MOTOR SALES, U.S.A., INC.

FILED:_____ _____
DEPUTY CLERK

REQUEST FOR NOTICE

NOW COMES defendant Toyota Motor Sales, U.S.A., Inc., and in accordance with the provisions of Articles 1913 and 1914 of the Louisiana Code of Civil Procedure, respectfully requests that the Clerk give ten (10) days notice of the signing of any Order or Judgment herein.

Defendant also requests written notice of the trial date set for the captioned lawsuit, and the date set for trial of any pleadings or motions herein, at least ten (10) days before any trial date, pursuant to Article 1572 of the Louisiana Code of Civil Procedure.

Respectfully submitted,

MARK N. BODIN (#18803)
JAMES E. SWINNEN (#2137)
MCGLINCHEY STAFFORD, PLLC
643 Magazine Street
New Orleans, Louisiana 70130
Telephone: (504) 586-1200
Facsimile: (504) 596-2861
ATTORNEYS FOR TOYOTA MOTOR
SALES, U.S.A., INC.

TOY-RQ-05E-00003303

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing pleading has been served upon:

DAVID C. FORRESTER
MARK G. MURPHEY
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
ATTORNEYS FOR ALLSTATE INSURANCE COMPANY

by placing a copy of same in the U.S. Mail, postage prepaid and properly addressed, this 24th day of September, 2007.

JAMES E. SWINNEN

TOY-RQ-05E-00003304

14th JUDICIAL DISTRICT COURT FOR THE PARISH OF CALCASIEU

STATE OF LOUISIANA

NO. 2007-4892 DIVISION "G"

ALLSTATE INSURANCE COMPANY

VERSUS

TOYOTA MOTOR SALES, U.S.A., INC.

LEGAL SERVICES
SEP 28 2007
GROUP RECEIVED

FILED: _____ _____
DEPUTY CLERK

REQUEST FOR PRODUCTION OF DOCUMENTS

TO: **PLAINTIFF ALLSTATE INSURANCE COMPANY**
THROUGH ITS ATTORNEYS OF RECORD
DAVID C. FORRESTER
MARK G. MURPHEY
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809

NOW INTO COURT, through undersigned counsel, comes defendant, Toyota Motor Sales, U.S.A., Inc. ("TMS") and on authority of Article 1461 of the Louisiana Code of Civil Procedure, requests plaintiff, Allstate Insurance Company to produce the following documents and things for inspection and copying within the delays allowed by law, in the offices of McGlinchey Stafford, 643 Magazine Street, New Orleans, Louisiana 70130-3477:

DEFINITIONS

As used herein:

A. "**You**" and "**your**" refers to the plaintiff and any other person acting or purporting to act on its behalf, including attorneys, investigators, agents or employees.

B. "**Person**" includes natural persons and associations, corporations, firms, joint ventures, partnerships, proprietorships, and any other legal entity or business or non-business enterprise or organization.

C. "**Document**" means any written material, photographs, copies of original materials, forms, invoices, machine readable information or any other tangible item containing information.

D. "**Vehicle**" means the 2006 Toyota Avalon referred to in Paragraph 2 of the Petition for Damages.

REQUEST NO. 1:

The 2006 Toyota Avalon that is the subject of this lawsuit.

TOY-RQ-05E-00003305

REQUEST NO. 2:

All component parts removed from the subject 2006 Toyota Avalon and which are in the custody or control of plaintiff, its attorney or experts.

REQUEST NO. 3:

Color copies of all photographs, video tapes, motion pictures, computer generated animations, or other graphic representations in your possession or in the possession of your counsel or expert which depict:

(a) The condition of the vehicle or any of its component parts prior to September 3, 2006;

(b) The condition of the vehicle or any of its component parts on or subsequent to September 3, 2006;

(c) The cause or nature of any alleged defect in the vehicle or its component parts;

(d) The scene of the accident; and

(e) Any inspections, testing or disassembly of the vehicle, its component parts, or any exemplar vehicles or component parts.

REQUEST NO. 4:

All written reports, correspondence, photographs, videotapes or analyses which reflect the cause or nature of any alleged defect or unreasonably dangerous condition in the vehicle.

REQUEST NO. 5:

All reports, correspondence, diagrams, notes, analyses, or other documents prepared by any person, including experts, in connection with any inspection or analysis of the vehicle, any of its component parts, or the accident scene.

REQUEST NO. 6:

A copy of the police Accident Report prepared as a result of the accident of September 3, 2006.

TOY-RQ-05E-00003306

REQUEST NO. 7:

Copies of all documents supporting any payments made by you pursuant to any applicable policy of insurance.

REQUEST NO. 8:

Copies of any claims forms or other documents prepared by or on behalf of Frances Raley in connection with the accident of September 3, 2006.

REQUEST NO. 9:

Copies of any claims forms, correspondence, demand letters, or other documents relating to claims by any third parties as a result of the incident in suit, including all attachments thereto.

REQUEST NO. 10:

Copies of all documents relating to, evidencing, or substantiating payments made by Allstate as a result of the incident in suit, and for which you seek recovery in this lawsuit, whether made to Allstate's insured directly or to third parties on her behalf.

REQUEST NO. 11:

All sales records pertaining to purchase of the subject vehicle by Frances Raley.

REQUEST NO. 12:

All service records pertaining to the subject vehicle, both before and subsequent to September 3, 2006.

REQUEST NO. 13

Any settlement or release documents, including but not limited to subrogation agreements, in favor of any person, corporation, insurance company or other entity with respect to the accident, and checks that reflect any claims herein.

REQUEST NO. 14:

Copies of all newspaper articles or television news reports which relate to the accident referred to in your Petition for Damages.

REQUEST NO. 15:

Copies of documents provided to or received by you from all expert witnesses contacted or retained by you, or whom you expect to call at trial, including opinion reports, photographs, calculations, notes, memoranda, field notes, sketches, drawings, schematics, learned treatises, tables, tabulations, studies, test results, or other documents used, produced

TOY-RQ-05E-00003307

or relied upon by such expert in formulating his opinions and rendering a report in this matter.

REQUEST NO. 16:

Copies of all documents, photographs or other items used or referred to in answering the Interrogatories propounded by TMS.

REQUEST NO. 17:

Copies of all appraisals, photographs, estimates, repair orders, or bills pertaining to damage sustained by the vehicle in connection with the incident in suit.

REQUEST NO. 18:

Copies of all repair orders,invoices, photographs, diagrams or other documents relating to the repair or replacement of any component in the vehicle which you allege was defective and caused or contributed to the incident in suit.

REQUEST NO. 19:

Copies of all documents used to determine the value of the vehicle for any purpose related to handling of this claim.

REQUEST NO. 20

Copies of any patents, design drawings, specifications or other documents depicting any alternative design that you contend would have prevented the accident.

REQUEST NO. 21

Copies of any express warranties issued by TMS in connection with the subject vehicle which you contend were breached.

REQUEST NO. 22:

A copy of the insurance policy issued to Frances Raley in effect at the time of the accident.

REQUEST NO. 23

Copies of all documents in your possession reflecting any prior or subsequent accidents or damage claims involving the vehicle, whether or not said claims were due to the fault of your insured, another permitted driver, or a third party.

REQUEST NO. 24:

All documents in your possession which support your responses to TMS's Interrogatories No. 6 through 12.

TOY-RQ-05E-00003308

REQUEST NO. 25:

Any documents not otherwise produced in response to any request above and which you contend supports your allegation that the subject vehicle was defective or unreasonably dangerous when it left TMS's custody and control.

REQUEST NO. 26:

Copies of any statements obtained by you from any witness to the subject accident, including but not limited to the investigating officer.

Respectfully submitted,

MARK N. BODIN (#18803)
JAMES E. SWINNEN (#2137)
MCGLINCHEY STAFFORD, PLLC
643 Magazine Street
New Orleans, Louisiana 70130
Telephone: (504) 586-1200
Facsimile: (504) 596-2861
ATTORNEYS FOR TOYOTA MOTOR SALES, U.S.A., INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing pleading has been served upon:

DAVID C. FORRESTER
MARK G. MURPHEY
FORRESTER & DICK, L.L.C
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
ATTORNEYS FOR ALLSTATE INSURANCE COMPANY

by placing a copy of same in the U.S. Mail, postage prepaid and properly addressed, this 25th day of September, 2007.

JAMES E. SWINNEN

TOY-RQ-05E-00003309

14TH JUDICIAL DISTRICT COURT FOR THE PARISH OF CALCASIEU

STATE OF LOUISIANA

NO. 2007-4892 DIVISION "G"

ALLSTATE INSURANCE COMPANY

VERSUS

TOYOTA MOTOR SALES, U.S.A., INC.

LEGAL SERVICES
SEP 28 2007
GROUP RECEIVED

FILED:_____ _____
DEPUTY CLERK

INTERROGATORIES

TO: **PLAINTIFF ALLSTATE INSURANCE COMPANY**
THROUGH ITS ATTORNEYS OF RECORD
DAVID C. FORRESTER
MARK G. MURPHEY
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809

On authority of Articles 1457 and 1458 of the Louisiana Code of Civil Procedure, comes defendant, Toyota Motor Sales, U.S.A., Inc.("TMS"), who propounds the following Interrogatories to Allstate Insurance Company as subrogee of its insured Frances Raley, to be answered separately, fully, completely, in writing and under oath within the delays allowed by law. In accordance with the Louisiana Code of Civil Procedure, these Interrogatories are deemed to be continuing; defendant requests that plaintiff supplement all responses as the information changes and becomes available.

DEFINITIONS

As used herein:

A. "You" and "your" refers to the plaintiff, Allstate Insurance Company, its parents, affiliates, subsidiaries, and wholly owned companies, Frances Raley, and any other person acting or purporting to act on their behalf, including attorneys, investigators, agents or employees.

B. "Person" includes natural persons and associations, corporations, firms, joint ventures, partnerships, proprietorships, and any other legal entity or business or non-business enterprise or organization.

C. "Document" means any written material, photographs, copies of original materials, forms, invoices, machine readable information or any other tangible item containing information.

D. "Vehicle" means the 2006 Toyota Avalon referred to in Paragraph 2 of the Petition for Damages, owned and being driven by Frances Raley on the date of the accident, September 3, 2006.

TOY-RQ-05E-00003310

INTERROGATORY NO. 1:

Please describe in detail the vehicle, including its vehicle identification number (VIN), the dealership where or individual from whom it was purchased, by whom the vehicle was purchased, vehicle mileage at the time of purchase, and the vehicle mileage on September 3, 2006.

INTERROGATORY NO. 2:

Please identify the present location of the vehicle, including the name, address, and telephone number of the person or entity having custody thereof. If it has been stored in more than one location since the accident, list the name, address and telephone number of each location where the vehicle was stored and the dates in which the vehicle was at each location.

INTERROGATORY NO. 3:

Please identify all parts or components changed or removed from the vehicle since September 3, 2006, including the present location of those parts and components, the name, address and telephone number of the person having custody of each, and state the name, address and telephone number of the persons who removed the parts or components. (This interrogatory includes both original equipment manufacturer parts or components and after-market parts and components.)

INTERROGATORY NO. 4:

Please identify each person, firm or corporation who, to your knowledge, performed maintenance or repair work on the vehicle between the time of its original purchase and September 3, 2006.

INTERROGATORY NO. 5:

If the vehicle has ever been involved in an accident or collision other than the incident on September 3, 2006, whether before or subsequent to that date, please state the date of each accident, the nature of the damage arising therefrom, a description of any and all repairs performed to the vehicle after each such accident and the identity of the person or persons performing the repair work.

INTERROGATORY NO. 6:

Please identify, with specificity, each defect in composition or construction of the vehicle which you allege existed when the vehicle left TMS's custody and control, including the specific nature of each such defect and the facts upon which you base your contention.

INTERROGATORY NO. 7:

Please identify, with specificity, each design defect in the vehicle which you allege existed in the vehicle when it left TMS's custody and control, including the specific nature of each design defect and the facts upon which you base your contention.

TOY-RQ-05E-00003311

INTERROGATORY NO. 8:

Please identify each alternative design for the vehicle or any of its component parts which you contend would have prevented the accident of September 3, 2006.

INTERROGATORY NO. 9:

Please identify each warning or instruction provided with the vehicle which you contend was inadequate.

INTERROGATORY NO. 10:

Please set out the precise language of each warning or instruction which you contend should have been issued with the vehicle which you contend would have prevented the accident out of which this claim arises.

INTERROGATORY NO. 11

Please identify each specific express warranty issued by TMS, the breach of which caused or contributed to the accident out of which this claim arises.

INTERROGATORY NO. 12:

Please set out with specificity the manner in which application of the brakes on the 2006 Toyota Avalon at issue can cause the vehicle to accelerate or move forward in any way.

INTERROGATORY NO. 13:

Please identify each person, fact or expert, who is expected to testify regarding any defect or unreasonably dangerous condition in the vehicle as identified in your responses to Interrogatories 6 through 12 including the occupation of each expert; the expert's area of expertise; the subject matter on which each expert is expected to testify; and a summary of the grounds for each opinion.

INTERROGATORY NO. 14:

Please identify each dealership, service facility, service technician, or other person who, subsequent to the subject incident, inspected or repaired the braking system, throttle assembly, accelerator, fuel system, or any other component of the subject vehicle that you contend is defective or unreasonably dangerous and caused or was involved in the incident described in the Petition for Damages.

INTERROGATORY NO. 15:

Please identify each witness not otherwise identified above who has told you that the accident of September 3, 2006 was caused or contributed to by a defect or unreasonably dangerous condition in the vehicle for which TMS is responsible.

INTERROGATORY NO. 16:

Please identify each person who has or claims to have witnessed or have knowledge of the incident or any of the events leading up to it, or related events occurring thereafter, and of any damages or losses which you attribute to the accident.

TOY-RQ-05E-00003312

INTERROGATORY NO. 17:

Please identify with particularity and by category, all losses or damages which you claim to have sustained as a result of the incident out of which this litigation arises, including the type or category of damages claimed, amounts of damages claimed as to each type or category, and the basis for your calculation of these damages.

INTERROGATORY NO. 18:

Please list all persons who may testify at trial on your behalf, their name, address and telephone number, and the substance of the facts or opinions you intend to establish through their testimony.

INTERROGATORY NO. 19:

Please identify each person to whom any payments have been made by you as a result of the underlying accident, the amount of each said payment, and the basis or reason for each payment.

Respectfully submitted,

MARK N. BODIN (#18803)
JAMES E. SWINNEN (#2137)
MCGLINCHEY STAFFORD, PLLC
643 Magazine Street
New Orleans, Louisiana 70130
Telephone: (504) 586-1200
Facsimile: (504) 596-2861
ATTORNEYS FOR TOYOTA MOTOR SALES, U.S.A., INC.

TOY-RQ-05E-00003313

CERTIFICATE OF SERVICE

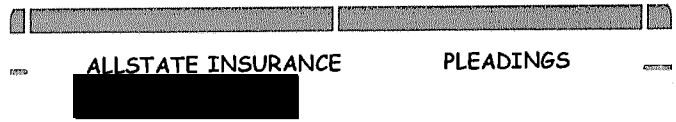
I HEREBY CERTIFY that a copy of the above and foregoing pleading has been served upon:

DAVID C. FORRESTER
MARK G. MURPHEY
FORRESTER & DICK, L.L.C.
4981 Bluebonnet Boulevard
Baton Rouge, Louisiana 70809
ATTORNEYS FOR ALLSTATE INSURANCE COMPANY

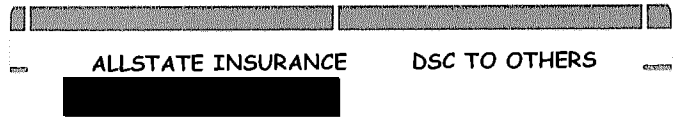
by placing a copy of same in the U.S. Mail, postage prepaid and properly addressed, this 25th day of September, 2007.

JAMES E. SWINNEN

TOY-RQ-05E-00003314



TOY-RQ-05E-00003315



TOY-RQ-05E-00003316

Allstate [redacted]

Vehicle Data

TOY-RQ-05E-00003317

Allstate [redacted]

Police/Investigation

TOY-RQ-05E-00003318

FILE START

Robert M. Silverman, Esquire
Jacqueline C. Herritt, Esquire
KIMMEL & SILVERMAN, P.C.
Executive Quarters
1930 E. Marlton Pike, Suite T11
Cherry Hill, NJ 08003
(856)429-8334

RECEIVED & FILED
JAN 16 2008
Sussex County Law Division

ATTORNEYS FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

LARRY SOSSIN
129 Idalroy Trail
Hopatcong, NJ 07843

v.

TOYOTA MOTOR SALES, U.S.A., INC.
Attention: Legal Department
19001 South Western Avenue

Torrance, CA 90501

SUPERIOR COURT OF NEW JERSEY
SUSSEX COUNTY

CIVIL ACTION

NO. SSX-L-44-08

LEGAL SERVICES
FEB - 4 2008
GROUP RECEIVED

COMPLAINT

1. Plaintiff, Larry Sossin, is an adult individual citizen and legal resident of the State of New Jersey, 129 Idalroy Trail, Hopatcong, NJ 07843.

2. Defendant, Toyota Motor Sales, U.S.A., Inc., is a corporation qualified to do and regularly conduct business in the State of New Jersey, with its address and principal place of business located at Attention: Legal Department, 19001 South Western Avenue, Torrance, CA 90501, and can be served at this address.

BACKGROUND

3. On or about September 24, 2007, Plaintiff purchased a new 2007 Toyota Prius, manufactured and warranted by Defendant, bearing the Vehicle Identification Number JTDKB20U577692047.

4. The vehicle was purchased in the State of New Jersey and is registered in the State of New Jersey.

5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but excluding other collateral charges not specified, yet defined by the

Lemon Law, totaled more than $36,491.78. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.

7. The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiff.

8. The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.

9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.

10. During the first 24 months and/or 18,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: when foot is off gas pedal vehicle accelerates on its own. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "B".

COUNT I
NEW JERSEY MOTOR VEHICLE WARRANTY ACT

11. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

12. Plaintiff is a "Consumer" as defined by N.J.S.A. 56:12-30.

13. Defendant is a "Manufacturer" as defined by N.J.S.A. 56:12-30.

14. James Toyota, is and/or was at the time of sale a "Dealer or Motor Vehicle Dealer" in the business of buying, selling, and/or exchanging vehicles as defined by N.J.S.A. 56:12-30.

15. On or about September 24, 2007, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by N.J.S.A. 56:12-29 et seq., which substantially impair the use, value and/or safety of the vehicle.

16. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act as provided in N.J.S.A. 56:12-34(c). Plaintiff believes and therefore avers said failure is a per se violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as well as a violation of the New Jersey Motor Vehicle Warranty Act.

17. The nonconformities described violate the express written warranties issued to Plaintiff by Defendant.

18. Section 56:12-32 of the New Jersey Motor Vehicle Warranty Act provides:

a. If, during the period specified in section 3 of this act, the manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time, the manufacturer shall accept return of the motor vehicle from the consumer. The manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date or original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle was out of service due to a nonconformity, less a reasonable allowance for vehicle use.

19. Section 56:12-33 of the New Jersey Motor Vehicle Warranty Act provides a presumption of a reasonable number of repair attempts:

a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:

(1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer and the nonconformity continues to exist; or

(2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.

b. The presumption contained in sub-section a. of this section shall apply against a manufacturer only if the manufacturer has received written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

20. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.

21. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) or more calendar days.

22. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.

23. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

24. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton, and negligent failure to comply with the provisions of N.J.S.A. 56:12-29 et seq.

25. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

26. Pursuant to N.J.S.A. 56:12-29 et seq, Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT II
MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

27. Plaintiff may or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.

28. Plaintiff avers that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

29. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

30. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

31. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. § 2301 (4),(5) and (8).

32. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

33. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.

34. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

35. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

36. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

> If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

37. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

38. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

39. Defendant's failu is a breach of Defendant's contrac al and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

40. Plaintiff avers that Defendant's warranty was not provided to Plaintiff until after the vehicle was delivered, making any and all limitations, disclaimers and/or alternative dispute provisions ineffective for a failure of consideration.

41. Plaintiff avers Defendant's Dispute Resolution Program was not in compliance with 16 CFR 703 for the model year of the subject vehicle.

42. Plaintiff avers that Defendant's warranty did not require Plaintiff to first resort to a Dispute Resolution Program before filing suit.

43. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT III
UNIFORM COMMERCIAL CODE

44. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

45. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

a. Express Warranty;

b. Implied Warranty Of merchantability; and

c. Implied Warranty Of Fitness For A Particular Purpose.

46. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

47. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

48. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

49. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the contract price of the vehicle, plus all collateral charges and attorneys' fees.

KIMMEL & SILVERMAN, P.C.

By: _____

ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff
Executive Quarters
1930 E. Marlton Pike, Suite T11
Cherry Hill, NJ 08003
(856) 429-8334

JURY-DEMAND

Plaintiff hereby demands a trial by jury as to all the issues

KIMMEL & SILVERMAN, P.C.

By:_____
ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff

CERTIFICATION PURSUANT TO R.4:15-1

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN, P.C.

By:_____
ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff

RECEIVED & FILED
JAN 16 20[illegible]
Sussex County Law Division

CERTIFICATION OF NOTICE

Pursuant to N.J.S.A. 56:8-20 Plaintiff is mailing a copy of this Complaint to the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the state of New Jersey on January 14, 2008

KIMMEL & SILVERMAN, P.C.

By: _____
ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff

RECEIVED & FILED
JAN 18 2008
Sussex County Law Division

TOYOTA FINANCIAL SERVICES SM

RETAIL INSTALLMENT CONTRACT – SIMPLE INTEREST

LEXUS FINANCIAL SERVICE

Dealer Number: Account Number:

Buyer (and Co-Buyer) – Name(s) and Residence Address(es) (Include County and Zip Code)	Creditor (Seller) – Name and Business Address
LARRY S SOSSIN 129 IDAHOE TRAIL HOPATCONG NJ 07843 SUSSEX	JAMES TOYOTA 172 RT 202 FLEMINGTON NJ 08822

Meaning of Words. In this contract, the words "you," "your" and "yours" refer to the Buyer and Co-Buyer, if any. The word "Creditor" refers to the Creditor (Seller) named above and, after assignment, to Toyota Motor Credit Corporation or, if your vehicle was purchased from a Lexus dealership, to Lexus Financial Services, a division of Toyota Motor Credit Corporation ("TMCC") and any subsequent assignee.

Who is Bound. You may buy the vehicle described below for cash or on credit. The cash price is shown below as "Cash Price." The credit price is shown below as "Total Sale Price." By signing this contract, you choose to buy the vehicle on credit under the terms on the front and back of this contract and you are individually liable to the Creditor for any amount due.

Description of Vehicle. You agree to buy and the Creditor agrees to sell the following vehicle:

New/Used or Demo	Year	Make	Model	Body Style	Vehicle Identification No.	Odometer Mileage	Primary Purpose
N	2007	TOYOTA	[illegible]	4DR SDN	JTDKB20U577692047	88	☐ Business or Commercial ☐ Agricultural

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit, including your down-payment of $ 759.86
9.14 %	$ 9509.09	$ 26222.63	$ 35731.72	$ 36491.58

Your Payment Schedule Will Be:

Number of Payments:	Amount of Each Payment:	When Payments Are Due:
One Deferred Downpayment of	N/A	N/A
83 Regular Payments of	425.38	Monthly, beginning 11/08/2007
One Final Payment of	425.38	DUE ON: 10/08/2014

Late Charge. If a payment is not paid in full within 10 days after it is due, you will pay a late charge of $10.00.

Prepayment. If you pay off all your debt early, you will not have to pay a penalty.

Security. You are giving a security interest in the vehicle being purchased.

Other Terms. Please read this contract, including the reverse side, for additional information about security interests, nonpayment, default, any required repayment in full before the scheduled date, and penalties.

ITEMIZATION OF THE AMOUNT FINANCED

1 Cash Price (including any accessories, services, and $ 1197.49 sales tax)		$ 26504.49 (1)
2 Downpayment		
Gross Trade-in Value [illegible] CROWN VICTORIA	$ 8200.00	
B Payoff of Existing Lien or Lease Balance on Trade-in Vehicle	$ 8440.14	
C Net Trade-in Value (A - B) (indicate if negative number)	$ -240.14	
D Remaining Cash Downpayment (including Deferred Downpayment of $ N/A payable before the due date of the first regularly scheduled payment)	$ 1000.00	
E Rebates and Non-Cash Incentives	$ N/A	
F Lexus Pursuits Reward Points (N/A Points)	$ N/A	
G Subtotal (C + D + E + F)	$ 759.86	
H TOTAL DOWNPAYMENT (if Subtotal is negative, Total Downpayment is $0.00)		$ 759.86 (2)
3 Unpaid Balance of Cash Sale Price (1 minus 2)		$ 25744.63 (3)
4 Amounts Paid to Creditor:		
A Price of Optional Mechanical Breakdown Protection Contract or Vehicle Service Agreement Purchased from the Creditor – Covering Certain Mechanical Repairs	$ N/A	
B Other Charges Paid to the Creditor (Creditor must describe purpose)		
FOR DOCUMENTARY FEE	$ 199.00	
FOR N/A	$ N/A	
Total Amounts Paid to Creditor		$ 199.00 (4)
Amounts Paid to Others on Your Behalf (Seller may retain, or [illegible] d Below –		
A Price of Optional Mechanical Breakdown Protection Purcha[illegible] Covering Certain Mechanical Repairs		

PLAINTIFF'S EXHIBIT A

5 Amounts Paid to Others on Your Behalf (Seller may retain or receive a portion of these amounts)

A Price of Optional Mechanical Breakdown Pro n Purchased from the MBP Company Named Below – Covering Certain Mechanical Repairs $ N/A

B Price of Required Physical Damage Insurance Purchased from the Insurance Company Named Below – Covering Damage to the Vehicle $ N/A

C Price of Optional Credit Insurance Purchased from the Insurance Company or Companies Named Below –
Life $ N/A Disability, Accident and Health $ N/A $ N/A

D Government License and/or Registration Fees $ 264.00

E Government Certificate of Title Fees $ 7.70

F Other Charges (Creditor must identify who will receive payment and describe purpose)

TO N/A	FOR N/A	$	N/A
TO N/A	FOR N/A	$	N/A
TO STATE OF NJ	FOR TIRE FEES	$	7.50
TO N/A	FOR N/A	$	N/A

Total Amounts Paid to Others on Your Behalf $ 279.20

6 Amount Financed – Unpaid Balance (3 plus 4 plus 5) $ 26222.83

Optional Mechanical Breakdown Protection ("MBP"): Mechanical breakdown protection is not required to obtain credit and you may purchase it from anyone you want who is reasonably acceptable to the Creditor. You may purchase MBP under this contract by signing below and agreeing to pay the purchase price which is shown in 4A or 5A of the itemization above.

The term of this protection will be N/A months from the date of delivery or until the odometer of the vehicle shows N/A miles, whichever occurs first. The benefits payable under this contract will not exceed $ N/A. If you purchase this protection, you have reviewed the terms of the contract which describes this protection and you understand that a copy of your completed contract will be sent to you by the MBP company.

MBP Company N/A $ N/A Deductible

APPROVAL: YOU WANT TO OBTAIN THE OPTIONAL MECHANICAL BREAKDOWN PROTECTION DESCRIBED ABOVE.

Buyer Signature Date Co-Buyer Signature Date

Required Physical Damage Insurance: Physical damage insurance is required and you may obtain it from anyone you want who is reasonably acceptable to the Creditor. If you buy it through the Creditor and it is accepted by the insurance company, the policies or certificates issued by the insurance company will describe the terms and conditions. The purchase price of this insurance is shown in 5B of the itemization above.

Insurance Company N/A Term: N/A months ☐ $ N/A Deductible Collision AND ☐ $ N/A Deductible Other than Collision including Fire, Theft and Combined Additional Coverage #

Optional Credit Insurance: Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the purchase price which is shown below and in 5C of the itemization above.

APPROVAL: YOU WANT TO OBTAIN THE OPTIONAL CREDIT INSURANCE DESCRIBED BELOW.

Type	Premium	Term (months)	Signature(s)
Credit Life	☐ Single Coverage (Buyer Only) $ N/A ☐ Joint Coverage $ N/A	N/A	You want the specified credit life coverage. Buyer Signature Date Co-Buyer Signature Date
Credit Disability	Single Coverage (Buyer Only) $ N/A	N/A	You want the specified credit disability coverage. Buyer Signature Date Co-Buyer Signature Date

If you elect optional credit insurance coverage and are accepted by the insurance company, the terms and conditions will be as described in the policies or certificates issued to you by the insurance company. The original amount of the decreasing term credit life insurance will not exceed $ N/A. Credit disability insurance payments will equal the monthly payment amount but will not be more than $ N/A. Insurance Company N/A.

THIS DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE. WITHOUT SUCH INSURANCE, YOU MAY NOT OPERATE THIS VEHICLE ON PUBLIC HIGHWAYS.

ANNUAL PERCENTAGE RATE MAY BE NEGOTIATED WITH THE DEALER. THE DEALER MAY ... PART OF THE FINANCE CHARGE.

It is agreement to protect your legal rights.

You signed this contract and received a completely filled-in copy on SEPTEMBER 24th, **Year** 2007

Buyer Signature Co-Buyer Signature

Accepted JAMES TOYOTA By

Creditor Signature and Title

This contract is assigned to TMCC subject to repurchase under the terms of the "Seller's Assignment" on the reverse side.

Seller By (If Corp. or Partnership)

This contract is assigned to TMCC without recourse or with limited recourse under the terms of the "Seller's Assignment" on the reverse side.

JAMES TOYOTA

It has to be James TOYOTA SCION

172 .02 P.O. Box 2217
Flemington, N.J. 08822
Tel. (908) 788-5700
Fax (908) 237-0644
www.jamestoyotascion.com

CELL: 973-713-3657

CUSTOMER NO 6231	ADVISOR KRISTA	171	092	INVOICE DATE 10/08/07	INVOICE NO 70CS105670
LARRY S SOSSIN 129 IDALROY TRAIL HOPATCONG, NJ 07843-1267	MILEAGE IN 99,00	LICENSE NO.	955	COLOR SUPER WHT/B	STOCK NO 72492
	07/TOYOTA/PRIUS/4DR SDN HYBRID CVT-E			DELIVERY DATE 09/24/07	DELIVERY MILES 88
	VEHICLE ID NO. JTDKB20U577692047			SELLING DEALER NO. 100	PRODUCTION DATE
	P.O. NO.	R.O. NO.		10/08/07	
HOME 973-398-2381	BUSINESS 973-398-2381	COMMENTS			MO: 958

JOB# 1 CHARGES

LABOR

OP: 1 101DE - DIAGNOSE [illegible] ENGINE
CUST STATES CHECK WHEN FOOT OFF GAS WHILE DRIVING OVER RAIL ROAD TRACKS THE CAR SURGES TO ACCELERATE
TECHNICIAN AND CUSTOMER TEST DRIVE VEHICLE, COULD NOT DUPLICATE CONCERN AT THIS TIME.

JOB# 1 TOTALS

JOB# 1 JOURNAL PREFIX, TOOL, JOB# 1 TOTAL 0.00

ESTIMATE

CUSTOMER HEREBY ACKNOWLEDGES RECEIVING ORIGINAL ESTIMATE OF $ 00.00 (NTAX)

TOTALS

[ ] CASH [ ] CHECK # [ ] [ ] AMEX
[ ] MC / VISA [ ] DISC [ ] OTHER

TOTAL LABOR	0.00
TOTAL PARTS	0.00
SHOP SUPPLY	0.00
TOTAL SUBLET	0.00
TOTAL MISC	0.00
TOTAL TAX	0.00
TOTAL INVOICE $	0.00

LABOR IS CHARGED BY THE FLAT RATE HOUR. LIMITED EXPRESS WARRANTY, LABOR & PARTS, 12 MONTHS UNLIMITED MILEAGE FROM DATE OF INSTALLATION ON THE VEHICLE ON THE REMAINDER OF ANY APPLICABLE NEW VEHICLE WARRANTY, WHICHEVER PROVIDES GREATER COVERAGE. SERVICE ADJUSTMENTS ARE WARRANTED FOR A PERIOD OF 90 DAYS OR 4000 MILES, WHICHEVER OCCURS FIRST. JAMES TOYOTA HEREBY LIMITS IMPLIED WARRANTIES TO THE MANUFACTURER'S TERMS STATED ABOVE. THIS INVOICE MUST ACCOMPANY AMEND ALL ADJUSTMENTS OR CLAIMS. CLAIMS MUST BE MADE WITHIN THE MANUFACTURER'S TERMS STATED ABOVE.

YOU MAY RECEIVE A SURVEY FROM TOYOTA. IF FOR ANY REASON YOU DID NOT HAVE AN EXCELLENT SERVICE EXPERIENCE, PLEASE CONTACT OUR CUSTOMER RELATIONS MANAGER, KATRINA BASTA AT 908-788-5700 EXT 409.

WE APPRECIATE YOUR BUSINESS AND THANK YOU FOR CHOOSING JAMES TOYOTA.

THE SELLER, JAMES TOYOTA SCION, HEREBY DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME ON ITS BEHALF ANY LIABILITY IN CONNECTION WITH THE SALE OF THE PARTS.

CUSTOMER SIGNATURE

IMPORTANT

PAGE 1 OF 1 CUSTOMER COPY [END OF INVOICE] 09:39am PLEASE SEE REVERSE SIDE

TOWNE TOYOTA / SCION

what moves you

Dedicated To Customer Satisfaction

1499 Route 46
Ledgewood, NJ 07852
(973) 584-8100
www.townetoyota.com
www.townescion.com

STATEMENT OF DISCLAIMER

THE FACTORY WARRANTY CONSTITUTES ALL OF THE WARRANTIES WITH RESPECT TO THE SALE OF THE ITEM/ITEMS. THE SELLER HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THE ITEM/ITEMS.

I ACKNOWLEDGE RECEIPT OF THE PARTS AND LABOR LISTED BELOW

x

INVOICE TO	DRIVER/MAKE INFORMATION -- INVOICE# 022397
ROSSIN, LARRY 129 IDALROY TRAIL HOPATCONG NJ 07843 HOME# (973) 398-2381 CELL# (973) 713-3657	ROSSIN, LARRY 129 IDALROY TRAIL HOPATCONG NJ 07843 HOME# (973) 398-2381 CELL# (973) 713-3657

FOR OFFICE USE

TAG# 3556 ADV# 602 QUALITY, J INVOICE# PRELIN CUS C W RO#
TAX RATE# TTINN INVOICE# 10/24/2007 12100128
COUNTER IN# 1548 OUT# 1562 DIST# TOY
DATES BEGIN# 10/22/07 DONE# 10/24/07

VEHICLE INFORMATION

VIN# JTDKB20U577692047 LICENSE NUMBER# NJ WHA3R
07 TOYOTA PRIUS 4DR SDN

CONCERN #1	C/S ABOUT 60-65 PULLS BOTH WAYS	OPERATION	TECH HOURS	AMOUNT
CORRECTION	NO PROBLEM FOUND AT THIS TIME	NP	179 .0	.00
FACTORY	TECH 179 - FRUTZMAN, MARTI			
TYPE# C		TOTAL CHARGE FOR CONCERN		.00

CONCERN #2	C/S VEHICLE ACCELERATES ON ITS OWN	OPERATION	TECH HOURS	AMOUNT
CORRECTION	NO PROBLEM FOUND AT THIS TIME	NP	179 .0	.00
FACTORY	TECH 179 - FRUTZMAN, MARTI			
TYPE# C		TOTAL CHARGE FOR CONCERN		.00

GRAND TOTALS

SUMMARY OF CHARGES FOR INVOICE 022397
TOTAL CHARGE .00

PAYMENT DISTRIBUTION FOR INVOICE 022397
CASH DUE .00
TOTAL CHARGE .00

VARIABLE RATE UP TO 99% PER HR
ATTENTION: THE FOLLOWING INVOICES MUST PRINT
WAR - WARRANTY
IF YOU HAVE ANY QUESTIONS - PLEASE SEE JANICE OAKLEY
THANK YOU FOR ALLOWING US TO SERVICE YOUR VEHICLE. IF FOR ANY REASON YOU WERE NOT COMPLETELY SATISFIED, PLEASE FEEL FREE TO CONTACT MR. DAVE DURHAM, SERVICE MANAGER (973) 584-8100 EXT. 322
SCHEDULE YOUR NEXT APPOINTMENT ON-LINE @ WWW.TOWNETOYOTA.COM

PAGE 1 LAST PAGE

PLAINTIFF'S EXHIBIT 5

3982381 120040

INVOICE

PAGE 1

CONDIT'S TOYOTA WORLD OF NEWTON
84 Route 206 and 94
Newton, NJ 07860
973-383-0200
Service Direct: 973-383-0980
Fax: 973-383-7703
email: conditoys@last.net

LARRY SOSSIN
129 IDALROY TRL
HOPATCONG, NJ 07843-1267
HOME:973-398-2381 BUS:

SERVICE ADVISOR: 378 M VISHNUKUMAR

COLOR	YEAR	MAKE/MODEL/TYPE	VIN	LICENSE	MILEAGE IN/OUT	LOT LOC
WHITE	07	TOYOTA PRIUS	JTDKB20U577692047	WFM63A	2862/2862	

PROMISED	PO NO.	PAYMENT	
01JAN07 DD	19:00 28NOV07	CASH	28NOV07

TIME / DATE IN	TIME / DATE FINISHED
07:30 28NOV07	08:38 28NOV07

DLR:29100 ENG:1.5_Liter_DOHC_Hybrid

LINE	OPCODE	TECH	TYPE	HOURS		LIST	NET	TOTAL
A	CUST STS CAR SURGES/ACCELERATE FORWARD ON HITTING EVEN SMALL HOLE ON THE ROAD-MOST OF THE TIMES---NOT ALL THE TIMES							
	E-ROAD TESTED CAR--NO CODES IN SYSTEM--NO PROBLEM NOTICED---EXPLAINED TO CUST							
		361	ISP					(N/C)

PARTS: 0.00 LABOR: 0.00 OTHER: 0.00 TOTAL LINE A: 0.00

****

We appreciate having you as our customer and look forward to serving you in the future

CUSTOMER INVOICE

DESCRIPTION	TOTALS
LABOR AMOUNT	0.00
PARTS AMOUNT	0.00
GAS, OIL, LUBE	0.00
SUBLET AMOUNT	0.00
MISC. CHARGES	0.00
TOTAL CHARGES	0.00
LESS INSURANCE	0.00
SALES TAX	0.00
PLEASE PAY THIS AMOUNT	0.00

CUSTOMER COPY

APPENDIX XII. SUMMONS AND CIVIL CASE INFORMATION STATEMENT (CIS)

APPENDIX XII- A. SUMMONS

Attorney(s): ROBERT M. SILVERMAN, ESQUIRE
Address: Executive Quarters
1930 E. Marlton Pike, Suite Q29
Cherry Hill, NJ 08003
Telephone No.: 856-429-8334
Attorney(s) for Plaintiff(s)

LEGAL SERVICES

FEB - 4 2008

GROUP RECEIVED

Larry Sossin	SUPERIOR COURT OF NEW JERSEY LAW DIVISION SUSSEX COUNTY
Plaintiff(s)	
vs.	DOCKET NO. SSX-L-44-08 CIVIL ACTION
Toyota Motor Sales, U.S.A., Inc.	Summons
Defendant(s)	

From The State of New Jersey To the Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, NJ 08625. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of $135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided. Lawyer Referral Service

Thodore J. Fetter
Acting Clerk of the Superior Court Clerk

Dated:
Name of Defendant to be Served: Toyota Motor Sales, U.S.A., Inc.
Address of the Defendant to be Served:

ATLANTIC COUNTY:
Deputy Clerk of the Superior
Court Civil Division, Direct Filing
1201 Bacharach Blvd., First
Fl. Atlantic City, NJ 08401

LA WYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:
Deputy Clerk of the Superior Court
Case Processing Section, Room
119 Justice Center, 10 Main St.
Hackensack, NJ 07601-0769

LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:
Deputy Clerk of the Superior
Court Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Rd.
Mt. Holly, NJ 08060

LA WYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:
Deputy Clerk of the Superior
Court Civil Processing Office
1st Fl., Hall of Records
101 S. Fifth St.
Camden, NJ 08103

LA WYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:
Deputy Clerk of the Superior
Court 9 N. Main Street
Box DN-209
Cape May Court House, NJ 08210

LAWYER REFERRAL
(609) 463-03 13
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:
Deputy Clerk of the Superior
Court Civil Case Management
Office Broad & Fayette Sts., P.O.
Box 615 Bridgeton, NJ 08302

LA WYER REFERRAL
(856) 692-6207
LEGAL SERVICES
(856) 451-0003

ESSEX COUNTY:
Deputy Clerk of the Superior
Court 50 West Market Street
Room 131
Newark, NJ 07102

LA WYER REFERRAL
(973) 622-6207
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:
Deputy Clerk of the Superior
Court Civil Case Management
Office Attn: Intake
First Fl., Court House
I North Broad Street, P.O. Box
129 Woodbury, NJ 08096

LA WYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:
Deputy Clerk of the Superior
Court Superior Court, Civil
Records Dept. Brennan Court
House"] st Floor 583 Newark Ave.
Jersey City, NJ 07306

LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY: Deputy Clerk of the Superior Court Civil Division 65 Park A venue Flemington, NJ 08822	LA WYER REFERRAL (908) 735-2611 LEGAL SERVICES (908) 782-7979
MERCER COUNTY: Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 S. Broad Street, P.O. Box 8068 Trenton, NJ 08650	LA WYER REFERRAL (609) 585-6200 LEGAL SERVICES (609) 695-6249
MIDDLESEX COUNTY: Deputy Clerk of the Superior Court Administration Building Third Floor 1 Kennedy Sq., P.O. Box 2633 New Brunswick, NJ 08903-2633	LA WYER REFERRAL (732) 828-0053 LEGAL SERVICES (732) 249-7600
MONMOUTH COUNTY: Deputy Clerk of the Superior Court Court House 71 Monument Park P.O. Box 1269 Freehold, NJ 07728-1269	LA WYER REFERRAL (732) 431-5544 LEGAL SERVICES (732) 866-0020
MORRIS COUNTY: Deputy Clerk of the Superior Court Civil Division 30 Schuyler Pl., P.O. Box 910 Morristown, NJ 07960-0910	LA WYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 285-6911
OCEAN COUNTY: Deputy Clerk of the Superior Court Court House, Room 119 118 Washington Street Toms River, NJ 08754	LAWYER REFERRAL (732) 240-3666 LEGAL SERVICES (732) 341-2727
PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division Court House 77 Hamilton St. Paterson, NJ 07505	LA WYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 345-7171
SALEM COUNTY: Deputy Clerk of the Superior Court 92 Market St., P.O. Box 18 Salem, NJ 08079	LA WYER REFERRAL (856) 935-5628 LEGAL SERVICES (856) 451-0003

SOMERSET COUNTY:
Deputy Clerk of the Superior Court Civil Division Office
New Court House, 3rd Fl.
P.O. Box 3000
Somerville, NJ 08876

LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:
Deputy Clerk of the Superior Court
Sussex County Judicial Center 43-47
High Street
Newton, NJ 07860

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:
Deputy Clerk of the Superior Court 1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207-6073

LA WYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:
Deputy Clerk of the Superior Court Civil Division Office
Court House
413 Second Street Belvidere,
NJ 07823-1500

LA WYER REFERRAL
(908) 267-5882
LEGAL SERVICES
(908) 475-2010

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial Law Division – Civil Part pleadings (not motions) under Rule 4:5-1.
Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERKS OFFICE ONLY	
PAYMENT TYPE:	CK CG CA
CHG/ CK NO.	
AMOUNT:	
OVERPAYMENT:	
BATCH NUMBER:	

ATTORNEY/ PRO SE NAME	TELEPHONE NUMBER	COUNTY OF VENUE
Robert M. Silverman, Esq.	(856) 429-8334	Sussex County

FIRM NAME (if applicable)	DOCKET NUMBER (When available)
Kimmel & Silverman, P.C.	SSX L - 44 - 08

OFFICE ADDRESS	DOCUMENT TYPE
Executive Quarters 1930 E. Marlton Pike, Suite Q29 Cherry Hill, NJ 08003	Complaint
	JURY DEMAND ☒ YES ☐ NO

NAME OF PARTY (e.g. John Doe, Plaintiff)	CAPTION
Larry Sossin, Plaintiff	Larry Sossin v. Toyota Motor Sales, U.S.A., Inc.

CASE TYPE NUMBER (See reverse side for listing)	IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2a:53a-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.
512 – Lemon Law	

RELATED CASES PENDING?	IF YES, LIST DOCKET NUMBERS
☐ YES ☒ NO	

DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)?	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN
☐ YES ☒ NO	☐ NONE ☒ UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ YES ☒ NO

IF YES, IS THAT RELATIONSHIP ☐ EMPLOYER – EMPLOYEE ☐ FRIEND / NEIGHBOR ☐ OTHER (explain) _____ ☐ FAMILIAL ☐ BUSINESS _____

B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☒ YES ☐ NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:

LEGAL SERVICES

FEB - 4 2008

GROUP RECEIVED

RECEIVED & FILED

JAN 16 2008

Superior Court Law Division

DO YOU OR YOUR CLIENT HAVE ANY NEEDS UNDER THE AMERICANS WITH DISABILITIES ACT? ☐ YES ☒ NO IF YES, PLEASE IDENTIFY _____

WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO IF YES, FOR WHAT LANGUAGE _____

ATTORNEY SIGNATURE

Revised effective 09/1/2007, CN10517-English

SIDE 2

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track 1 — 150 days' discovery

151	NAME CHANGE
175	FORFEITURE
302	TENANCY
399	REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
502	BOOK ACCOUNT (debt collection matters only)
505	OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
506	PIP COVERAGE
510	UM or UIM CLAIM
511	ACTION ON NEGOTIABLE INSTRUMENT
512	LEMON LAW
801	SUMMARY ACTION
802	OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
999	OTHER (Briefly describe nature of action)

Track 2 — 300 days' discovery

305	CONSTRUCTION
509	EMPLOYMENT (other than CEPA or LAD)
599	CONTRACT/COMMERCIAL TRANSACTION
603	AUTO NEGLIGENCE – PERSONAL INJURY
605	PERSONAL INJURY
610	AUTO NEGLIGENCE – PROPERTY DAMAGE
699	TORT – OTHER

Track 3 — 450 days' discovery

005	CIVIL RIGHTS
301	CONDEMNATION
602	ASSAULT AND BATTERY
604	MEDIACAL MALPRACTICE
606	PRODUCT LIABILITY
607	PROFESSIONAL MALPRACTICE
608	TOXIC TORT
609	DEFAMATION
616	WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
617	INVERSE CONDEMNATION
618	LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV – Active Case Management by Individual Judge / 450 days' discovery

156	ENVIRONMENTAL / ENVIRONMENTAL COVERAGE LITIGATION
302	MT. LAUREL
508	COMPLEX COMMERCIAL
513	COMPLEX CONSTRUCTION
514	INSURANCE FRAUD
701	ACTIONS IN LIEU OF PEROGATIVE WRITS

Mass Tort (Track IV)

241	TOBACCO	274	RIPPERDAL/SEROQUEL/ZYPREXA
248	CIBA GEIGY	275	ORTHO EVRA
264	PPA	276	DEPO-PROVERA
266	HORMONE REPLACEMENT THERAPY (HRT)	601	ASBESTOS
271	ACCUTANE	619	VIOXX
272	BEXTRA / CELEBREX		

If you believe this case requires another track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category

☐ Verbal Threshold ☐ Putative Class Action ☐ Title 59

Robert M. Silverman, Esquire
Jacqueline C. Herritt, Esquire
KIMMEL & SILVERMAN, P.C.
Executive Quarters
1930 E. Marlton Pike, Suite T11
Cherry Hill, NJ 08003
(856)429-8334

RECEIVED & FILED
JAN 16 2008
Sussex County Law Division

ATTORNEYS FOR PLAINTIFF

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF DAMAGES HEARING IS REQUESTED.

LARRY SOSSIN
129 Idalroy Trail
Hopatcong, NJ 07843

v.

TOYOTA MOTOR SALES, U.S.A., INC.
Attention: Legal Department
19001 South Western Avenue

Torrance, CA 90501

SUPERIOR COURT OF NEW JERSEY
SUSSEX COUNTY

CIVIL ACTION

NO. SSX-L-44-08

LEGAL SERVICES
FEB - 4 2008
GROUP RECEIVED

COMPLAINT

1. Plaintiff, Larry Sossin, is an adult individual citizen and legal resident of the State of New Jersey, 129 Idalroy Trail, Hopatcong, NJ 07843.

2. Defendant, Toyota Motor Sales, U.S.A., Inc., is a corporation qualified to do and regularly conduct business in the State of New Jersey, with its address and principal place of business located at Attention: Legal Department, 19001 South Western Avenue, Torrance, CA 90501, and can be served at this address.

BACKGROUND

3. On or about September 24, 2007, Plaintiff purchased a new 2007 Toyota Prius, manufactured and warranted by Defendant, bearing the Vehicle Identification Number JTDKB20U577692047.

4. The vehicle was purchased in the State of New Jersey and is registered in the State of New Jersey.

5. The contract price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges, but excluding other collateral charges not specified, yet defined by the

Lemon Law, totaled more than $36,491.78. A true and correct copy of the contract is attached hereto, made a part hereof, and marked Exhibit "A".

6. In consideration for the purchase of said vehicle, Defendant issued to Plaintiff several warranties, guarantees, affirmations or undertakings with respect to the material or workmanship of the vehicle and/or remedial action in the event the vehicle fails to meet the promised specifications.

7. The above-referenced warranties, guarantees, affirmations or undertakings are/were part of the basis of the bargain between Defendant and Plaintiff.

8. The parties' bargain includes an express 3-year / 36,000 mile warranty, as well as other guarantees, affirmations and undertakings as stated in Defendant's warranty materials and owner's manual.

9. However, as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle is rendered substantially impaired, unable to be utilized for its intended purposes, and is worthless to Plaintiff.

10. During the first 24 months and/or 18,000 miles, Plaintiff complained on at least three (3) occasions about defects and or non-conformities to the following vehicle components: when foot is off gas pedal vehicle accelerates on its own. True and correct copies of all invoices in Plaintiff possession are attached hereto, made a part hereof, and marked Exhibit "B".

COUNT I
NEW JERSEY MOTOR VEHICLE WARRANTY ACT

11. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

12. Plaintiff is a "Consumer" as defined by N.J.S.A. 56:12-30.

13. Defendant is a "Manufacturer" as defined by N.J.S.A. 56:12-30.

14. James Toyota, is and/or was at the time of sale a "Dealer or Motor Vehicle Dealer" in the business of buying, selling, and/or exchanging vehicles as defined by N.J.S.A. 56:12-30.

15. On or about September 24, 2007, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by N.J.S.A. 56:12-29 et seq., which substantially impair the use, value and/or safety of the vehicle.

16. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act as provided in N.J.S.A. 56:12-34(c). Plaintiff believes and therefore avers said failure is a per se violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as well as a violation of the New Jersey Motor Vehicle Warranty Act.

17. The nonconformities described violate the express written warranties issued to Plaintiff by Defendant.

18. Section 56:12-32 of the New Jersey Motor Vehicle Warranty Act provides:

a. If, during the period specified in section 3 of this act, the manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time, the manufacturer shall accept return of the motor vehicle from the consumer. The manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date or original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle was out of service due to a nonconformity, less a reasonable allowance for vehicle use.

19. Section 56:12-33 of the New Jersey Motor Vehicle Warranty Act provides a presumption of a reasonable number of repair attempts:

a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:

(1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer and the nonconformity continues to exist; or

(2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.

b. The presumption contained in sub-section a. of this section shall apply against a manufacturer only if the manufacturer has received written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

20. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.

21. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) or more calendar days.

22. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.

23. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

24. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton, and negligent failure to comply with the provisions of N.J.S.A. 56:12-29 et seq.

25. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

26. Pursuant to N.J.S.A. 56:12-29 et seq, Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

COUNT II
MAGNUSON-MOSS (FTC) WARRANTY IMPROVEMENT ACT

27. Plaintiff may or may have resorted to Defendant's informal dispute settlement procedure, to the extent said procedure complies with 16 CFR 703.

28. Plaintiff avers that the Federal Trade Commission (FTC) has determined that no automobile manufacturer complies with 16 CFR 703. See, Fed. Reg. 15636, Vol. 62, No. 63 (Apr. 2, 1997).

29. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

30. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

31. Defendant is a "supplier", "warrantor", and a "service contractor" as defined by 15 U.S.C. § 2301 (4),(5) and (8).

32. The subject vehicle is a "consumer product" as defined by 15 U.S.C. § 2301(1).

33. By the terms of its written warranties, affirmations, promises, or service contracts, Defendant agreed to perform effective repairs at no charge for parts and/or labor.

34. The Magnuson-Moss Warranty Improvement Act requires Defendant to be bound by all warranties implied by state law. Said warranties are imposed on all transactions in the state in which the vehicle was delivered.

35. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

36. The Magnuson-Moss Warranty Improvement Act, 15 U.S.C. §2310(d)(2) provides:

> If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

37. Plaintiff has afforded Defendant a reasonable number of opportunities to conform the vehicle to the aforementioned express warranties, implied warranties and contracts.

38. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

39. Defendant's failure is a breach of Defendant's contractual and statutory obligations constituting a violation of the Magnuson-Moss Warranty Improvement Act, including but not limited to: breach of express warranties; breach of implied warranty of merchantability; breach of implied warranty of fitness for a particular purpose; breach of contract; and constitutes an Unfair Trade Practice.

40. Plaintiff avers that Defendant's warranty was not provided to Plaintiff until after the vehicle was delivered, making any and all limitations, disclaimers and/or alternative dispute provisions ineffective for a failure of consideration.

41. Plaintiff avers Defendant's Dispute Resolution Program was not in compliance with 16 CFR 703 for the model year of the subject vehicle.

42. Plaintiff avers that Defendant's warranty did not require Plaintiff to first resort to a Dispute Resolution Program before filing suit.

43. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, incidental and consequential damages, reasonable attorneys' fees, and all court costs.

COUNT III
UNIFORM COMMERCIAL CODE

44. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

45. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

a. Express Warranty;

b. Implied Warranty Of merchantability; and

c. Implied Warranty Of Fitness For A Particular Purpose.

46. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

47. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

48. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

49. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the contract price of the vehicle, plus all collateral charges and attorneys' fees.

KIMMEL & SILVERMAN, P.C.

By: _____

ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff
Executive Quarters
1930 E. Marlton Pike, Suite T11
Cherry Hill, NJ 08003
(856) 429-8334

JURY-DEMAND

Plaintiff hereby demands a trial by jury as to all the issues

KIMMEL & SILVERMAN, P.C.

By:_____
ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff

CERTIFICATION PURSUANT TO R.4:15-1

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN, P.C.

By:_____
ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff

JAN 16 20 8

CERTIFICATION OF NOTICE

Pursuant to N.J.S.A. 56:8-20 Plaintiff is mailing a copy of this Complaint to the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the state of New Jersey on January 14, 2008

KIMMEL & SILVERMAN, P.C.

By: _____
ROBERT M. SILVERMAN, ESQUIRE
Attorney for Plaintiff

RECEIVED
JAN 16 2008
Civil Case Processing

TOYOTA FINANCIAL SERVICES SM

RETAIL INSTALLMENT CONTRACT – SIMPLE INTEREST

LEXUS FINANCIAL SERVICES

Dealer Number: Account Number:

Buyer (and Co-Buyer) – Name(s) and Residence Address(es) (Include County and Zip Code)	Creditor (Seller) – Name and Business Address
LARRY S SOSSIN 129 IDAL ROY TRAIL HOPATCONG NJ 07843 SUSSEX	JAMES TOYOTA 172 RT 202 FLEMINGTON NJ 08822

Meaning of Words. In this contract, the words "you," "your" and "yours" refer to the Buyer and Co-Buyer, if any. The word "Creditor" refers to the Creditor (Seller) named above and, after assignment, to Toyota Motor Credit Corporation or, if your vehicle was purchased from a Lexus dealership, to Lexus Financial Services, a division of Toyota Motor Credit Corporation ("TMCC") and any subsequent assignee.

Who is Bound. You may buy the vehicle described below for use or for credit. The cash price is shown below as "Cash Price." The credit price is shown below as "Total Sale Price." By signing this contract, you choose to buy the vehicle on credit under the terms on the front and back of this contract and you are individually liable to the Creditor for the total amount due.

Description of Vehicle. You agree to buy and the Creditor agrees to sell the following vehicle:

New/Used/Demo	Year	Make	Model	Body Style	Vehicle Identification No.	Odometer Mileage	Primary Purpose
N	2007	TOYOTA	CROWN VICTORIA	4DR SDN	JTDKB20U577692047	88	☐ Business or Commercial ☐ Agricultural

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit, including your down payment of $ 759.86
9.14 %	$ 3509.09	$ 25222.83	$ 25731.92	$ 26504.49

Your Payment Schedule Will Be:

Number of Payments:	Amount of Each Payment:	When Payments Are Due:
One Deferred Downpayment of	N/A	N/A
59 Regular Payments of	425.38	Monthly, beginning 11/08/2007
One Final Payment of	425.38	DUE ON: 10/08/2014

Late Charge. If a payment is not paid in full within 10 days after it is due, you will pay a late charge of $10.00.

Prepayment. If you pay off early, you will not have to pay a penalty.

Security. You are giving a security interest in the vehicle being purchased.

Other Terms. Please read this contract, including the reverse side, for additional information about security interest, prepayment, default, any required repayment in full before the scheduled date, and penalties.

ITEMIZATION OF THE AMOUNT FINANCED

1 Cash Price (including any accessories, services, and $ 1197.49 sales tax)		$ 26504.49 (1)
2 Downpayment		
Gross Trade-in Value	$ 8200.00	
B Payoff of Existing Lien or Lease Balance on Trade-in Vehicle	$ 8440.14	
C Net Trade-in Value (A - B) (indicate if negative number)		
D Remaining Cash Downpayment (including Deferred Downpayment, if any, payable before the due date of the first regularly scheduled payment)	N/A	
E Rebates and Non-Cash Incentives	$ (000.00)	
F Lexus Pursuits Reward Points (N/A Points)	$ N/A	
G Subtotal (C + D + E + F)	$ N/A	
H TOTAL DOWNPAYMENT (if Subtotal is negative, Total Downpayment is $0.00)	$ 759.86	
3 Unpaid Balance of Cash Sale Price (1 minus 2)		$ 759.86 (2)
4 Amounts Paid to Creditor:		$ 25744.63 (3)
A Price of Optional Mechanical Breakdown Protection Contract or Vehicle Service Agreement Purchased from the Creditor Covering Certain Mechanical Repairs	$ N/A	
B Other Charges Paid to the Creditor (Creditor must describe purpose)		
FOR DOCUMENTARY FEE	$ 199.00	
FOR N/A	$ N/A	
Total Amounts Paid to Creditor		$ 199.00 (4)
5 Amounts Paid to Others on Your Behalf (Seller may retain, or ...		
A Price of Optional Mechanical Breakdown Protection Purcha... Covering Certain Mechanical Repairs	...d Below	

PLAINTIFF'S EXHIBIT A

5. Amounts Paid to Others on Your Behalf (Seller may retain or receive a portion of these amounts)

A. Price of Optional Mechanical Breakdown Protection Purchased from the MBP Company Named Below – Covering Certain Mechanical Repairs $ N/A

B. Price of Required Physical Damage Insurance Purchased from the Insurance Company Named Below – Covering Damage to the Vehicle $ N/A

C. Price of Optional Credit Insurance Purchased from the Insurance Company or Companies Named Below – Life $ N/A Disability, Accident and Health $ N/A $ N/A

D. Government License and/or Registration Fees $ 264.00

E. Government Certificate of Title Fees $ 7.70

F. Other Charges (Creditor must identify who will receive payment and describe purpose)

TO N/A	FOR N/A	$ N/A
TO N/A	FOR N/A	$ N/A
TO STATE OF NJ	FOR TIRE FEES	$ 7.50
TO N/A	FOR N/A	$ N/A

Total Amounts Paid to Others on Your Behalf $ 279.20 (E

6. Amount Financed – Unpaid Balance (3 plus 4 plus 5) $ 26222.83 (6

Optional Mechanical Breakdown Protection ("MBP"): Mechanical breakdown protection is not required to obtain credit and you may purchase it from anyone you want who is reasonably acceptable to the Creditor. You may purchase MBP under this contract by signing below and agreeing to pay the purchase price which is shown in 4A or 5A of the itemization above.

The term of this protection will be N/A months from the date of delivery or until the odometer of the vehicle shows N/A miles, whichever occurs first. The benefits payable under this contract will not exceed $ N/A. If you purchase this protection, you have reviewed the terms of the contract which describes this protection and you understand that a copy of your completed contract will be sent to you by the MBP company.

MBP Company N/A $ N/A Deductible

APPROVAL: YOU WANT TO OBTAIN THE OPTIONAL MECHANICAL BREAKDOWN PROTECTION DESCRIBED ABOVE.

Buyer Signature Date Co-Buyer Signature Date

Required Physical Damage Insurance: You must insure the vehicle against loss or damage from any cause until the debt is paid. You may purchase this insurance from anyone you want who is reasonably acceptable to the Creditor. If you buy through the Creditor, the Creditor may be paid by the insurance company. The policy or certificate issued by the insurance company will describe the terms and conditions. The purchase price of this insurance is shown in 5B of the itemization above.

Insurance Company N/A Term: N/A months ☐ $ N/A Deductible Collision AND ☐ $ N/A Deductible Other than Collision including Fire, Theft and Combined Additional Coverage

Optional Credit Insurance: Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the purchase price which is shown below and in 5C of the itemization above.

APPROVAL: YOU WANT TO OBTAIN THE OPTIONAL CREDIT INSURANCE DESCRIBED BELOW.

Type	Premium	Term (months)	Signature(s)
Credit Life	☐ Single Coverage (Buyer Only) $ N/A ☐ Joint Coverage $ N/A	N/A	You want the specified credit life coverage. Buyer Signature Date Co-Buyer Signature Date
Credit Disability	Single Coverage (Buyer Only) $ N/A	N/A	You want the specified credit disability coverage. Buyer Signature Date Co-Buyer Signature Date

If you elect optional credit insurance coverage and are accepted by the insurance company, the terms and conditions will be as described in the policies or certificates issued to you by the insurance company. The original amount of the decreasing term credit life insurance will not exceed $ N/A. Credit disability insurance payments will equal the monthly payment amount but will not be more than $ N/A. Insurance Company N/A

THIS DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE. WITHOUT SUCH INSURANCE, YOU MAY NOT OPERATE THIS VEHICLE ON PUBLIC HIGHWAYS.

INSURANCE RATE MAY BE NEGOTIATED WITH THE DEALER. THE DEALER MAY ... PART OF THE FINANCE CHARGE.

it to protect your legal rights.

You signed this contract and received a completely filled-in copy on SEPTEMBER 24th, **Year** 2007

Buyer Signature Co-Buyer Signature

Accepted JAMES TOYOTA By

Creditor Signature and Title

This contract is assigned to TMCC subject to repurchase under the terms of the "Seller's Assignment" on the reverse side.

Seller By (If Corp. or Partnership)

This contract is assigned to TMCC without recourse or with limited recourse under the terms of the "Seller's Assignment" on the reverse side.

JAMES TOYOTA

James TOYOTA SCION
It has to be
172 Route 202 P.O. Box 2217
Flemington, N.J. 08822
Tel. (908) 788-5700
Fax (908) 237-0644
www.jamestoyotascion.com

CELL: 973-713-3657

6231	CRESTA	171	092	10/08/07	TOCS105670
LARRY S SOSSIN 129 IDALROY TRAIL HOPATCONG, NJ 07843-1267	98106	955	SUPER WHT/B	72492	
	07/TOYOTA/PRIUS/4DR SDN HYBRID CVT-E		09/24/07	88	
	JTDKB20U577692047		100		
			10/08/07		
9734598-2381	9734598-2381			MO: 958	

JOB# 1 CHARGES

LABOR

CUST STATES CHECK WHEL FOOT OFF GAS WHILE DRIVING OVER ALL ROAD TRACKS THE CAR WANTS TO ACCELERATE. I'LL TEST W/ TECHNICIAN AND CUSTOMER TEST DRIVE VEHICLE. COULD NOT DUPLICATE CONCERN AT THIS TIME.

JOB# 1 TOTALS

JOB# 1 LABOR RETAIL, TOTAL JOB# 1 TOTAL 0.00

ESTIMATE

CUSTOMER HEREBY ACKNOWLEDGES RECEIPT OF ORIGINAL ESTIMATE OF $0.00 (RTN)

TOTALS

LABOR IS CHARGED BY THE FLAT RATE HOUR. LIMITED EXPRESS WARRANTY. LABOR & PARTS, 12 MONTHS UNLIMITED MILEAGE FROM DATE OF INSTALLATION ON THE VEHICLE ON THE REMAINDER OF ANY APPLICABLE NEW VEHICLE WARRANTY, WHICHEVER PROVIDES GREATER COVERAGE. SERVICE ADJUSTMENTS ARE WARRANTED FOR A PERIOD OF 90 DAYS OR 4000 MILES, WHICHEVER OCCURS FIRST. JAMES TOYOTA MAKES NO IMPLIED WARRANTIES TO THE MANUFACTURER'S TERMS STATED ABOVE. THIS INVOICE MUST ACCURATELY APPEND ALL ADJUSTMENTS YOU CLAIMED BUYER MUST BE MADE WITHIN THE MANUFACTURER'S TERMS STATED ABOVE.

[ ] CASH [ ] CHECK # [ ] AMEX
[ ] MC / VISA [ ] DISC [ ] OTHER

TOTAL LABOR 0.00
TOTAL PARTS 0.00
MISCELLANEOUS 0.00
SUBLET 0.00
TOTAL SALES TAX 0.00
TOTAL CUSTOMER PAY 0.00
TOTAL WARRANTY 0.00
TOTAL INTERNAL 0.00
TOTAL JOB 0.00

YOU MAY RECEIVE A SURVEY FROM TOYOTA. IF FOR ANY REASON YOU DID NOT HAVE AN EXCELLENT SERVICE EXPERIENCE, PLEASE CONTACT OUR CUSTOMER RELATIONS MANAGER, NATASHA BAETA AT 908-788-9700 EXT 402.

WE APPRECIATE YOUR BUSINESS AND THANK YOU FOR CHOOSING JAMES TOYOTA.

THE MICHEL JAMES TOYOTA SCION DEALERSHIP DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THE PARTS.

CUSTOMER SIGNATURE

IMPORTANT

PAGE 1 OF 1 CUSTOMER COPY END OF INVOICE PLEASE SEE REVERSE SIDE

TOWNE TOYOTA / SCION
What Moves You

Dedicated To Customer Satisfaction

1499 Route 46
Ledgewood, NJ 07852
(973) 584-8100
www.townetoyota.com
www.townescion.com

STATEMENT OF DISCLAIMER

THE FACTORY WARRANTY CONSTITUTES ALL OF THE WARRANTIES WITH RESPECT TO THE SALE OF THE ITEM(S)/ITEMS. THE SELLER HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY LIABILITY IN CONNECTION WITH THE SALE OF THE ITEM(S)/ITEMS.

I ACKNOWLEDGE RECEIPT OF THE PARTS AND LABOR LISTED BELOW

---------- INVOICE TO ----------
KOSSIN, LARRY
129 IDALROY TRAIL
HOPATCONG NJ 07843
HOME: (973) 398-2381 CELL: (973) 713-3657

---------- DRIVER/SWRA INFORMATION -- INVOICE# 122392 ----------
KOSSIN, LARRY
129 IDALROY TRAIL
HOPATCONG NJ 07843
HOME: (973) 398-2381 CELL: (973) 713-3657

---------- FOR OFFICE USE ----------
PRI 3656 ADVI 602 GRETTI, J INVOICE# PRINTED ON: C M N BY:
TAX EXEMPT PRINT INVOICE ON 10/24/2007 12:00:29 PM
COUNSELOR INI 1548 OUTS 1542
DATES BOUGHT 10/22/07 DONE 10/24/07

---------- VEHICLE INFORMATION ----------
VIN JTDKB20U577692047 LICENSE NUMBER: NJ NP63JN
07 TOYOTA PRIUS 4DR SDN

CONCERN 01 C/S ABOUT 60-65 MILES BOTH WAYS
CORRECTION NO PROBLEM FOUND AT THIS TIME
FACTORY TECH 179 - PRATZMAN, MARTI
TIME C

OPERATION	TECH	HOURS	AMOUNT
MP	179	.0	.00

TOTAL CHARGE FOR CONCERN .00

EXTENSION 02 C/S VEHICLE ACCELERATES ON ITS OWN
CORRECTION NO PROBLEM FOUND AT THIS TIME
FACTORY TECH 179 - PRATZMAN, MARTI
TIME C

OPERATION	TECH	HOURS	AMOUNT
MP	179	.0	.00

TOTAL CHARGE FOR EXTENSION .00

---------- GRAND TOTALS ----------
SUMMARY OF CHARGES FOR INVOICE# 122392
TOTAL CHARGE .00

PAYMENT DISTRIBUTION FOR INVOICE# 122392
CASH DUE .00
TOTAL CHARGE .00

WARRANTY RATE UP TO 999 PER HR
ABBREVIATIONS THE FOLLOWING ABBREVIATIONS ARE USED
WAR - WARRANTY
IF YOU HAVE ANY QUESTIONS - PLEASE SEE JAMIE GRETTI
THANK YOU FOR ALLOWING US TO SERVICE YOUR VEHICLE. IF FOR ANY REASON YOU HAVE NOT COMPLETELY SATISFIED, PLEASE FEEL FREE TO CONTACT MY DAVE BURNAL, SERVICE MANAGER (973) 584-8100 EXT. 322
SCHEDULE YOUR NEXT APPOINTMENT ON-LINE @ WWW.TOWNETOYOTA.COM

PART 1 LAST PAGE

PLAINTIFF'S EXHIBIT 5

3982381 120040

INVOICE

PAGE 1

CONDIT'S TOYOTA WORLD OF NEWTON
84 Route 206 and 94
Newton, NJ 07860
973-383-0200
Service Direct: 973-383-0980
Fax: 973-383-7703
email: conditoys@last.net

LARRY SOSSIN
129 IDALROY TRL
HOPATCONG, NJ 07843-1267
HOME:973-398-2381 BUS:

SERVICE ADVISOR: 378 M VISHNUKUMAR

COLOR	YEAR	MAKE/MODEL/TYPE	VIN	LICENSE	MILEAGE IN/OUT	LOT LOC
WHITE	07	TOYOTA PRIUS	JTDKB20U577692047	WFM63A	2862/2862	

PROMISED	PO NO.	PAYMENT	
01JAN07 DD	19:00 28NOV07	CASH	28NOV07

TIME/DATE IN	TIME/DATE FINISHED
07:30 28NOV07	08:38 28NOV07

DLR:29100 ENG:1.5_Liter_DOHC_Hybrid

LINE	OPCODE	TECH	TYPE	HOURS	LIST	NET	TOTAL
A	CUST STS CAR SURGES/ACCELERATE FORWARD ON HITTING EVEN SMALL HOLE ON THE ROAD-MOST OF THE TIMES---NOT ALL THE TIMES						
	I ROAD TESTED CAR--NO CODES IN SYSTEM--NO PROBLEM NOTICED---EXPLAINED TO CUST						
	361 ISP						(N/C)

PARTS: 0.00 LABOR: 0.00 OTHER: 0.00 TOTAL LINE A: 0.00

****

We appreciate having you as our customer and look forward to serving you in the future

CUSTOMER INVOICE

DESCRIPTION	TOTALS
LABOR AMOUNT	0.00
PARTS AMOUNT	0.00
GAS, OIL, LUBE	0.00
SUBLET AMOUNT	0.00
MISC. CHARGES	0.00
TOTAL CHARGES	0.00
LESS INSURANCE	0.00
SALES TAX	0.00
PLEASE PAY THIS AMOUNT	0.00

CUSTOMER COPY

SOSSIN, LARRY

PLEADING

TOY-RQ-05E-00003352

FILE START

FILED JAN 11 2008
S/BARBARA YERBY
DY. CLERK OF COURT

ALEX MAI	*	21ST JUDICIAL DISTRICT COURT
VS. NO.: 2007-0003929	*	PARISH OF TANGIPAHOA
SARAH M. KENT AND LOUISIANA FARM BUREAU MUTUAL INSURANCE COMPANY	*	STATE OF LOUISIANA

ANSWER AND THIRD PARTY DEMAND

NOW INTO COURT, through undersigned counsel, come the defendants, Sarah M. Kent and Louisiana Farm Bureau Mutual Insurance Company, who for answer to the petition of plaintiff respectfully represents the following:

1.

The allegations of Paragraph 1 are denied. Further answering, defendants admit their procedural capacity.

2.

The allegations of Paragraph 2 are denied as written.

LEGAL SERVICES
JAN 17 2008
GROUP RECEIVED

3.

The allegations of Paragraph 3 are denied as written.

4.

The allegations of Paragraph 4 are denied. Defendants call for strict proof of said allegations.

5.

The allegations of Paragraph 5, including its sub-parts, are denied. Defendants call for strict proof of said allegations.

6.

The allegations of Paragraph 6 are denied, except to admit that if Louisiana Farm Bureau Mutual Insurance Company issued a policy of automobile liability insurance to Sarah M. Kent, then said policy is the best evidence of its terms, coverages, and contents. Defendants affirmatively allege and plead the terms, coverages, and contents of any policy of insurance issued herein by it as if copied herein in extenso.

2008 JAN 11 AM 10:25

7.

The allegations of Paragraph 7 are denied. Defendants call for strict proof of said allegations.

8.

The allegations of Paragraph 8 are denied. Defendants call for strict proof of said allegations.

9.

The allegations of Paragraph 9 are denied as written.

10.

The allegations, statements, and conclusions contained in the prayer of plaintiff's petition are denied.

11.

To the extent that plaintiff claims that damages exceed the jurisdictional amount for a trial by jury, then defendants request a trial by jury.

AND NOW FURTHER ANSWERING the allegations of plaintiff's petition, defendants respectfully represent the following:

12.

In the event it is determined that there is comparative fault, third-party fault, or a failure to reasonably mitigate damages, then defendants affirmatively allege and plead these defenses.

13.

Defendants affirmatively allege and plead the terms, coverages, and contents of any policy of insurance issued hereby by it, as if copied herein in extenso.

AND NOW ASSUMING THE POSITION OF THIRD-PARTY PLAINTIFF, defendants respectfully represent the following:

1.

Named as third party defendant herein is Toyota of America and/or Toyota Motor Sales USA, believed to be foreign corporations during business in the State of Louisiana.

2.

Third party plaintiff is named as defendants in the petition filed in this proceeding by plaintiff. The provisions of said petition are incorporated herein by reference, pursuant to Louisiana Code of Civil Procedure Article 853.

3.

Third Party Plaintiff has answered the allegations of plaintiff's petition in the first portion of this pleading, which answer is incorporated herein by referenced, pursuant to Louisiana Code of Civil Procedure Article 853. Third Party Plaintiff re-alleges and re-iterates all of the allegations and defenses set forth in said answer.

4.

The legal cause of the accident at issue was the negligence and fault of third-party defendants, in designing and/or selling a defective vehicle. Third-Party Plaintiff furthers alleges that the defective vehicle caused the accident which is the subject of this litigation.

5.

Third-Party Defendants designed and/or sold a defective vehicle. Third-Party Plaintiff was operating a 2005 Toyota Camry. This vehicle's accelerator became "stuck" and the throttle remained open. This defective condition caused Sarah Kent to lose control of the vehicle thereby causing the damages at issue. The fault of third-party defendants is the sole cause of this accident.

6.

Further, in the event that Judgment is rendered against third-party plaintiffs on the principal demand of the plaintiff, then third-party defendants are liable to third-party plaintiffs for all damages herein.

7.

In addition, Louisiana Farm Bureau Mutual Insurance Company has paid property damages and its insured has incurred damages in the amount of her deductible as a result of this accident. Both Farm Bureau and its insured are entitled to recover reasonable damages due to the acts and/or omissions of third-party defendants.

WHEREFORE, the defendants and third-party plaintiffs, Sarah M. Kent and Louisiana Farm Bureau Mutual Insurance Company, respectfully pray that:

I. Its answer be deemed good and sufficient, and that, after all due delays and proceedings are had, there be judgment rendered herein in favor of defendant and against plaintiff, dismissing their petition and cause of action with prejudice and at plaintiff's costs;

II. In the event that Judgment is rendered in favor of plaintiff and against defendants, that any recovery granted in favor of plaintiff be reduced in proportion to the degree or percentage of plaintiff's comparative fault and in proportion to the fault of a third-party, or in proportion to plaintiff's failure to reasonably mitigate their alleged damages.

III. The defendants in third party defendants each be served with a certified copy of this answer and third party demand;

IV. In the event that Judgment is rendered in favor of plaintiff and against defendants on the principal demand, there be judgment in favor of third party plaintiffs and against defendants in third-party, individually, jointly, severally and in solido for contribution for such Judgment, together with legal interest thereon as provided by law and all costs of these proceedings;

V. Third Party Plaintiffs be awarded the amount of it's medical payments made to and on behalf of plaintiffs, from defendants in third party, plus legal interest thereon as provided by law and all costs of these proceedings;

VI. Defendants and third party plaintiffs be entitled to a trial by jury; and

VII. The Court grant defendants and third party plaintiffs all general and equitable relief.

Respectfully submitted:

MICHAEL G. GEE (#20193)
PORTEOUS, HAINKEL AND JOHNSON, L.L.P.
211 WEST FIFTH STREET
THIBODAUX, LOUISIANA 70301-3199
(985) 446-8451
ATTORNEYS FOR DEFENDANTS, SARAH M. KENT AND LOUISIANA FARM BUREAU MUTUAL INSURANCE COMPANY

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 8 day of January, 2007, served a copy of the foregoing pleading on counsel for all parties to this proceeding by mailing the same by United States mail properly addressed, and first class postage prepaid.

FILE START

P

KLEIN, VOGIN & GOLD
BY: MARC VOGIN, ESQUIRE
I.d.# 46739
1700 Sansom Street
Philadelphia, Pa 19103
(215) 735-5610

Attorney for Plaintiff

RECEIVED
FEB 15 2008
LEGAL DEPT.

Marilyn D. Sturgis 1501-1503 Mayland Street Philadelphia, PA 19128	:	COURT OF COMMON PLEAS PHILADELPHIA COUNTY
vs.	:	
Copac, Inc., ind. and t/a Conicelli Toyota of Conshohocken, et al.	:	December Term, 2007 No. 02511

CIVIL ACTION – COMPLAINT

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
Lawyer Referral and Information Service
1101 Market Street, 11th Floor
Philadelphia, Pennsylvania 19107
(215) 238-6300

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.
LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACIÓN DE LICENCIADOS DE FILADELFIA
Servicio De Referencia E Información Legal
1101 Market Street, 11th Floor
Filadelfia, Pennsylvania 19107
(215) 238-6300

KLEIN, VOGIN & GOLD
BY: MARC VOGIN, ESQUIRE
I.d.# 46739
1700 Sansom Street
Philadelphia, Pa 19103
(215) 735-5610

Attorney for Plaintiff

Marilyn D. Sturgis 1501-1503 Mayland Street Philadelphia, PA 19128	: COURT OF COMMON PLEAS : PHILADELPHIA COUNTY
vs.	
Copac, Inc., ind. and t/a Conicelli Toyota of Conshohocken 1200 Ridge Pike Conshohocken, PA 19428 and Toyota Manufacturing North America, Inc. 25 Atlantic Avenue Erlanger, KY 41018 and Toyota Motor North America, Inc. 9 W 57th Street, Suite 4900 New York, NY 10019 and Toyota Motor Sales USA, Inc. 19001 S. Western Avenue Torrance, CA 90599	: December Term, 2007 : No. 02511

CIVIL ACTION – COMPLAINT

1. Plaintiff, Marilyn Sturgis, is an individual, residing at the aforesaid address.

2. Defendant, Copac, Inc., ind. and t/a Conicelli Toyota of Conshohocken (Conicelli), is a corporation, authorized to do business in the Commonwealth of Pennsylvania, located at the aforesaid address.

3. Defendant, Toyota Manufacturing North America, Inc., is a corporation, authorized to do business in the Commonwealth of Pennsylvania, located at the aforesaid address.

4. Defendant, Toyota Motor North America, Inc., is a corporation, authorized to do business in the Commonwealth of Pennsylvania, located at the aforesaid address.

5. Defendant, Toyota Motor Sales USA, Inc., is a corporation, authorized to do business in the Commonwealth of Pennsylvania, located at the aforesaid address.

6. At all times material hereto, defendants did substantial, systematic and continuous business in and about Philadelphia County, Pennsylvania.

7. At all times material hereto, defendants conducted their business by and through their agents, servants, workmen and/or employees, acting within the course of their authority and scope of their employment.

8. At all times material hereto, defendant, Conicelli, was a motor vehicle dealership, selling, marketing and promoting Toyota motor vehicles to members of the general public, including plaintiff.

9. At all times material hereto, defendants, Toyota Manufacturing North America, Inc., Toyota Motor North America, Inc., and/or Toyota Motor Sales USA, Inc. (collectively Toyota), designed, manufactured, marketed, promoted and/or sold motor vehicles through dealerships, such as defendant, Conicelli, to members of the general public, including plaintiff.

10. On or about December 9, 2005, plaintiff purchased from defendant, Conicelli, a new 2006 Toyota Corolla motor vehicle, which was designed, manufactured, produced, marketed and sold by defendants.

11. As designed, manufactured, produced, marketed and sold by defendants, defendants knew and/or should have known that said vehicle was defective and/or unreasonably dangerous to its ultimate users, including plaintiff, as it was prone to sudden, unintended and unanticipated acceleration.

12. On or about December 24, 2005, at or about 6:00 a.m., plaintiff was attempting to park the aforesaid Toyota motor vehicle in a parking lot at 2900 N. Glenwood Avenue, Philadelphia, PA, when as a result of the carelessness, recklessness and/or negligence of defendants, as well as their violation of Section 402A of the Restatement of Torts (Second) and breach of warranties, said vehicle suddenly, unintended and unanticipated accelerated forward, striking and propelling through a fence. As a result of which plaintiff suffered the injuries and damages hereinafter set forth.

13. The aforesaid incident was caused by the carelessness, recklessness and/or negligence of defendants, as well as their violation of Section 402A of the Restatement of Torts (Second) and breach of warranties, and in no way whatsoever to do any act or omission of plaintiff.

14. The carelessness, recklessness and/or negligence of defendant, Conicelli, acting as aforesaid, consisted of:

a. selling a motor vehicle which it knew and/or should have known was defective and/or unreasonably dangerous to its ultimate users, including plaintiff;
b. marketing a motor vehicle which it knew and/or should have known was defective and/or unreasonably dangerous to its ultimate users, including plaintiff;
c. promoting a motor vehicle which it knew and/or should have known was defective and/or unreasonably dangerous to its ultimate users, including plaintiff;
d. causing and/or permitting plaintiff to purchase the aforesaid motor vehicle, which it knew and/or should have known was defective and/or unreasonably dangerous to its ultimate users, including plaintiff;
e. failing to use and/or exercise reasonable care in the sale of the aforesaid motor vehicle to plaintiff.

15. The carelessness, recklessness and/or negligence of defendants, Toyota, acting as aforesaid, consisted of:

a. selling a motor vehicle which it knew and/or should have known was defective and/or unreasonably dangerous to its ultimate users, including plaintiff;
b. marketing a motor vehicle which it knew and/or should have known was defective and/or unreasonably dangerous to its ultimate users, including plaintiff;
c. promoting a motor vehicle which it knew and/or should have known was defective

and/or unreasonably dangerous to its ultimate users, including plaintiff;
d. failing to employe reasonably safe design for the aforesaid motor vehicle;
e. failing to use due care in the manufacture of the aforesaid motor vehicle;
f. failing to provide proper and adequate warnings of the aforesaid motor vehicles limitations and/or hazards.

16. In addition to the carelessness, recklessness and/or negligence of defendants, defendants are strictly liable to plaintiff as a result of their violation of Section 402A of the Restatement of Torts (Second) by selling, manufacturing, promoting, marketing and/or distributing the aforesaid motor vehicle which was defective and on unreasonably dangerous to members of the general public, including plaintiff, in fact said vehicle:

a. contained faulty and/or inadequate parts;
b. was improperly designed;
c. was improperly assembled and/or manufactured;
d. malfunctioned during a reasonably foreseeable use;
e. was sold without proper and adequate warnings of its limitations and/or hazards.

17. As sold by defendants, Toyota, the aforesaid motor vehicle was to be used for all of its reasonably foreseeable purposes and plaintiff was a foreseeable user.

18. As a foreseeable user, plaintiff relied upon defendant Toyota's implied warranty of merchantability and fitness for a particular purpose for which the aforesaid motor vehicle was made.

19. On or about the aforesaid date, at or about the aforesaid time, plaintiff was using the aforesaid motor vehicle for its intended purpose.

20. The aforesaid motor vehicle, as designed, manufactured, marketed, produced, promoted, and/or sold, did not comply with or conform with the aforesaid warranties, but to the contrary, was dangerous and unsafe for use for which it was intended.

21. As a result of the aforementioned accident, plaintiff sustained injuries including, but not limited to: L5-S1disc bulge, lumbar strain and sprain, strain and sprain of the right groin. She

suffered aches, pains, mental anguish, disability and shock to her entire nervous system and may otherwise have been injured, whereby, plaintiff has suffered great physical pain and agony and may continue to suffer the same for an indefinite time in the future.

22. As a result of the aforesaid accident, plaintiff has suffered severe physical pain, mental anguish and humiliation and may continue to suffer the same for an indefinite time in the future, all to her great detriment and loss.

23. By reason of the aforesaid accident, plaintiff may have sustained other injuries and pre-existing conditions may have been aggravated.

24. By reason of the aforesaid accident, plaintiff has or will be obligated to receive and undergo medical care and attention and to incur various and diverse expenses in an effort to effect a cure of her aforesaid injuries, as described in the Pennsylvania Financial Responsibility Law, and may be obligated to continue to expend such sums or incur such expenditures for an indefinite time in the future, all to her great detriment.

25. By reason of the aforesaid accident, plaintiff has or may incur in the future further financial expenses or losses which do or may exceed the amounts she is entitled to recover from her own automobile insurer pursuant to the applicable insurance contract and the Pennsylvania Financial Responsibility Law, all to her great detriment and loss.

26. As a result of the aforesaid accident, plaintiff was disabled and had a loss of earning power and capacity, loss of revenue and other work loss related to the accident aforementioned.

WHEREFORE, plaintiff demands judgment against defendants in an amount not in excess of Fifty Thousand ($50,000.00) Dollars, plus interest and costs.

KLEIN, VOGIN & GOLD

BY: _____
MARC VOGIN, ESQUIRE
Attorney for Plaintiff

VERIFICATION

I verify that the statements made in the attached pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 PA. C.S. Section 4904, relating to unsworn falsification to authorities.

Marilyn Stuyer

DATED: 1-30-08

STURGIS, MARILYN PLEADINGS

TOY-RQ-05E-00003367

FILE START

ESTADO LIBRE ASOCIADO DE PUERTO RICO
TRIBUNAL DE PRIMERA INSTANCIA
SALA SUPERIOR DE CAROLINA

ANGELA ORTIZ PARRILLA Demandante v. ADRIEL AUTO CORP.; TOYOTA DE PUERTO RICO CORP.; COMPAÑIA DE SEGUROS ABC Demandados	CIVIL NUMERO: FDP 08-0113 (406) SOBRE: DAÑOS Y PERJUICIOS

DEMANDA

AL HONORABLE TRIBUNAL:

Comparece la parte demandante, representada por el abogado suscriptor y respetuosamente, expone y solicita:

1. La demandante Angela Ortiz Parrilla, es mayor de edad y vecina de la Calle 35 #35-A, Urb. Parque Ecuestre, Carolina, Puerto Rico 00987, teléfono (787) 587-1127.

2. El 30 de marzo de 2007 la señora Parrilla Ortiz tuvo un accidente mientras hacía funcionar un vehículo Toyota Corolla CE 2007, tablilla HAT-662.

3. El accidente ocurrió debido a un vicio oculto del vehículo, el cual se aceleró sólo, impactando en varias ocasiones una pared del Centro Judicial de Carolina.

4. El vehículo nuevo fue adquirido el 22 de marzo de 2007 del demandado Adriel Auto Corp., y el día de los hechos, sólo ocho días después tenía 329 millas corridas.

5. El accidente ocurrió debido exclusivamente al defecto del automóvil que provocó que se acelerara y permaneciera acelerado.

6. Como consecuencia del accidente, la demandante sufrió golpes, traumas, contusiones y fracturas en distintas partes del cuerpo.

7. Los daños de la demandante requirieron que se le enyesara la muñeca y el ante brazo, la inmovilización del brazo izquierdo, se rompió implante del pecho

lado izquierdo, requirió varias operaciones, el uso de una cuellera, varios discos herniados, el uso de una faja en la espalda, así como terapias y tratamiento de psiquiatría debido al trauma que el accidente le provocó.

8. Los daños de la demandante se estiman en $250,000.00.

9. El vehículo nuevo adquirido por la demandante resultó inservible para el uso para el cual fue adquirido, por lo cual procede se le devuelvan sus prestaciones, incluyendo el precio pagado más los gastos de financiamiento y seguro.

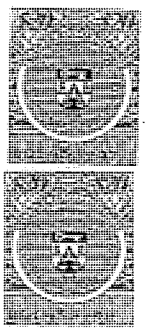
10. Toyota de Puerto Rico Corp. es el importador y representante de la marca Toyota en Puerto Rico, y responde por los daños de la demandante.

11. Adriel Auto Corp. fue el concesionario autorizado de vehículos Toyota que vendió el vehículo con vicios y defectos ocultos a la demandante, por lo que responde solidariamente por los daños de ésta.

12. Se ha denominado Compañía de Seguros ABC a cualquier compañía de seguros que haya emitido una póliza que cubra los daños reclamados. Se ha denominado así por desconocerse el verdadero nombre.

En mérito de lo antes expuesto, suplicamos que previo los trámites de ley pertinentes declare Con Lugar la demanda, y condene a los demandados a satisfacer solidariamente las sumas reclamadas.

En Bayamón, Puerto Rico, a 31 de marzo de 2008.



BUFETE RODRIGUEZ & RODRIGUEZ, C.S.P.
Cond. Las Torres Norte
Oficina 1-A
Bayamón, Puerto Rico 00959-5925
Tel (787) 787-6544 (Tel/Fax) 787-6688

Por:
Hugo Rodríguez Díaz
Colegiado Número 11298

-TRANSLATION-

COMMONWEALTH OF PUERTO RICO
FIRST INSTANCE COURT
CAROLINA PART

ANGELA ORTIZ PARRILLA

Plaintiff

vs.

ADRIEL AUTO CORP.; TOYOTA DE PUERTO RICO CORP.; ABC INSURANCE COMPANY

Defendants

Civil No.: FDP08-0113 (406)

Re:

Torts & Damages

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, plaintiff through her undersigned attorney and respectfully STATES AND PRAYS:

1. Plaintiff Angela Ortiz Parrilla is of legal age, and resident of Street 35 #35-A, Parque Ecuestre Development, Carolina, PR 00987, telephone 787-587-1127.

2. On March 30, 2007 Mrs. Parrilla Ortiz had an accident while she was driving her Toyota Corolla CE, MY 2007, plate number HAT-662.

3. The accident occurred due to a defect of the vehicle which accelerated on its own and impacted various times a wall at the Carolina First Instance Court.

4. The new vehicle was purchased on March 22, 2007 from defendant Adriel Auto Corp., and on the date of the accident, only 8 days later the vehicle had 329 miles.

5. The accident occurred exclusively due to the defect in the vehicle that caused it to accelerate and remain accelerated.

6. As a consequence of the accident, the plaintiff suffered bruises, traumas, contusions and fractures on various parts of her body.

7. The damages to the plaintiff required a cast on her wrist and arm, the immobilization of her left arm, her left breast implant was broken, she required various surgeries, she used a neck brace, had various herniated discs, she needed to use a girdle, she went to therapies and psychiatric treatment due to the trauma that the accident caused.

8. The damages to plaintiff are an estimated $250,000.00.

9. The new vehicle purchased by plaintiff became unusable for the purpose it was acquired for, so her payments should be reimbursed including the price she paid plus financing and insurance costs.

10. Toyota de Puerto Rico Corp. is the importer and representative of the Toyota brand in Puerto Rico, and is liable for the damages to plaintiff.

11. Adriel Auto Corp. was the authorized dealer of Toyota vehicles that sold the vehicle with defects to plaintiff, so is liable for the damages to plaintiff.

12. ABC Insurance Company has been designated as any insurance company that issued a policy that covered the claimed damages. It has been designated with this name given that the real name is unknown.

WHEREFORE, it is respectfully requested that according to law Grant the present Complaint, ordering defendants to jointly pay the damages according to the amounts claimed here.

RESPECTFULLY SUBMITTED.

In Bayamon, Puerto Rico, March 31, 2008.

Signed by: Hugo Rodriguez Diaz
Bar No. 11,298

Rodriguez & Rodriguez Law Office, CSP
Cond. Las Torres Norte, Office 1-A
Bayamon, PR 00959-5925
Tel: 787-787-6544 Fax: 787-787-6688

FILE START

IN THE CIRCUIT COURT OF THE 4TH JUDICIAL CIRCUIT IN AND FOR DUVAL COUNTY, FLORIDA

HAROLD RAY, as Personal Representative of the Estate of RICHARD C. RAY, and on behalf of his survivors,

Plaintiff,

v.

LEXUS, a division of TOYOTA MOTOR SALES, U.S.A., INC.; TOYOTA MOTOR CORPORATION; TOYOTA MOTOR NORTH AMERICA, INC.; TOYOTA MOTOR MANUFACTURING CANADA, INC.; SOUTHEAST TOYOTA DISTRIBUTORS, LLC; S.D.S. AUTOS, INC. d/b/a LEXUS OF JACKSONVILLE; and, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY,

Defendants.
_____/

CASE NO. 16- 2008-CA-005364 XXXX-MA

DIVISION CV-A

PLAINTIFF'S COMPLAINT

Plaintiff, HAROLD RAY, as Personal Representative of the Estate of RICHARD C. RAY, and on behalf of his survivors, referred to as "Plaintiff," by and through undersigned counsel, brings this action against the Defendants, LEXUS, a division of TOYOTA MOTOR SALES, U.S.A., INC. ("Lexus"); TOYOTA MOTOR CORPORATION, a foreign corporation ("Toyota"); TOYOTA MOTOR NORTH AMERICA, INC. INC., a foreign corporation ("TMNA"); TOYOTA MOTOR MANUFACTURING CANADA, INC. ("TMMC"); SOUTHEAST TOYOTA DISTRIBUTORS, LLC. ("SETD"); S.D.S. AUTOS, INC., d/b/a LEXUS of Jacksonville ("S.D.S."); and ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY ("ALLSTATE"), and alleges as follows:

1. This is an action for damages in excess of FIFTEEN THOUSAND

DOLLARS ($15,000.00), exclusive of costs.

2. At all times hereinafter mentioned and at the time of the incident complained of, the Decedent, RICHARD C. RAY, was a resident of Florida.

3. At all times hereinafter mentioned and at the time of the incident complained of, the Plaintiff was and is resident of Florida.

4. At all times material and at the time of the incident complained of, the Defendant, LEXUS was and is a corporate entity incorporated under the laws of a foreign state. Defendant, LEXUS was and is authorized to conduct business in the State of Florida and was and is authorized to conduct business in Duval County, Florida, and was and is conducting business in offices in Duval County, Florida by and through business agents in Duval County, Florida.

5. At all times material and at the time of the incident complained of, the Defendant, LEXUS, was actually doing business in Duval County, in the State of Florida, with agents and representatives in Duval County, Florida, by virtue of its designing, assembling, manufacturing, distributing and/or shipping into the State of Florida a defective product, which defect in said product caused injury, damage and death to RICHARD C. RAY.

6. At all times material and at the time of the incident complained of, the Defendant, TOYOTA, was and is a corporate entity incorporated under the laws of a foreign country. Defendant, TOYOTA was and is authorized to conduct business in the State of Florida, was and is authorized to conduct business in Duval County, Florida, and was and is actually conducting business in offices in Duval County, Florida by and through business agents in Duval County, Florida.

TOY-RQ-05E-00003376

7. At all times material and at the time of the incident complained of, the Defendant, TOYOTA, had an office for the transaction of its customary business in Duval County, Florida, had agents and other representatives in Duval County, Florida, and was actually doing business in Duval County, Florida by virtue of its designing, assembling, manufacturing, shipping, promoting, selling, placing into the stream of commerce, servicing and/or repairing Lexus motor vehicles in Duval County, Florida.

8. At all times material and at the time of the incident complained of, the Defendant, TMNA, was and is a corporate entity incorporated under the laws of a foreign state. Defendant, TMNA was and is authorized to conduct business in the State of Florida, was and is authorized to conduct business in Duval County, Florida, and was and is actually conducting business in offices in Duval County, Florida by and through business agents in Duval County, Florida.

9. At all times material and at the time of the incident complained of, the Defendant, TMNA, was actually doing business in Duval County, in the State of Florida, with agents and representatives in Duval County, Florida, and/or by virtue of its designing, assembling, manufacturing, distributing, and or shipping into the State of Florida, a defective product, which defect in said product caused injury, damage and death to RICHARD C. RAY.

10. At all times material and at the time of the incident complained of, the Defendant TMMC, was and is a corporate entity incorporated under the laws of a foreign country. Defendant TMMC was and is authorized to conduct business in the state of Florida, was and is authorized to conduct business in Duval County, Florida,

TOY-RQ-05E-00003377

and was and is actually conducting business in offices in Duval County, Florida by and through business agents in Duval County, Florida and/or by virtue of its shipping into the State of Florida a defective product.

11. At all times material and at the time of the incident complained of, the Defendant, TMMC, was actually doing business in Duval County, in the State of Florida, with agents and representatives in Duval County, Florida, or by virtue of its designing, assembling, manufacturing, distributing, and or shipping into the State of Florida a defective product, which defect in said product caused injury, damage and death to RICHARD C. RAY.

12. At all times material and at the time of the incident complained of, the Defendant, SOUTHEAST TOYOTA DISTRIBUTORS, LLC ("SETD") was and is a Delaware corporation, with its principal place of business in the State of Florida.

13. At all times material and at the time of the incident complained of, the Defendant, SETD, was actually doing business in Duval County, in the State of Florida, with agents and representatives in Duval County, Florida, by virtue of its distributing, selling, assembling and/or shipping into the State of Florida a defective product, which defect in said product caused injury, damage and death to RICHARD C. RAY.

14. At all times material hereto, the Defendant, S.D.S. AUTOS, INC. d/b/a LEXUS OF JACKSONVILLE, (hereinafter referred to as "S.D.S.") was and is a Florida corporation with its principle place of business in Jacksonville, Florida. S.D.S. sells automobiles and trucks in Northeast Florida and only in Northeast Florida.

15. At all times material and at the time of the incident complained of, the Defendant, S.D.S., was actually doing business in Duval County, in the State of Florida,

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with agents and representatives in Duval County, Florida, by virtue of its distributing, selling, assembling and/or shipping into the State of Florida a defective product, which defect in said product caused injury, damage and death to RICHARD C. RAY.

16. At all times material, the Defendant, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY (hereinafter "ALLSTATE"), was and is an insurance company authorized and licensed to do business in the State of Florida and Duval County, Florida.

17. At all times material, the Defendants, LEXUS, TOYOTA, TMNA and TMMC, were and are the manufacturers and vendors of the 2004 Lexus RX 330 vehicle ("subject vehicle"), and S.D.S., was the vendor and seller of the 2004 Lexus RX 330 vehicle, which was being operated and used by the Decedent, RICHARD C. RAY. The vehicle identification number of the subject vehicle is #JTJGA31U640002966.

18. On or about May 23, 2006, RICHARD C. RAY, was operating his 2004 Lexus RX 330 (VIN #JTJGA31U640002966) on Riverside Drive in the town of Port Orange, Florida, when the two retaining clips for the driver's side forward center console become loose and separated from the floor carpet cover, causing the cover to lean toward the accelerator pedal, causing interference with the accelerator pedal rod. As a result, RICHARD C. RAY'S accelerator became stuck in an accelerated position, causing the vehicle to travel at an extremely high rate of speed, become uncontrollable, and crash. As a result of the said crash, the vehicle and the driver became engulfed in flames and RICHARD C. RAY suffered injuries that resulted in his death.

COUNT I
NEGLIGENCE CLAIM AGAINST LEXUS, TOYOTA, TMNA, TMMC, SETD AND S.D.S.

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Plaintiff realleges and reincorporate the allegations contained in paragraphs 1-18 as though fully set forth herein, and further states:

19. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., were engaged in the business of designing, manufacturing, assembling and selling Lexus RX 330s (including the subject vehicle) and its component parts, which Defendants knew would be purchased and used by the general public.

20. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., manufactured, assembled, distributed, and sold the 2004 Lexus RX 330, the subject vehicle, involved in this action.

21. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., knew, or, in the exercise of reasonable care, should have known that said Lexus RX 330 was not properly designed, manufactured, assembled, tested, inspected and sold, and knew, or, in the exercise of reasonable care should have known, that said 2004 Lexus RX 330 and its components, created an unreasonable risk of harm to persons driving and/or occupying a motor vehicle, like the decedent herein.

22. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., owed a duty to the Decedent, RICHARD C. RAY, and the consuming public, to design its RX 330, including the subject vehicle, in such a manner that they would be safe and not pose an unreasonable risk of harm to the life and safety of the decedent and the consuming public when utilized in normal operation and foreseeable emergency maneuvers and collisions.

23. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., owed a duty to convey to consumers and users a fair and adequate warning of the

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dangerous characteristics of the subject vehicle so that the users, in the exercise of reasonable care, would have a fair and adequate notice of the possible consequences of using the subject vehicle and/or being passengers in the subject vehicle.

24. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., negligently designed, manufactured, assembled, tested, inspected and sold, subject vehicle, the 2004 Lexus RX 330, and its components in some and/or all, but not limited to, the following respects:

a. Designing, manufacturing and assembling the two retaining clips for the driver's side forward center console, such that the said clips can become loose causing interference with the accelerator pedal rod;

b. Failing to provide reasonable and adequate warnings to users of the vehicle as to the vehicle's interior components' improper design and manufacture including, but not limited to, the improper design and manufacture of the center console and/or the two retaining clips for the driver's side forward center console, such that the said clips can become loose causing interference with the accelerator pedal rod;

c. Marketing the RX 330 in such as way as to mislead customers as to the safety, roadworthiness and crashworthiness of the RX 330;

d. Designing, manufacturing and assembling the said Lexus RX 330 using unsafe materials, components, metals, plastics and other parts which would cause the retaining clips to come loose during vehicle operation and cause interference with the accelerator pedal rod;

e. The Lexus RX 330 was not reasonably fit for the uses intended or reasonably foreseeable by the Defendants;

f. The subject RX 330 vehicle was in a condition unreasonably dangerous to the Decedent and was expected to and did reach the Decedent without substantial change affecting its condition;

g. The subject RX 330 was in a condition unreasonably

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dangerous to the decedent in that it failed to perform as safely as an ordinary consumer would expect when used as intended or in a manner reasonably foreseeable by the Defendants, and the risk of danger to the Decedent and other foreseeable persons outweighed the benefits;

h. The center console system was negligently designed, assembled and manufactured so that it failed to perform in a manner as would be reasonably expected under the circumstances of this accident, thereby resulting in injuries and death to the occupant as herein described, to wit: the center console retaining clips became loose and allowed interference with the accelerator rod causing the car to accelerate, the decedent to lose control of the vehicle which then crashed, exploded into flames, and caused the death of the occupant, RICHARD C. RAY.

25. As a direct and proximate result of the negligence of Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., the above-described accident occurred resulting in the death of RICHARD C. RAY.

26. As a further direct and proximate result of Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S.'S negligence, the estate has incurred funeral expenses and burial expenses, and the loss of net accumulations, as well as other damages.

27. As a direct and proximate result of Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S.'S negligence, the Plaintiff, HAROLD RAY, the decedent's father, has in the past sustained and will in the future sustain damages resulting from the wrongful death of his son, Decedent, RICHARD C. RAY, including damages for the permanent loss of comfort, companionship, society, support and services of his son, and has suffered and will continue to suffer mental pain and suffering.

28. As a direct and proximate result of Defendants, LEXUS, TOYOTA,

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TMNA, TMMC, SETD and S.D.S.'S negligence, SYBOL RAY, the decedent's mother, has in the past sustained and will in the future sustain damages resulting from the wrongful death of her son, Decedent, RICHARD C. RAY, including damages for the permanent loss of comfort, companionship, society, support and services of her son, and has suffered and will continue to suffer mental pain and suffering.

WHEREFORE, Plaintiff, HAROLD RAY, as Personal Representative of the Estate of RICHARD C, RAY, and on behalf of his survivors, referred to as "Plaintiff," demands judgment against the Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., for damages in an amount in excess of $15,000.00, together with cost judgment, interest and costs, which he prays for in addition thereto.

COUNT II
STRICT LIABILITY CLAIM AGAINST LEXUS, TOYOTA, TMNA, TMMC, SETD AND S.D.S.

Plaintiff realleges and reincorporates the allegations contained in paragraphs 1-1 18 as though fully set forth herein, and further states:

29. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., were engaged in the business of designing, manufacturing, assembling, distributing, testing, inspecting, and selling Lexus RX 330 vehicles which Defendants knew would be purchased and used by the general public.

30. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., manufactured, assembled, tested, inspected, distributed, and sold the subject vehicle involved in this action.

31. On May 23, 2006, the afore-described 2004 Lexus RX 330 and its component parts including its components was being used for the purposes for which it

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was intended and in a manner reasonably foreseeable by Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S..

32. The aforesaid vehicle, as hereinabove described, was defective and unreasonably dangerous for the uses for which it was manufactured, at the time it was designed, manufactured, assembled, sold, distributed, marketed, promoted, and placed within the stream of commerce and market place, by Defendants and/or allowed to be used therein by them, in that said vehicle contained those certain defects in design and/or manufacture and/or assembly, as hereinafter stated. At all times hereinafter mentioned, and at the time of the incident complained of, the said vehicle was defective in its design, manufacture, and/or assembly in the manners and ways set forth herein:

a. Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., are in the business of manufacturing and selling vehicles;

b. Said vehicle was not reasonably fit for the uses intended or reasonably foreseeable by the Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S.;

c. Said vehicle was not reasonably fit for the uses intended or reasonably foreseeable by the Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S.,

d. Said vehicle was in a condition unreasonably dangerous to the decedent and said vehicle was expected to and did reach the decedent without substantial change affecting its condition;

e. Said vehicle was in a condition unreasonably dangerous to the decedent in that it failed to perform as safely as an ordinary consumer would expect when used as intended or in a manner reasonably foreseeable by the Defendants, and the risk of danger to the decedent and other foreseeable persons outweighed the benefits;

f. Said vehicle was designed, manufactured and assembled with defective and unreasonably dangerous retaining clips

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for the driver's side forward center console, in that the said clips can become loose causing interference with the accelerator pedal rod;

g. Defendants failed to provide reasonable and adequate warnings to users of the vehicle as to the vehicle's interior components' improper design and manufacture including, but not limited to, the improper design and manufacture of the driver's side forward center console and/or the two retaining clips for the driver's side forward center console, such that the said clips can become loose causing interference with the accelerator pedal rod;

h. Defendants marketed the RX 330 in such as way as to mislead customers as to the safety, roadworthiness and crashworthiness of the RX 330;

i. Defendants designed, manufactured and assembled the said Lexus RX 330 using unsafe materials, components, metals, plastics and other parts which would cause the retaining clips to come loose during vehicle operation and cause interference with the accelerator pedal rod;

j. The Lexus RX 330 was not reasonably fit for the uses intended or reasonably foreseeable by the Defendants;

k. The subject RX 330 vehicle was in a condition unreasonably dangerous to the Decedent and was expected to and did reach the Decedent without substantial change affecting its condition;

l. The subject RX 330 was in a condition unreasonably dangerous to the decedent in that it failed to perform as safely as an ordinary consumer would expect when used as intended or in a manner reasonably foreseeable by the Defendants, and the risk of danger to the Decedent and other foreseeable persons outweighed the benefits;

m. The center console system was negligently designed, assembled and manufactured so that it failed to perform in a manner as would be reasonably expected under the circumstances of this accident, thereby resulting in injuries and death to the occupant as herein described, to wit: the center console retaining clips became loose and allowed interference with the accelerator rod causing the car to accelerate, the decedent to lose control of the vehicle which

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then crashed, exploded into flames, and caused the death of the occupant, RICHARD C. RAY.

33. The subject vehicle was defective when it left the possession of the Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., and was expected to and did reach the operator/owner/user without substantial change in its condition.

34. The Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S.'S design, manufacturing, assembling, testing, inspection, distribution, and sale of the subject vehicle caused the defective and unsafe condition as previously alleged and as a result, the Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., are strictly liable in tort to the Plaintiff.

35. As a direct and proximate result of the defective condition of the subject vehicle, the above-described accident occurred resulting in the death of RICHARD C. RAY.

36. As a further direct and proximate result of the defective condition of the subject vehicle, the estate has incurred funeral expenses and burial expenses, and the loss of net accumulations, as well as other damages.

37. As a direct and proximate result of the defective condition of the subject vehicle, the Plaintiff, HAROLD RAY, the decedent's father, has in the past sustained and will in the future sustain damages resulting from the wrongful death of his son, Decedent, RICHARD C. RAY, including damages for the permanent loss of comfort, companionship, society, support and services of his son, and has suffered and will continue to suffer mental pain and suffering.

38. As a direct and proximate result of the defective condition of the subject vehicle, SYBOL RAY, the decedent's mother, has in the past sustained and will in the

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future sustain damages resulting from the wrongful death of her son, Decedent, RICHARD C. RAY, including damages for the permanent loss of comfort, companionship, society, support and services of her son, and has suffered and will continue to suffer mental pain and suffering.

WHEREFORE, Plaintiff, HAROLD RAY, as Personal Representative of the Estate of RICHARD C. RAY, and on behalf of his survivors, referred to as "Plaintiff," demands judgment against the Defendants, LEXUS, TOYOTA, TMNA, TMMC, SETD and S.D.S., for damages in an amount in excess of $15,000.00, together with cost judgment, interest and costs, which he prays for in addition thereto.

COUNT III
CLAIM AGAINST DEFENDANT ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY
UNINSURED/UNDERINSURED MOTORIST COVERAGE

The Plaintiff realleges each and every allegation contained in paragraphs 1 through 18 above and by reference thereto, incorporates the same herein, as though fully set forth, and further states:

39. That at all times material hereto, and at the time of the incident complained of, the Defendant, ALLSTATE, provided uninsured/underinsured motorist coverage to RICHARD C. RAY.

40. That at all times material hereto, and at the time of the incident complained of, the above described policy of insurance provided by the Defendant, ALLSTATE, provided coverage for uninsured/underinsured motorist protection, which would inure to the benefit of RICHARD C. RAY, due to the negligence and carelessness of another uninsured, underinsured and/or unidentified driver. The Uninsured/ Underinsured Motorist Coverage provides protection to RICHARD C. RAY beyond the

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statutory minimum, for injuries caused by accident arising out of the operation, maintenance, or use of a motor vehicle.

41. That at all times material hereto, and at the time of the incident complained of, the aforesaid policy of insurance was in full force and effect, and RICHARD C. RAY, is entitled to the uninsured/underinsured benefits provided in said policy.

42. That the Defendant, ALLSTATE, failed to obtain a written rejection of uninsured/underinsured motorist coverage as required by Florida law, and so the Defendant, ALLSTATE, is required under Florida law to provide stacked underinsured/uninsured motorist coverage.

43. As a direct and proximate result of an uninsured, underinsured and/or unidentified driver's negligence on or about May 23, 2006, the above-described accident occurred resulting in the death of RICHARD C. RAY.

44. As a further direct and proximate result of the defective condition of the subject vehicle, the estate has incurred funeral expenses and burial expenses, and the loss of net accumulations, as well as other damages.

45. As a direct and proximate result of the defective condition of the subject vehicle, the Plaintiff, HAROLD RAY, the decedent's father, has in the past sustained and will in the future sustain damages resulting from the wrongful death of his son, Decedent, RICHARD C. RAY, including damages for the permanent loss of comfort, companionship, society, support and services of his son, and has suffered and will continue to suffer mental pain and suffering.

46. As a direct and proximate result of the defective condition of the subject

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vehicle, SYBOL RAY, the decedent's mother, has in the past sustained and will in the future sustain damages resulting from the wrongful death of her son, Decedent, RICHARD C. RAY, including damages for the permanent loss of comfort, companionship, society, support and services of her son, and has suffered and will continue to suffer mental pain and suffering.

WHEREFORE, Plaintiff, HAROLD RAY, as Personal Representative of the Estate of RICHARD C. RAY, and on behalf of his survivors, referred to as "Plaintiff," demands judgment against the Defendant, ALLSTATE, for damages in an amount in excess of $15,000.00, together with cost judgment, interest and costs, which he prays for in addition thereto.

COUNT IV
BREACH OF IMPLIED WARRANTY AGAINST S.D.S.

The Plaintiff realleges each and every allegation contained in paragraphs 1 through 18 above and by reference thereto, incorporates the same herein, as though fully set forth, and further states:

47. Defendant, S.D.S., impliedly warranted that the 2004 Lexus RX 330 vehicle ("subject vehicle"), which it designed, manufactured, sold, or leased to the Decedent, RICHARD C. RAY, was merchantable, fit and safe for its ordinary use, not otherwise injurious to consumers, and would come with adequate safety warnings.

48. Because the 2004 Lexus RX 330 vehicle ("subject vehicle") was equipped with two retaining clips for the driver's side forward center console, such that the said clips can become loose causing interference with the accelerator pedal rod, the subject vehicle purchased and used by the Decedent, RICHARD C. RAY, was unfit for use when sold, and threatened injury to the occupants. S.D.S. breached the implied

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warranty of merchantability in the sale of the defective vehicle to the Decedent, RICHARD C. RAY, in that the subject vehicle was not fit for ordinary purposes.

WHEREFORE, Plaintiff, HAROLD RAY, as Personal Representative of the Estate of RICHARD C. RAY, and on behalf of his survivors, referred to as "Plaintiff," as a direct and proximate result of Defendant, S.D.S.'S breach of the implied warranty of merchantability, demands judgment against the Defendant, S.D.S., for damages in an amount in excess of $15,000.00, together with cost judgment, interest and costs, which he prays for in addition thereto.

Dated this 16th day of May, 2008

Kelley Uustal PLC
Attorneys for Plaintiff
700 S. E. 3rd Avenue - Suite 300
Fort Lauderdale, Florida 33316
Telephone: (954) 522-6601
Facsimile: (954) 522-6608
jju@justiceforall.com

By: _____
JOHN J. UUSTAL
Florida Bar No. 0073547

JJU/TRF

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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LIBERTY MUTUAL INSURANCE COMPANY a/s/o AMIR SITAFALWALLA,

Index No.:

Plaintiff,

VERIFIED COMPLAINT

-against-

TOYOTA MOTOR SALES, U.S.A., INC.,

Defendant.

----------X

Plaintiff, LIBERTY MUTUAL INSURANCE COMPANY a/s/o AMIR SITAFALWALLA by its attorneys, CARMAN, CALLAHAN & INGHAM, LLP., complaining of the above-named Defendant, set forth upon information and belief the following:

1. Plaintiff, LIBERTY MUTUAL INSURANCE COMPANY (hereinafter "LIBERTY"), is a domestic corporation with a business location at 2950 Expressway Drive South, Suite 100, Islandia, New York.

2. Defendant, TOYOTA MOTOR SALES, U.S.A., INC. (hereinafter "TOYOTA"), is a foreign corporation, duly organized and existing under the laws of the State of New York.

3. Defendant, TOYOTA is a foreign corporation which transacts business within the State of New York.

4. Defendant, TOYOTA is a foreign corporation which contracts to supply goods and services in the State of New York.

5. Defendant, TOYOTA is a foreign corporation which regularly conducts business in the State of New York of derives substantial revenue from goods used or consumed, or for services rendered in the State of New York.

6. Defendant, TOYOTA is a foreign corporation which owns, uses, or possesses real property situated within the State of New York.

7. At all times hereinafter mentioned, Defendant TOYOTA, its agents, servants, and/or employees was and still is engaged in the business of manufacturing, advertising, distributing, and marketing a product known as a "2005 Scion TC" motor vehicle.

8. Plaintiff's subrogor, Amir Sitafalwalla purchased a "2005 Scion TC" motor vehicle bearing Vehicle Identification Number JTKDE177250030628, manufactured by the Defendant. As part of that purchase, the Defendant provided certain warranties with the subject motor vehicle, both express and implied.

9. At all times hereinafter mentioned, Plaintiff's subrogor, Amir Sitafalwalla was the lawful owner of the subject motor vehicle.

10. At all times hereinafter mentioned, Amir Sitafalwalla maintained an insurance policy with LIBERTY MUTUAL INSURANCE COMPANY. That policy is identified as Policy Number PD203-006273257-01 and provides insurance coverage for the subject motor vehicle.

11. The policy of insurance issued by Liberty was in full force and effect on August 20, 2005.

12. On or about August 20, 2005, an accident was caused due to the Defendant's negligence.

13. Pursuant to the terms of the insurance policy maintained by Amir Sitafalwalla, Plaintiff, Liberty issued payment in the amount of Nineteen Thousand Two Hundred Seventy Five ($19,275.50) Dollars and Fifty Cents, minus Plaintiff's subrogor's One Thousand ($1,000.00) Dollar deductible for the property damage sustained by the subject motor vehicle as a result of the Defendant's negligence.

AS AND FOR A FIRST CAUSE OF ACTION

14. Plaintiff, Liberty repeats and reiterates each and every allegation of Paragraph "1" through "13" above with the same force and effect as though fully set forth herein.

15. The loss to the subject motor vehicle was caused due to the carelessness, negligence, wanton, and willful disregard on the part of the Defendant, without any negligence on the part of the Plaintiff.

16. Due to the negligence of the Defendant, Plaintiff Liberty was required to pay Nineteen Thousand Two Hundred Seventy Five ($19,275.50) Dollars and Fifty Cents, minus Plaintiff's subrogor's One Thousand ($1,000.00) Dollar deductible, the adjusted value of the "2005 Scion TC" motor vehicle paid to its insured, Amir Sitafalwalla.

AS AND FOR A SECOND CAUSE OF ACTION

17. Plaintiff, Liberty, repeats and reiterates each and every allegation of Paragraphs "1" through "16" above with the same force and effect as though fully set forth herein.

18. At all times hereinafter mentioned, the Defendant, its agents, servants, and/or employees expressly and impliedly warranted to the general public and to the Plaintiff that the subject motor vehicle was safe for the use intended.

19. Upon information and belief, these warranties and representations, express and implied, were relied upon when the "2005 Scion TC" motor vehicle was purchased by Amir Sitafalwalla and subsequently used.

20. On August 20, 2005, the subject motor vehicle sustained damage as a result of the negligence of the Defendant in the amount of Nineteen Thousand Two Hundred Seventy Five ($19,275.50) Dollars and Fifty Cents.

21. Upon information and belief, the Defendant, its agents, servants, and/or employees breached both express and implied warranties, in that the subject motor vehicle was not fit for the purposes for which it was intended, was not of merchantable quality, was unsafe for use, and contained latent defects.

22. Upon information and belief, Plaintiff's subrogor, Amir Sitafalwalla had no knowledge of the falsity of these warranties.

23. By reason of the foregoing, Plaintiff Liberty was required to pay for the value of the "2005 Scion TC" motor vehicle. That all of the foregoing was caused by the breach of warranty of the Defendant, and Plaintiff Liberty has been damaged in the amount of Nineteen Thousand Two Hundred Seventy Five ($19,275.50) Dollars and Fifty Cents, minus Plaintiff's subrogor's One Thousand ($1,000.00) Dollar deductible plus interest, costs, and other related disbursements.

AS AND FOR A THIRD CAUSE OF ACTION

24. Plaintiff, Liberty repeats and reiterates each and every allegation of Paragraphs "1" through "23" above with the same force and effect as though fully set forth herein.

25. On or before August 20, 2005, Plaintiff's subrogor, Amir Sitafalwalla was lawfully and properly using the subject motor vehicle for the purpose and in the manner for which it was intended to be used.

26. Plaintiff's subrogor, Amir Sitafalwalla did not discover the defect with respect to the design and manufacture of the subject motor vehicle, nor did he perceive its danger.

27. Plaintiff's subrogor, Amir Sitafalwalla exercised reasonable care in the utilization of the "2005 Scion TC" motor vehicle and used it for the purpose it was intended.

28. The defective design and dangerous construction of the subject motor vehicle is a substantial factor in bringing about the loss to Plaintiff.

29. By reason of the foregoing, Plaintiff Liberty was required to pay for the property damage sustained by the subject motor vehicle.

30. That all of the foregoing was caused by the Defendant, and Plaintiff Liberty is entitled to pursue its claim under the doctrine of strict liability in torts. Plaintiff, Liberty was damaged in the amount of Nineteen Thousand Two Hundred Seventy Five ($19,275.50) Dollars and Fifty Cents, minus Plaintiff's subrogor's One Thousand ($1,000.00) Dollar deductible for money paid to its insured, Amir Sitafalwalla.

AS AND FOR A FOURTH CAUSE OF ACTION

31. Plaintiff, Liberty repeats and reiterates each and every allegation of Paragraphs "1" through "30" with the same force and effect as though fully set forth herein.

32. On or before August 20, 2005, the date of loss, the subject motor vehicle had been in the exclusive control of the Defendant and there had been no change in the condition of the subject motor vehicle as from the time it was purchased by Plaintiff's subrogor, Amir Sitafalwalla.

33. By reason of the foregoing negligence on the part of the Defendant, Plaintiff Liberty was required to pay for all of the property damage sustained to the "2005 Scion TC" motor vehicle, which amounted to Nineteen Thousand Two Hundred Seventy Five ($19,275.50) Dollars and Fifty Cents, minus Plaintiff's subrogor's One Thousand ($1,000.00) Dollar deductible.

34. That all of the foregoing was caused by the Defendant, and Plaintiff Liberty is entitled to pursue its claim of negligence under the doctrine of res ipsa loquitur, and has been damaged in the sum of Nineteen Thousand Two Hundred Seventy Five ($19,275.50) Dollars and Fifty Cents, minus Plaintiff's subrogor's One Thousand ($1,000.00) Dollar deductible for money paid to its insured, Amir Sitafalwalla.

WHEREFORE, Plaintiff, LIBERTY MUTUAL INSURANCE COMPANY a/s/o AMIR SITAFALWALLA demands judgment against the Defendant, TOYOTA MOTOR SALES, U.S.A, INC. on the First Cause of Action in the amount of NINETEEN THOUSAND TWO HUNDRED SEVENTY FIVE ($19,275.50) DOLLARS AND FIFTY CENTS, on the Second Cause of Action in the amount of NINETEEN THOUSAND TWO HUNDRED SEVENTY FIVE DOLLARS ($19,275.50) DOLLARS AND FIFTY CENTS, on the Third Cause of Action in the amount of NINETEEN THOUSAND TWO HUNDRED SEVENTY FIVE ($19,275.50) DOLLARS AND FIFTY CENTS, and on the Fourth Cause of Action in the sum of NINETEEN

THOUSAND TWO HUNDRED SEVENTY FIVE ($19,275.50) DOLLARS AND FIFTY

CENTS, together with the costs and disbursements of this action.

Dated: November 2, 2007
Farmingdale, New York

CARMAN, CALLAHAN & INGHAM, LLP.

By: _____
CHRISTOPHER PERSAD
Attorneys for Plaintiff
LIBERTY MUTUAL INSURANCE COMPANY
a/s/o AMIR SITAFALWALLA
266 Main Street
Farmingdale, New York 11735
(516) 249-3450 – Tel
(516) 843-6390 – Fax

VERIFICATION

STATE OF NEW YORK)
s.s.
COUNTY OF NASSAU)

CHRISTOPHER PERSAD, an attorney duly admitted to practice law in the Courts of the State of New York, affirm that I am a member of the law firm CARMAN, CALLAHAN & INGHAM, LLP., attorneys of record for the Plaintiff, LIBERTY MUTUAL INSURANCE COMPANY a/s/o AMIR SITIFALWALLA, in the within action; that I have read the foregoing Summons and Complaint and know the contents thereof; that the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters I believe them to be true. I further say that the reason this Verification is made by me and not by the Plaintiffs is that the Plaintiffs do not reside within the County of Nassau where I maintain my office.

The grounds of my belief as to all matters not stated upon my knowledge are as follows: the records of the plaintiffs made available to me.

I affirm that the foregoing statements are true, under penalties of perjury.

Dated: November 2, 2007
Farmingdale, New York

By: _____
CHRISTOPHER PERSAD
Attorneys for Plaintiff
LIBERTY MUTUAL INSURANCE COMPANY
a/s/o AMIR SITAFALWALLA
266 Main Street
Farmingdale, New York 11735
(516) 249-3450 – Tel
(516) 843-6390 – Fax
File No.: 1089-15495

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

----------x

AMIR SITAFALWALLA,

6/19/08

Plaintiff,

Index No.: 11328/08

-against-

VERIFIED COMPLAINT

TOYOTA MOTOR SALES, U.S.A., INC.,

Defendants.

----------x

Plaintiff, AMIR SITAFALWALLA, by his attorney, **ALBERT ZAFONTE JR.**, as and for his Verified Complaint set forth the following, upon information and belief:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF AMIR SITAFALWALLA (FOR NEGLIGENCE)

ONE: That at all times hereinafter mentioned, the Plaintiff AMIR SITAFALWALLA resides in the County of Nassau, State of New York.

TWO: That at all times hereinafter mentioned, the Defendant TOYOTA MOTOR SALES, U.S.A., INC. (TOYOTA) is a foreign corporation, duly organized and existing under the laws of the State of New York.

THREE: That at all times hereinafter mentioned, the Defendant TOYOTA is a foreign corporation which transacts business wit6hin the State of New York .

FOUR: That at all times hereinafter mentioned, the

Defendant TOYOTA is a foreign corporation which contracts to supply goods and services in the State of New York.

FIVE: That at all times hereinafter mentioned, the Defendant TOYOTA is a foreign corporation which regularly conducts business in the State of New York and derives substantial revenue from the sale of their goods which are used or consumed in New York State.

SIX: That at all times hereinafter mentioned, the Defendant TOYOTA is a foreign corporation which owns, uses, or possesses real property situated within the State of New York

SEVENTH: That at all times hereinafter mentioned, the Defendant TOYOTA is a foreign corporation which regularly conducts business in the State of New York and should have expected or reasonably expected acts done by it to have consequences within the State of New York.

EIGHTH That at all times hereinafter mentioned, the Defendant, TOYOTA, by its agents, servants and/or employees was engaged in the business of manufacturing advertising, distributing and marketing a product known as a "2005 Scion TC" motor vehicle.

NINTH: That at all times hereinafter mentioned, the Plaintiff AMIR SITAFALWALLA purchased a "2005 Scion TC" motor vehicle bearing Vehicle Identification Number JTKDE177250030628 manufactured by the Defendant TOYOTA and as part of said purchase the Defendant TOYOTA provided certain warranties with respect top the said motor vehicle, both express and implied.

TENTH: That at all times hereinafter mentioned, the Plaintiff AMIR SITAFALWALLA was the lawful owner of the subject motor vehicle known as a "2005 Scion TC" motor vehicle bearing Vehicle Identification Number JTKDE177250030628.

ELEVENTH: That on or about the date of October 20, 2005, while the Plaintiff AMIR SITAFALWALLA was lawfully and properly operating the aforesaid motor vehicle, said motor vehicle suddenly and without warning accelerated resulting in a violent collision.

TWELFTH: That on or about the date of October 20, 2005, while the Plaintiff AMIR SITAFALWALLA was lawfully and properly operating the aforesaid motor vehicle and when said motor vehicle suddenly and without warning accelerated resulting in a violent collision, the Plaintiff was seriously injured.

THIRTEENTH: That the aforesaid occurrence and resulting injuries were due solely to the negligence, carelessness, recklessness and wanton and willful disregard on the part of the Defendant TOYOTA herein.

FOURTEENTH: That the foregoing violent collision and resulting injuries occurred without any negligence on the part of the Plaintiff contributing thereto.

FIFTEENTH: By reason of the foregoing, the Plaintiff has been damaged in an amount in excess of the jurisdictional limits of all of the lower courts of competent jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF AMIR SITAFALWALLA (FOR BREACH OF EXPRESS WARRANTY)

SIXTEENTH: The Plaintiff AMIR SITAFALWALLA repeats, reiterates and realleges each and every allegation contained in the First Cause of Action numbered "ONE" through "FIFTEENTH" with the same force and effect as if more fully set forth hereat.

SEVENTEENTH: The Defendant(s) herein, in connection with their business activities aforementioned, warranted and represented expressly and implied that their product was fit, capable and suitable for the use and purposes intended and that same was of merchantable quality and that same was safe, not dangerous and improper.

EIGHTEENTH: That upon information and belief the Plaintiff was entitled to and did in fact rely upon the warranty of merchantability and fitness for use, both express and implied, when plaintiff purchased the subject "2005 Scion TC" and subsequently used and operated same.

NINETEENTH: That upon information and belief said representation and warranties were false, misleading and inaccurate in that the said product was proved to be unsafe, dangerous, improper and not of merchantable quality and defective.

TWENTIETH: That at all times hereinafter mentioned the Defendant TOYOTA was in breach of express warranty.

TWENTY-FIRST: That upon information and belief the Plaintiff AMIR SITAFALWALLA had no knowledge of the falsity of these warranties.

TWENTY-SECOND That at all times hereinafter mentioned, as a result of the breach of express warranty by Defendant TOYOTA the Plaintiff was seriously injured.

TWENTY-THIRD: By reason of the foregoing, Plaintiff has been damaged in an amount in excess of the jurisdictional limits of all of the lower courts of competent jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF AMIR SITAFALWALLA (FOR BREACH OF IMPLIED WARRANTY)

TWENTY-FOURTH: The Plaintiff AMIR SITAFALWALLA repeats, reiterates, and realleges each and every allegation numbered "ONE" through "TWENTY-THIRD" contained in the First and Second Causes of Action with the same force and effect as if more fully set forth hereat.

TWENTY-FIFTH: That at all times hereinafter mentioned and by reason of the foregoing, the Defendant TOYOTA was in breach of implied warranty.

TWENTY-SIXTH: That upon information and belief the Plaintiff AMIR SITAFALWALLA had no knowledge of the falsity of these warranties.

TWENTY-SEVENTH: That at all times hereinafter mentioned, as a result of the breach of implied warranty by Defendant TOYOTA the Plaintiff was seriously injured.

TWENTY-EIGHTH: By reason of the foregoing, Plaintiff AMIR

SITAFALWALLA has been damaged in an amount in excess of the jurisdictional limits of all of the lower courts of competent jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF PLAINTIFF AMIR SITAFALWALLA (FOR STRICT LIABILITY)

TWENTY-NINTH: Plaintiff AMIR SITAFALWALLA repeats, reiterates and realleges each and every allegation numbered "ONE" through "TWENTY-EIGHTH" contained in the First, Second and Third Causes of Action with the same force and effect as if more fully set forth hereat.

THIRTIETH: That at all times hereinafter mention said product, the "2005 Scion TC", was in a defective, unsafe and hazardous condition and was defectively designed and manufactured in a manner which was unnecessarily unsafe and dangerous to users and/or consumers.

THIRTY-FIRST: That at all times hereinafter mentioned said product, the "2005 Scion TC", was highly defective and dangerous and was manufactured and maintained improperly by Defendant TOYOTA.

THIRTY-SECOND: That at all times hereinafter mentioned, said defects and dangerous conditions of the product known as the "2005 Scion TC" were a substantial factor in bringing about the Plaintiff's injuries and were known or in the exercise of reasonable care should have been known to the Defendant TOYOTA.

THIRTY-THIRD: That at the time of the occurrence herein,

the product known as the "2005 Scion TC", was being used for the purpose and in the manner normally intended.

THIRTY-FOURTH: That at all times hereinafter mentioned the Plaintiff, AMIR SITAFALWALLA, could not by the exercise of reasonable care have discovered the defects or hazards or perceived their dangers.

THIRTY-FIFTH: That upon information and belief the product known as the "2005 Scion TC" was defective at the time of design and/or manufacture and/or distribution.

THIRTY-SIXTH: That upon information and belief, the Plaintiff AMIR SITAFALWALLA was caused to be seriously injured as a result of lawfully and properly operating the defectively designed and manufactured product known as the "2005 Scion TC" bearing Vehicle Identification Number JTKDE177250030628.

THIRTY-FOUR: By reason of the foregoing, Defendant TOYOTA have become strictly liable in tort to the Plaintiff, AMIR SITAFALWALLA.

THIRTY-FIFTH: By reason of the foregoing, Plaintiff AMIR SITAFALWALLA has been damaged in an amount in excess of the jurisdictional limits of all of the lower courts of competent jurisdiction.

WHEREFORE, the Plaintiff, AMIR SITAFALWALLA, demands judgment against the Defendant TOYOTA in the First Cause of Action in an amount in excess of the jurisdictional limits of all of the lower courts of competent; in the Second Cause of Action in an amount in

excess of the jurisdictional limits of all of the lower courts of competent; in the Third Cause of Action in an amount in excess of the jurisdictional limits of all of the lower courts of competent; and in the Fourth Cause of Action in an amount in excess of the jurisdictional limits of all of the lower courts of competent together with interests, costs and disbursements on each and every cause of action.

Dated: Uniondale, New York
June 11, 2008

Yours, etc.

ALBERT ZAFONTE JR.
Attorney for Plaintiff(s)
AMIR SITAFALWALLA
215 Uniondale Avenue
Uniondale, New York 11553
(516) 505-7001
Fax (516) 505-5120

FILE START

DOS-1248 (1/08)

DEPARTMENT OF STATE
UNIFORM COMMERCIAL CODE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

CERTIFIED MAIL

Sender:

USA/CERTIFIED mailer system
★Patents 5,573,277 ★
★5,697,648★
★ 5,848,809★
8-UP Laser Form ★/USA CMF-073 05/08★

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X Index No.:

EZATT AZIZI,

SUMMONS

17179 5/08

Plaintiff,

-against-

RICARDO BROWN , DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

RECEIVED
SEP 24 2008
LEGAL DEPT.

Plaintiff designates Kings County as the place of trial. The basis of venue is the defendant, RICARDO BROWN 's residence, located at 46 Granite Street, Brooklyn, NY 11207.

To the above-named Defendants:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete, if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
June 2, 2008

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

FILED
COUNTY CLERK
2008 SEP 17 PM 12:05

TO: RICARDO BROWN
46 Granite Street
Brooklyn, NY 11207

DCFS TRUST
P. O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

LEXUS MOTOR CARS, INC.
SUITE 711
45 JOHN STREET
NEW YORK, NEW YORK, 10038

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN , DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.

Defendants.

----------X

AMENDED VERIFIED COMPLAINT

Index No.: 17175/08

RECEIVED
SEP 24 2008
LEGAL DEPT.

Plaintiff, by his attorneys, WINGATE, RUSSOTTI & SHAPIRO, LLP, as and for his Amended Verified Complaint, upon information and belief, alleges the following:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON NEGLIGENCE:

1. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, was and still is a resident of the County of Kings, City and State of New York.

2. At all times hereinafter mentioned, the defendant, RICARDO BROWN, was the owner of a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

3. At all times hereinafter mentioned, the defendant, RICARDO BROWN, leased a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

4. At all times hereinafter mentioned, the defendant, RICARDO BROWN, maintained a certain motor vehicle bearing New York State license plate number DWV6808 for the year 2008.

5. At all times hereinafter mentioned, the defendant, RICARDO BROWN, operated a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

6. At all times hereinafter mentioned, the defendant, RICARDO BROWN, controlled a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008 within the scope of his employment.

7. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a foreign corporation authorized to do business in the State of New York.

9. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses, conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its act to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

10. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a business entity authorized to do business in the State of New York.

11. At all times hereinafter mentioned, the defendant, DCFS TRUST, was the owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

12. At all times hereinafter mentioned, the defendant, DCFS TRUST, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

13. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

14. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

TOY-RQ-05E-00003412

15. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, maintained a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

16. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

17. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the permission and consent of the defendant, DCFS TRUST.

18. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, within the scope of his employment.

19. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, operated and controlled a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008.

20. At all times hereinafter mentioned, West 34th between Madison Avenue and 5th Avenue, (hereinafter the "location") was, and still is a public road and /or thoroughfare in the County, City and State of New York.

21. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was purchased by the defendant, RICARDO BROWN from the defendant, LEXUS MOTOR CARS, INC.

22. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was purchased by the defendant, RICARDO BROWN from the defendant, TOYOTA MOTOR SALES U.S.A., INC.

TOY-RQ-05E-00003413

23. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the year of 2008.

24. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 and which was manufactured and sold by the defendant, LEXUS MOTOR CARS, INC., at the aforementioned location.

25. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 and which was manufactured and sold by the defendant, TOYOTA MOTOR SALES U.S.A., INC., at the aforementioned location.

26. That on April 13, 2008, plaintiff, EZATT AZIZI operated a motor vehicle at the aforementioned location.

27. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI , operated a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008, within the scope of his employment.

28. That on April 13, 2008, the aforesaid motor vehicles operated by the defendants and the plaintiff came into contact with each other.

29. The aforesaid occurrence was caused by the negligence, carelessness and recklessness of the defendants, their agents, servants and/or employees in the ownership, operation, maintenance and control of their motor vehicles, without any negligence, carelessness or recklessness on the part of the plaintiff contributing thereto.

TOY-RQ-05E-00003414

30. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

31. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

32. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

33. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF EZATT AZIZI BASED UPON THE NEGLIGENCE OF THE DEFENDANT LEXUS, MOTOR CARS , INC AND TOYOTA MOTOR SALES U.S.A., INC.:

34. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "33", as though said allegations were set forth fully herein at length below.

35. That at all times mentioned herein, the defendants, LEXUS MOTOR CARS, INC., is was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

TOY-RQ-05E-00003415

36. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

37. That at all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

38. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

39. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., was a non-domiciliary of the State of New York and has committed a tortious act within the State of New York, causing injury to a person within the State of New York and said defendant solicited business within the State of New York or engaged in other persistent courses conduct in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

40. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

41. On or before April 13, 2008, the defendant, LEXUS MOTOR CARS, INC., then was in the business of manufacturing, fabricating, assembling and/or designing the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

TOY-RQ-05E-00003416

42. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

43. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC, engaged and/or authorized the sale, distribution, advertisement, demonstration, packaging, installation, inspection and/or maintenance of its product in the State of New York.

44. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., manufactured, fabricated, assembled, designed and sold a 2007 Lexus VIN# JTHBJ46GX - 72075738 New York State license plate number DWV6808.

45. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX - 72075738, New York State license plate number DWV6808 was purchased by the defendant RICARDO BROWN.

46. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., sold, advertised, distributed, demonstrated, shipped, packaged and/or installed products and more specifically, the 2007 Lexus VIN# JTHBJ46GX72075738, New York State license plate number DWV6808 within the State of New York.

47. On or before April 13, 2008 the defendants, LEXUS MOTOR CARS, INC., sold a 2007 Lexus VIN # JTHBJ46 GX72075738 to the defendant Ricardo Brown which defendant, Ricardo Brown registered and operated within New York State.

48. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., fabricated, manufactured, assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738, bearing

TOY-RQ-05E-00003417

New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

49. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

50. At all times mentioned herein the 2007 Lexus VIN # JTHBJ46 GX72075738, bearing New York State license plate number DWV6808, was being used for the purpose for which it was intended.

51. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738 , the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 failed to be accompanied by proper and sufficient instructions, directions, safety devices and/or warnings.

52. At all times mentioned herein the defendants warranted, advertised and represented that the 2007 Lexus VIN# JTHBJ46GX72075738 was safe and fit for its intended use and purpose.

53. At all times herein mentioned said 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not safe and was inherently dangerous.

54. At all times herein mentioned defendants knew or should have known that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was inherently dangerous, was unsafe and unfit for its intended purpose.

TOY-RQ-05E-00003418

55. That on or about April 13, 2008, the defendant, RICARDO BROWN while using and/or operating the 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 was caused to be involved in a serious accident causing severe and permanent personal injuries in that the floor mat(s) of said vehicle interfered with the operation of the gas and/or brake of the vehicle.

56. That the plaintiff's accident and/or injury was caused as a result of the defendants' negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

57. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

58. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

59. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

60. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

61. That at all times mentioned herein, the defendants, TOYOTA MOTOR SALES U.S.A., INC., is was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

TOY-RQ-05E-00003419

62. That at all times mentioned herein, the defendant, TOYOTA MOTOR SALES U.S.A., INC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

63. That at all times mentioned herein the defendant, TOYOTA MOTOR SALES U.S.A., INC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

64. That at all times mentioned herein, the defendant, TOYOTA MOTOR SALES U.S.A., INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

65. That at all times mentioned herein, the defendant, TOYOTA MOTOR SALES U.S.A., INC., was a non-domiciliary of the State of New York and has committed a tortuous act within the State of New York, causing injury to a person within the State of New York and said defendant solicited business within the State of New York or engaged in other persistent courses conduct in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

66. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

TOY-RQ-05E-00003420

67. On or before April 13, 2008, the defendant, TOYOTA MOTOR SALES U.S.A., INC., then was in the business of manufacturing, fabricating, assembling and/or designing the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

68. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

69. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC, engaged and/or authorized the sale, distribution, advertisement, demonstration, packaging, installation, inspection and/or maintenance of its product in the State of New York.

70. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., manufactured, fabricated, assembled, designed and sold a 2007 Lexus VIN# JTHBJ46GX -72075738 New York State license plate number DWV6808.

71. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX - 72075738, New York State license plate number DWV6808 was purchased by the defendant RICARDO BROWN.

72. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., sold, advertised, distributed, demonstrated, shipped, packaged and/or installed products and more specifically, the 2007 Lexus VIN# JTHBJ46GX72075738, New York State license plate number DWV6808 within the State of New York.

73. On or before April 13, 2008 the defendants, TOYOTA MOTOR SALES U.S.A., INC., sold a 2007 Lexus VIN # JTHBJ46 GX72075738 to the defendant Ricardo Brown which defendant, Ricardo Brown registered and operated within New York State.

TOY-RQ-05E-00003421

74. At all times mentioned herein the defendant, TOYOTA MOTOR SALES U.S.A., INC., fabricated, manufactured, assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

75. At all times mentioned herein the defendant, TOYOTA MOTOR SALES U.S.A., INC., assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

76. At all times mentioned herein the 2007 Lexus VIN # JTHBJ46 GX72075738, bearing New York State license plate number DWV6808, was being used for the purpose for which it was intended.

77. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738 , the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 failed to be accompanied by proper and sufficient instructions, directions, safety devices and/or warnings.

78. At all times mentioned herein the defendants warranted, advertised and represented that the 2007 Lexus VIN# JTHBJ46GX72075738 was safe and fit for its intended use and purpose.

79. At all times herein mentioned said 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not safe and was inherently dangerous.

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80. At all times herein mentioned defendants knew or should have known that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was inherently dangerous, was unsafe and unfit for its intended purpose.

81. That on or about April 13, 2008, the defendant, RICARDO BROWN while using and/or operating the 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 was caused to be involved in a serious accident causing severe and permanent personal injuries in that the floor mat(s) of said vehicle interfered with the operation of the gas and/or brake of the vehicle.

82. That the plaintiff's accident and/or injury was caused as a result of the defendants' negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

83. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

84. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

85. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

86. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

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AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON STRICT PRODUCT(S) LIABILITY:

87. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "86", as though said allegations were set forth fully herein at length below.

88. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC.,was defective and not reasonably safe and fit for the purposes intended nor for reasonable foreseeable purposes, uses or operations and was subject to a recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

89. At all times herein mentioned, and at the time of the design, manufacture, distribution and /or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, by the defendant, LEXUS MOTOR CARS, INC., was defectively designed and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

90. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738 was defectively manufactured by the defendant, LEXUS MOTOR CARS, INC., and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

91. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN #

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JTHBJ46GX72075738 by the defendant, LEXUS MOTOR CARS, INC., failed to have appropriate safety devices and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

92. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC., failed to be accompanied by proper and sufficient instructions, directions and/or warnings concerning the use, operation, service, maintenance and/or repair of the 2007 Lexus VIN# JTHBJ46GX72075738, and the dangers and hazards attendant thereto; one or more of which were a substantial factor or a proximate cause of the aforesaid accident and injuries to the plaintiff.

93. At all times herein mentioned, the defendant RICARDO BROWN was using the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the purpose and in the manner normally intended or for reasonably foreseeable purposes, uses and operations and could not by the exercise of reasonable care have both discovered the defect and perceived its danger, and could not have otherwise averted the accident and the plaintiff's injuries.

94. Defendant, LEXUS MOTOR CARS, INC., is liable to the plaintiff under the doctrine of "Strict Products Liability"

95. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

96. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN#

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JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant TOYOTA MOTOR SALES U.S.A., INC.,was defective and not reasonably safe and fit for the purposes intended nor for reasonable foreseeable purposes, uses or operations and was subject to a recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

97. At all times herein mentioned, and at the time of the design, manufacture, distribution and /or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, by the defendant, TOYOTA MOTOR SALES U.S.A., INC., was defectively designed and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

98. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738 was defectively manufactured by the defendant, TOYOTA MOTOR SALES U.S.A., INC., and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

99. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN # JTHBJ46GX72075738 by the defendant, TOYOTA MOTOR SALES U.S.A., INC., failed to have appropriate safety devices and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

100. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant TOYOTA MOTOR SALES U.S.A., INC., failed to be accompanied by proper and sufficient instructions, directions and/or warnings

concerning the use, operation, service, maintenance and/or repair of the 2007 Lexus VIN# JTHBJ46GX72075738, and the dangers and hazards attendant thereto; one or more of which were a substantial factor or a proximate cause of the aforesaid accident and injuries to the plaintiff.

101. At all times herein mentioned, the defendant RICARDO BROWN was using the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the purpose and in the manner normally intended or for reasonably foreseeable purposes, uses and operations and could not by the exercise of reasonable care have both discovered the defect and perceived its danger, and could not have otherwise averted the accident and the plaintiff's injuries.

102. Defendant, TOYOTA MOTOR SALES U.S.A., INC., is liable to the plaintiff under the doctrine of "Strict Products Liability"

103. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON BREACH OF WARRANTY:

104. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "103" as though said allegations were set forth fully herein at length below.

105. At all times herein mentioned, the defendants provided certain express and implied warranties to the public at large including the plaintiff that the 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808, was

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merchantable and reasonably safe and fit for the particular purposes intended and for reasonably foreseeable purposes.

106. The plaintiff relied upon said warranties.

107. At all times herein mentioned, the defendants breached the aforesaid warranties in that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not merchantable nor reasonably safe and fit for the purposes intended nor for reasonably foreseeable purposes, uses and/or operations.

108. That said breaches of warranties by the defendants were a substantial factor or proximate cause of injury to the plaintiff as previously described.

109. That by reason of the foregoing, the plaintiff EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York
August 25, 2008

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

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VERIFICATION BY ATTORNEY

Thomas M. Oliva, an attorney duly admitted to practice before the Courts in the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. That deponent is the attorney for the plaintiff in the action within; that deponent has read the foregoing **AMENDED COMPLAINT** and know the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

2. The reason that this verification is not made by plaintiff and is made by deponent is that plaintiff does not reside in the county where the attorneys for the plaintiff have their office.

3. Deponent further says that the source of deponent's information and the grounds of deponent's belief as to all matters not stated upon deponent's knowledge are from investigations made on behalf of said plaintiff.

Thomas M. Oliva

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

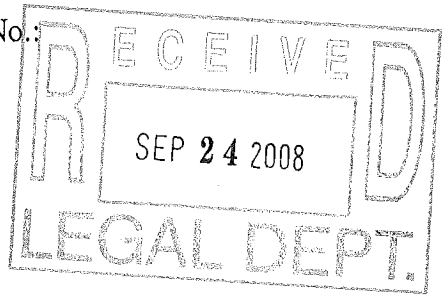
RICARDO BROWN , DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

VERIFIED COMPLAINT

Index No.:



Plaintiff, by his attorneys, WINGATE, RUSSOTTI & SHAPIRO, LLP, as and for his Verified Complaint, upon information and belief, alleges the following:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON NEGLIGENCE:

1. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, was and still is a resident of the County of Kings, City and State of New York.

2. At all times hereinafter mentioned, the defendant, RICARDO BROWN, was the owner of a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

3. At all times hereinafter mentioned, the defendant, RICARDO BROWN, leased a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

4. At all times hereinafter mentioned, the defendant, RICARDO BROWN, maintained a certain motor vehicle bearing New York State license plate number DWV6808 for the year 2008.

5. At all times hereinafter mentioned, the defendant, RICARDO BROWN, operated a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

6. At all times hereinafter mentioned, the defendant, RICARDO BROWN, controlled a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008 within the scope of his employment.

7. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a foreign corporation authorized to do business in the State of New York.

9. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses, conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its act to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

10. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a business entity authorized to do business in the State of New York.

11. At all times hereinafter mentioned, the defendant, DCFS TRUST, was the owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

12. At all times hereinafter mentioned, the defendant, DCFS TRUST, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

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13. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

14. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

15. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, maintained a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

16. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

17. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the permission and consent of the defendant, DCFS TRUST.

18. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, within the scope of his employment.

19. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, operated and controlled a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008.

20. At all times hereinafter mentioned, West 34th between Madison Avenue and 5th Avenue, (hereinafter the "location") was, and still is a public road and /or thoroughfare in the County, City and State of New York.

21. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was purchased by the defendant, RICARDO BROWN from the defendant, LEXUS MOTOR CARS, INC.

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22. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the year of 2008.

23. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 and which was manufactured and sold by the defendant, LEXUS MOTOR CARS, INC., at the aforementioned location.

24. That on April 13, 2008, plaintiff, EZATT AZIZI operated a motor vehicle at the aforementioned location.

25. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI , operated a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008, within the scope of his employment.

26. That on April 13, 2008, the aforesaid motor vehicles operated by the defendants and the plaintiff came into contact with each other.

27. The aforesaid occurrence was caused by the negligence, carelessness and recklessness of the defendants, their agents, servants and/or employees in the ownership, operation, maintenance and control of their motor vehicles, without any negligence, carelessness or recklessness on the part of the plaintiff contributing thereto.

28. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

29. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York

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and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

30. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

31. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF EZATT AZIZI BASED UPON THE NEGLIGENCE OF THE DEFENDANT LEXUS, MOTOR CARS , INC:

32. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "31", as though said allegations were set forth fully herein at length below.

33. That at all times mentioned herein, the defendants, LEXUS MOTOR CARS, INC., is was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

34. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

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35. That at all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

36. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

37. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., was a non-domiciliary of the State of New York and has committed a tortious act within the State of New York, causing injury to a person within the State of New York and said defendant solicited business within the State of New York or engaged in other persistent courses conduct in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

38. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

39. On or before April 13, 2008, the defendant, LEXUS MOTOR CARS, INC., then was in the business of manufacturing, fabricating, assembling and/or designing the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

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40. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

41. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC, engaged and/or authorized the sale, distribution, advertisement, demonstration, packaging, installation, inspection and/or maintenance of its product in the State of New York.

42. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., manufactured, fabricated, assembled, designed and sold a 2007 Lexus VIN# JTHBJ46GX - 72075738 New York State license plate number DWV6808.

43. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX - 72075738, New York State license plate number DWV6808 was purchased by the defendant RICARDO BROWN.

44. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., sold, advertised, distributed, demonstrated, shipped, packaged and/or installed products and more specifically, the 2007 Lexus VIN# JTHBJ46GX72075738, New York State license plate number DWV6808 within the State of New York.

45. On or before April 13, 2008 the defendants, LEXUS MOTOR CARS, INC., sold a 2007 Lexus VIN # JTHBJ46 GX72075738 to the defendant Ricardo Brown which defendant, Ricardo Brown registered and operated within New York State.

46. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., fabricated, manufactured, assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738, bearing

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New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

47. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

48. At all times mentioned herein the 2007 Lexus VIN # JTHBJ46 GX72075738, bearing New York State license plate number DWV6808, was being used for the purpose for which it was intended.

49. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738 , the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 failed to be accompanied by proper and sufficient instructions, directions, safety devices and/or warnings.

50. At all times mentioned herein the defendants warranted, advertised and represented that the 2007 Lexus VIN# JTHBJ46GX72075738 was safe and fit for its intended use and purpose.

51. At all times herein mentioned said 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not safe and was inherently dangerous.

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52. At all times herein mentioned defendants knew or should have known that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was inherently dangerous, was unsafe and unfit for its intended purpose.

53. That on or about April 13, 2008, the defendant, RICARDO BROWN while using and/or operating the 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 was caused to be involved in a serious accident causing severe and permanent personal injuries in that the floor mat(s) of said vehicle interfered with the operation of the gas and/or brake of the vehicle.

54. That the plaintiff's accident and/or injury was caused as a result of the defendants' negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

55. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

56. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

57. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

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58. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON STRICT PRODUCT(S) LIABILITY:

59. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "58", as though said allegations were set forth fully herein at length below.

60. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC.,was defective and not reasonably safe and fit for the purposes intended nor for reasonable foreseeable purposes, uses or operations and was subject to a recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

61. At all times herein mentioned, and at the time of the design, manufacture, distribution and /or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, by the defendant, LEXUS MOTOR CARS, INC., was defectively designed and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

62. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN#

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JTHBJ46GX72075738 was defectively manufactured by the defendant, LEXUS MOTOR CARS, INC., and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

63. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN # JTHBJ46GX72075738 by the defendant, LEXUS MOTOR CARS, INC., failed to have appropriate safety devices and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

64. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC., failed to be accompanied by proper and sufficient instructions, directions and/or warnings concerning the use, operation, service, maintenance and/or repair of the 2007 Lexus VIN# JTHBJ46GX72075738, and the dangers and hazards attendant thereto; one or more of which were a substantial factor or a proximate cause of the aforesaid accident and injuries to the plaintiff.

65. At all times herein mentioned, the defendant RICARDO BROWN was using the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the purpose and in the manner normally intended or for reasonably foreseeable purposes, uses and operations and could not by the exercise of reasonable care have both discovered the defect and perceived its danger, and could not have otherwise averted the accident and the plaintiff's injuries.

66. Defendant, LEXUS MOTOR CARS, INC., is liable to the plaintiff under the

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doctrine of "Strict Products Liability"

67. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON BREACH OF WARRANTY:

68. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "67" as though said allegations were set forth fully herein at length below.

69. At all times herein mentioned, the defendants provided certain express and implied warranties to the public at large including the plaintiff that the 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808, was merchantable and reasonably safe and fit for the particular purposes intended and for reasonably foreseeable purposes.

70. The plaintiff relied upon said warranties.

71. At all times herein mentioned, the defendants breached the aforesaid warranties in that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not merchantable nor reasonably safe and fit for the purposes intended nor for reasonably foreseeable purposes, uses and/or operations.

72. That said breaches of warranties by the defendants were a substantial factor or proximate cause of injury to the plaintiff as previously described.

73. That by reason of the foregoing, the plaintiff EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would

TOY-RQ-05E-00003441

otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York
June 2, 2008

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

TOY-RQ-05E-00003442

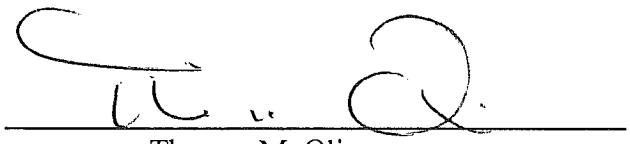
VERIFICATION BY ATTORNEY

Thomas M. Oliva, an attorney duly admitted to practice before the Courts in the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. That deponent is the attorney for the plaintiff in the action within; that deponent has read the foregoing **COMPLAINT** and know the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

2. The reason that this verification is not made by plaintiff and is made by deponent is that plaintiff does not reside in the county where the attorneys for the plaintiff have their office.

3. Deponent further says that the source of deponent's information and the grounds of deponent's belief as to all matters not stated upon deponent's knowledge are from investigations made on behalf of said plaintiff.



Thomas M. Oliva

Index No. 17175/08
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST and LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.

Defendants.

SUPPLEMENTAL SUMMONS and AMENDED VERIFIED COMPLAINT

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue
Suite 2750
New York, New York 10170
(212) 986-7353
***Facsimile* (212) 953-4308**

TO:

Index No.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.

Defendants.

SUMMONS and VERIFIED COMPLAINT

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue
Suite 2750
New York, New York 10170
(212) 986-7353
***Facsimile* (212) 953-4308**

TO:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN , DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

VERIFIED COMPLAINT

Index No.:

Plaintiff, by his attorneys, WINGATE, RUSSOTTI & SHAPIRO, LLP, as and for his Verified Complaint, upon information and belief, alleges the following:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON NEGLIGENCE:

1. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, was and still is a resident of the County of Kings, City and State of New York.

2. At all times hereinafter mentioned, the defendant, RICARDO BROWN, was the owner of a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

3. At all times hereinafter mentioned, the defendant, RICARDO BROWN, leased a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

4. At all times hereinafter mentioned, the defendant, RICARDO BROWN, maintained a certain motor vehicle bearing New York State license plate number DWV6808 for the year 2008.

5. At all times hereinafter mentioned, the defendant, RICARDO BROWN, operated a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

6. At all times hereinafter mentioned, the defendant, RICARDO BROWN, controlled a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008 within the scope of his employment.

7. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a foreign corporation authorized to do business in the State of New York.

9. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses, conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its act to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

10. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a business entity authorized to do business in the State of New York.

11. At all times hereinafter mentioned, the defendant, DCFS TRUST, was the owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

12. At all times hereinafter mentioned, the defendant, DCFS TRUST, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

TOY-RQ-05E-00003447

13. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

14. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

15. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, maintained a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

16. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

17. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the permission and consent of the defendant, DCFS TRUST.

18. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, within the scope of his employment.

19. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, operated and controlled a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008.

20. At all times hereinafter mentioned, West 34th between Madison Avenue and 5th Avenue, (hereinafter the "location") was, and still is a public road and /or thoroughfare in the County, City and State of New York.

21. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was purchased by the defendant, RICARDO BROWN from the defendant, LEXUS MOTOR CARS, INC.

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22. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the year of 2008.

23. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 and which was manufactured and sold by the defendant, LEXUS MOTOR CARS, INC., at the aforementioned location.

24. That on April 13, 2008, plaintiff, EZATT AZIZI operated a motor vehicle at the aforementioned location.

25. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI , operated a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008, within the scope of his employment.

26. That on April 13, 2008, the aforesaid motor vehicles operated by the defendants and the plaintiff came into contact with each other.

27. The aforesaid occurrence was caused by the negligence, carelessness and recklessness of the defendants, their agents, servants and/or employees in the ownership, operation, maintenance and control of their motor vehicles, without any negligence, carelessness or recklessness on the part of the plaintiff contributing thereto.

28. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

29. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York

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and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

30. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

31. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF EZATT AZIZI BASED UPON THE NEGLIGENCE OF THE DEFENDANT LEXUS, MOTOR CARS , INC:

32. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "31", as though said allegations were set forth fully herein at length below.

33. That at all times mentioned herein, the defendants, LEXUS MOTOR CARS, INC., is was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

34. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

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35. That at all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

36. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

37. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., was a non-domiciliary of the State of New York and has committed a tortious act within the State of New York, causing injury to a person within the State of New York and said defendant solicited business within the State of New York or engaged in other persistent courses conduct in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

38. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

39. On or before April 13, 2008, the defendant, LEXUS MOTOR CARS, INC., then was in the business of manufacturing, fabricating, assembling and/or designing the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

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40. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

41. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC, engaged and/or authorized the sale, distribution, advertisement, demonstration, packaging, installation, inspection and/or maintenance of its product in the State of New York.

42. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., manufactured, fabricated, assembled, designed and sold a 2007 Lexus VIN# JTHBJ46GX - 72075738 New York State license plate number DWV6808.

43. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX - 72075738, New York State license plate number DWV6808 was purchased by the defendant RICARDO BROWN.

44. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., sold, advertised, distributed, demonstrated, shipped, packaged and/or installed products and more specifically, the 2007 Lexus VIN# JTHBJ46GX72075738, New York State license plate number DWV6808 within the State of New York.

45. On or before April 13, 2008 the defendants, LEXUS MOTOR CARS, INC., sold a 2007 Lexus VIN # JTHBJ46 GX72075738 to the defendant Ricardo Brown which defendant, Ricardo Brown registered and operated within New York State.

46. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., fabricated, manufactured, assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738, bearing

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New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

47. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

48. At all times mentioned herein the 2007 Lexus VIN # JTHBJ46 GX72075738, bearing New York State license plate number DWV6808, was being used for the purpose for which it was intended.

49. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738 , the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 failed to be accompanied by proper and sufficient instructions, directions, safety devices and/or warnings.

50. At all times mentioned herein the defendants warranted, advertised and represented that the 2007 Lexus VIN# JTHBJ46GX72075738 was safe and fit for its intended use and purpose.

51. At all times herein mentioned said 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not safe and was inherently dangerous.

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52. At all times herein mentioned defendants knew or should have known that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was inherently dangerous, was unsafe and unfit for its intended purpose.

53. That on or about April 13, 2008, the defendant, RICARDO BROWN while using and/or operating the 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 was caused to be involved in a serious accident causing severe and permanent personal injuries in that the floor mat(s) of said vehicle interfered with the operation of the gas and/or brake of the vehicle.

54. That the plaintiff's accident and/or injury was caused as a result of the defendants' negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

55. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

56. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

57. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

TOY-RQ-05E-00003454

58. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON STRICT PRODUCT(S) LIABILITY:

59. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "58", as though said allegations were set forth fully herein at length below.

60. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC.,was defective and not reasonably safe and fit for the purposes intended nor for reasonable foreseeable purposes, uses or operations and was subject to a recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

61. At all times herein mentioned, and at the time of the design, manufacture, distribution and /or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, by the defendant, LEXUS MOTOR CARS, INC., was defectively designed and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

62. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN#

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JTHBJ46GX72075738 was defectively manufactured by the defendant, LEXUS MOTOR CARS, INC., and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

63. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN # JTHBJ46GX72075738 by the defendant, LEXUS MOTOR CARS, INC., failed to have appropriate safety devices and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

64. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC., failed to be accompanied by proper and sufficient instructions, directions and/or warnings concerning the use, operation, service, maintenance and/or repair of the 2007 Lexus VIN# JTHBJ46GX72075738, and the dangers and hazards attendant thereto; one or more of which were a substantial factor or a proximate cause of the aforesaid accident and injuries to the plaintiff.

65. At all times herein mentioned, the defendant RICARDO BROWN was using the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the purpose and in the manner normally intended or for reasonably foreseeable purposes, uses and operations and could not by the exercise of reasonable care have both discovered the defect and perceived its danger, and could not have otherwise averted the accident and the plaintiff's injuries.

66. Defendant, LEXUS MOTOR CARS, INC., is liable to the plaintiff under the

TOY-RQ-05E-00003456

doctrine of "Strict Products Liability"

67. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON BREACH OF WARRANTY:

68. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "67" as though said allegations were set forth fully herein at length below.

69. At all times herein mentioned, the defendants provided certain express and implied warranties to the public at large including the plaintiff that the 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808, was merchantable and reasonably safe and fit for the particular purposes intended and for reasonably foreseeable purposes.

70. The plaintiff relied upon said warranties.

71. At all times herein mentioned, the defendants breached the aforesaid warranties in that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not merchantable nor reasonably safe and fit for the purposes intended nor for reasonably foreseeable purposes, uses and/or operations.

72. That said breaches of warranties by the defendants were a substantial factor or proximate cause of injury to the plaintiff as previously described.

73. That by reason of the foregoing, the plaintiff EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would

TOY-RQ-05E-00003457

otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York
June 2, 2008

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

TOY-RQ-05E-00003458

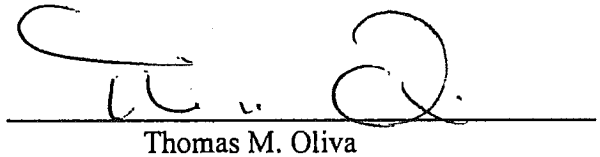
VERIFICATION BY ATTORNEY

Thomas M. Oliva, an attorney duly admitted to practice before the Courts in the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. That deponent is the attorney for the plaintiff in the action within; that deponent has read the foregoing **COMPLAINT** and know the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

2. The reason that this verification is not made by plaintiff and is made by deponent is that plaintiff does not reside in the county where the attorneys for the plaintiff have their office.

3. Deponent further says that the source of deponent's information and the grounds of deponent's belief as to all matters not stated upon deponent's knowledge are from investigations made on behalf of said plaintiff.



Thomas M. Oliva

Index No.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.

Defendants.

SUMMONS and VERIFIED COMPLAINT

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue
Suite 2750
New York, New York 10170
(212) 986-7353
***Facsimile* (212) 953-4308**

TO:

Index No. 17175/08
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST and LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.

Defendants.

SUPPLEMENTAL SUMMONS and AMENDED VERIFIED COMPLAINT

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue
Suite 2750
New York, New York 10170
(212) 986-7353
***Facsimile* (212) 953-4308**

TO:

TOY-RQ-05E-00003461

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN , DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.

Defendants.

----------X

AMENDED VERIFIED COMPLAINT

Index No.: 17175/08

Plaintiff, by his attorneys, WINGATE, RUSSOTTI & SHAPIRO, LLP, as and for his Amended Verified Complaint, upon information and belief, alleges the following:

AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON NEGLIGENCE:

1. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, was and still is a resident of the County of Kings, City and State of New York.

2. At all times hereinafter mentioned, the defendant, RICARDO BROWN, was the owner of a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

3. At all times hereinafter mentioned, the defendant, RICARDO BROWN, leased a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

4. At all times hereinafter mentioned, the defendant, RICARDO BROWN, maintained a certain motor vehicle bearing New York State license plate number DWV6808 for the year 2008.

5. At all times hereinafter mentioned, the defendant, RICARDO BROWN, operated a certain motor vehicle, a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008.

6. At all times hereinafter mentioned, the defendant, RICARDO BROWN, controlled a certain motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 for the year 2008 within the scope of his employment.

7. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a foreign corporation authorized to do business in the State of New York.

9. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses, conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its act to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

10. That, upon information and belief, at all times herein mentioned the defendant, DCFS TRUST, was a business entity authorized to do business in the State of New York.

11. At all times hereinafter mentioned, the defendant, DCFS TRUST, was the owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

12. At all times hereinafter mentioned, the defendant, DCFS TRUST, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

13. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, leased a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

14. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

TOY-RQ-05E-00003463

15. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, maintained a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

16. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

17. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the permission and consent of the defendant, DCFS TRUST.

18. At all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated and controlled a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, within the scope of his employment.

19. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI, operated and controlled a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008.

20. At all times hereinafter mentioned, West 34th between Madison Avenue and 5th Avenue, (hereinafter the "location") was, and still is a public road and /or thoroughfare in the County, City and State of New York.

21. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was purchased by the defendant, RICARDO BROWN from the defendant, LEXUS MOTOR CARS, INC.

22. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was purchased by the defendant, RICARDO BROWN from the defendant, TOYOTA MOTOR SALES U.S.A., INC.

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23. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the year of 2008.

24. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 and which was manufactured and sold by the defendant, LEXUS MOTOR CARS, INC., at the aforementioned location.

25. That on April 13, 2008, the defendant, RICARDO BROWN, operated the aforesaid motor vehicle a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 and which was manufactured and sold by the defendant, TOYOTA MOTOR SALES U.S.A., INC., at the aforementioned location.

26. That on April 13, 2008, plaintiff, EZATT AZIZI operated a motor vehicle at the aforementioned location.

27. At all times hereinafter mentioned, the plaintiff, EZATT AZIZI , operated a certain motor vehicle bearing New York State license plate number 4P60B for the year 2008, within the scope of his employment.

28. That on April 13, 2008, the aforesaid motor vehicles operated by the defendants and the plaintiff came into contact with each other.

29. The aforesaid occurrence was caused by the negligence, carelessness and recklessness of the defendants, their agents, servants and/or employees in the ownership, operation, maintenance and control of their motor vehicles, without any negligence, carelessness or recklessness on the part of the plaintiff contributing thereto.

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30. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

31. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

32. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

33. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF EZATT AZIZI BASED UPON THE NEGLIGENCE OF THE DEFENDANT LEXUS, MOTOR CARS , INC AND TOYOTA MOTOR SALES U.S.A., INC.:

34. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "33", as though said allegations were set forth fully herein at length below.

35. That at all times mentioned herein, the defendants, LEXUS MOTOR CARS, INC., is was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

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36. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

37. That at all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

38. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

39. That at all times mentioned herein, the defendant, LEXUS MOTOR CARS, INC., was a non-domiciliary of the State of New York and has committed a tortious act within the State of New York, causing injury to a person within the State of New York and said defendant solicited business within the State of New York or engaged in other persistent courses conduct in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

40. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

41. On or before April 13, 2008, the defendant, LEXUS MOTOR CARS, INC., then was in the business of manufacturing, fabricating, assembling and/or designing the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

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42. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

43. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC, engaged and/or authorized the sale, distribution, advertisement, demonstration, packaging, installation, inspection and/or maintenance of its product in the State of New York.

44. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., manufactured, fabricated, assembled, designed and sold a 2007 Lexus VIN# JTHBJ46GX - 72075738 New York State license plate number DWV6808.

45. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX - 72075738, New York State license plate number DWV6808 was purchased by the defendant RICARDO BROWN.

46. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC., sold, advertised, distributed, demonstrated, shipped, packaged and/or installed products and more specifically, the 2007 Lexus VIN# JTHBJ46GX72075738, New York State license plate number DWV6808 within the State of New York.

47. On or before April 13, 2008 the defendants, LEXUS MOTOR CARS, INC., sold a 2007 Lexus VIN # JTHBJ46 GX72075738 to the defendant Ricardo Brown which defendant, Ricardo Brown registered and operated within New York State.

48. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., fabricated, manufactured, assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738, bearing

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New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

49. At all times mentioned herein the defendant, LEXUS MOTOR CARS, INC., assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

50. At all times mentioned herein the 2007 Lexus VIN # JTHBJ46 GX72075738, bearing New York State license plate number DWV6808, was being used for the purpose for which it was intended.

51. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738 , the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 failed to be accompanied by proper and sufficient instructions, directions, safety devices and/or warnings.

52. At all times mentioned herein the defendants warranted, advertised and represented that the 2007 Lexus VIN# JTHBJ46GX72075738 was safe and fit for its intended use and purpose.

53. At all times herein mentioned said 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not safe and was inherently dangerous.

54. At all times herein mentioned defendants knew or should have known that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was inherently dangerous, was unsafe and unfit for its intended purpose.

55. That on or about April 13, 2008, the defendant, RICARDO BROWN while using and/or operating the 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 was caused to be involved in a serious accident causing severe and permanent personal injuries in that the floor mat(s) of said vehicle interfered with the operation of the gas and/or brake of the vehicle.

56. That the plaintiff's accident and/or injury was caused as a result of the defendants' negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

57. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

58. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

59. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

60. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

61. That at all times mentioned herein, the defendants, TOYOTA MOTOR SALES U.S.A., INC., is was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

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62. That at all times mentioned herein, the defendant, TOYOTA MOTOR SALES U.S.A., INC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

63. That at all times mentioned herein the defendant, TOYOTA MOTOR SALES U.S.A., INC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

64. That at all times mentioned herein, the defendant, TOYOTA MOTOR SALES U.S.A., INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

65. That at all times mentioned herein, the defendant, TOYOTA MOTOR SALES U.S.A., INC., was a non-domiciliary of the State of New York and has committed a tortuous act within the State of New York, causing injury to a person within the State of New York and said defendant solicited business within the State of New York or engaged in other persistent courses conduct in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and /or derived substantial revenue from interstate or international commerce.

66. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

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67. On or before April 13, 2008, the defendant, TOYOTA MOTOR SALES U.S.A., INC., then was in the business of manufacturing, fabricating, assembling and/or designing the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

68. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., placed its products for sale in the stream of interstate commerce, including the aforementioned 2007 Lexus VIN# JTHBJ46GX72075738 New York State license plate number DWV6808.

69. On or before April 13, 2008 the defendant, LEXUS MOTOR CARS, INC, engaged and/or authorized the sale, distribution, advertisement, demonstration, packaging, installation, inspection and/or maintenance of its product in the State of New York.

70. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., manufactured, fabricated, assembled, designed and sold a 2007 Lexus VIN# JTHBJ46GX -72075738 New York State license plate number DWV6808.

71. Prior to, on or about April 13, 2008 a 2007 Lexus VIN# JTHBJ46GX - 72075738, New York State license plate number DWV6808 was purchased by the defendant .RICARDO BROWN.

72. On or before April 13, 2008 the defendant, TOYOTA MOTOR SALES U.S.A., INC., sold, advertised, distributed, demonstrated, shipped, packaged and/or installed products and more specifically, the 2007 Lexus VIN# JTHBJ46GX72075738, New York State license plate number DWV6808 within the State of New York.

73. On or before April 13, 2008 the defendants, TOYOTA MOTOR SALES U.S.A., INC., sold a 2007 Lexus VIN # JTHBJ46 GX72075738 to the defendant Ricardo Brown which defendant, Ricardo Brown registered and operated within New York State.

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74. At all times mentioned herein the defendant, TOYOTA MOTOR SALES U.S.A., INC., fabricated, manufactured, assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

75. At all times mentioned herein the defendant, TOYOTA MOTOR SALES U.S.A., INC., assembled, designed, sold, advertised, distributed, packaged, demonstrated and/or installed the aforesaid 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 with full knowledge of the purpose for which it was intended and with the intention that it be used for such purpose.

76. At all times mentioned herein the 2007 Lexus VIN # JTHBJ46 GX72075738, bearing New York State license plate number DWV6808, was being used for the purpose for which it was intended.

77. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738 , the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 failed to be accompanied by proper and sufficient instructions, directions, safety devices and/or warnings.

78. At all times mentioned herein the defendants warranted, advertised and represented that the 2007 Lexus VIN# JTHBJ46GX72075738 was safe and fit for its intended use and purpose.

79. At all times herein mentioned said 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not safe and was inherently dangerous.

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80. At all times herein mentioned defendants knew or should have known that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was inherently dangerous, was unsafe and unfit for its intended purpose.

81. That on or about April 13, 2008, the defendant, RICARDO BROWN while using and/or operating the 2007 Lexus VIN# JTHBJ46GX72075738 bearing New York State license plate number DWV6808 was caused to be involved in a serious accident causing severe and permanent personal injuries in that the floor mat(s) of said vehicle interfered with the operation of the gas and/or brake of the vehicle.

82. That the plaintiff's accident and/or injury was caused as a result of the defendants' negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808.

83. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R. Claiming inter alia that this action falls within one or more of the exceptions set forth in Section 1602 of the C.P.L.R.

84. By reason of the foregoing occurrence, the plaintiff, EZATT AZIZI, sustained serious injury as defined in Section 5102(d) of the Insurance Law of the State of New York and/or economic loss greater than basic economic loss as defined in Section 5102 (a) of the Insurance Law of the State of New York.

85. By reason of the foregoing the plaintiff, EZATT AZIZI, sustained serious and severe permanent and personal injuries all to damage in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

86. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

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AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON STRICT PRODUCT(S) LIABILITY:

87. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "86", as though said allegations were set forth fully herein at length below.

88. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC.,was defective and not reasonably safe and fit for the purposes intended nor for reasonable foreseeable purposes, uses or operations and was subject to a recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

89. At all times herein mentioned, and at the time of the design, manufacture, distribution and /or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, by the defendant, LEXUS MOTOR CARS, INC., was defectively designed and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

90. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738 was defectively manufactured by the defendant, LEXUS MOTOR CARS, INC., and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

91. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN #

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JTHBJ46GX72075738 by the defendant, LEXUS MOTOR CARS, INC., failed to have appropriate safety devices and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

92. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant LEXUS MOTOR CARS, INC., failed to be accompanied by proper and sufficient instructions, directions and/or warnings concerning the use, operation, service, maintenance and/or repair of the 2007 Lexus VIN# JTHBJ46GX72075738, and the dangers and hazards attendant thereto; one or more of which were a substantial factor or a proximate cause of the aforesaid accident and injuries to the plaintiff.

93. At all times herein mentioned, the defendant RICARDO BROWN was using the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the purpose and in the manner normally intended or for reasonably foreseeable purposes, uses and operations and could not by the exercise of reasonable care have both discovered the defect and perceived its danger, and could not have otherwise averted the accident and the plaintiff's injuries.

94. Defendant, LEXUS MOTOR CARS, INC., is liable to the plaintiff under the doctrine of "Strict Products Liability"

95. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

96. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN#

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JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant TOYOTA MOTOR SALES U.S.A., INC.,was defective and not reasonably safe and fit for the purposes intended nor for reasonable foreseeable purposes, uses or operations and was subject to a recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

97. At all times herein mentioned, and at the time of the design, manufacture, distribution and /or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738, by the defendant, TOYOTA MOTOR SALES U.S.A., INC., was defectively designed and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

98. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN# JTHBJ46GX72075738 was defectively manufactured by the defendant, TOYOTA MOTOR SALES U.S.A., INC., and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

99. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the 2007 Lexus VIN# JTHBJ46GX72075738, the 2007 Lexus VIN # JTHBJ46GX72075738 by the defendant, TOYOTA MOTOR SALES U.S.A., INC., failed to have appropriate safety devices and subject to recall in that the floor mat(s) of said vehicle could interfere with the operation of the gas and/or brake of the vehicle.

100. At all times herein mentioned, and at the time of the design, manufacture, distribution and/or sale of the, the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808, by the defendant TOYOTA MOTOR SALES U.S.A., INC., failed to be accompanied by proper and sufficient instructions, directions and/or warnings

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concerning the use, operation, service, maintenance and/or repair of the 2007 Lexus VIN# JTHBJ46GX72075738, and the dangers and hazards attendant thereto; one or more of which were a substantial factor or a proximate cause of the aforesaid accident and injuries to the plaintiff.

101. At all times herein mentioned, the defendant RICARDO BROWN was using the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 for the purpose and in the manner normally intended or for reasonably foreseeable purposes, uses and operations and could not by the exercise of reasonable care have both discovered the defect and perceived its danger, and could not have otherwise averted the accident and the plaintiff's injuries.

102. Defendant, TOYOTA MOTOR SALES U.S.A., INC., is liable to the plaintiff under the doctrine of "Strict Products Liability"

103. That by reason of the foregoing, the plaintiff, EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF, EZATT AZIZI BASED UPON BREACH OF WARRANTY:

104. The plaintiff, repeats, reiterates and again alleges, each and every allegation in the complaint previously set forth in paragraphs numbered "1" through "103" as though said allegations were set forth fully herein at length below.

105. At all times herein mentioned, the defendants provided certain express and implied warranties to the public at large including the plaintiff that the 2007 Lexus VIN # JTHBJ46GX72075738, bearing New York State license plate number DWV6808, was

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merchantable and reasonably safe and fit for the particular purposes intended and for reasonably foreseeable purposes.

106. The plaintiff relied upon said warranties.

107. At all times herein mentioned, the defendants breached the aforesaid warranties in that the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 was not merchantable nor reasonably safe and fit for the purposes intended nor for reasonably foreseeable purposes, uses and/or operations.

108. That said breaches of warranties by the defendants were a substantial factor or proximate cause of injury to the plaintiff as previously described.

109. That by reason of the foregoing, the plaintiff EZATT AZIZI, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against the defendants in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York
August 25, 2008

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

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VERIFICATION BY ATTORNEY

Thomas M. Oliva, an attorney duly admitted to practice before the Courts in the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. That deponent is the attorney for the plaintiff in the action within; that deponent has read the foregoing **AMENDED COMPLAINT** and know the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

2. The reason that this verification is not made by plaintiff and is made by deponent is that plaintiff does not reside in the county where the attorneys for the plaintiff have their office.

3. Deponent further says that the source of deponent's information and the grounds of deponent's belief as to all matters not stated upon deponent's knowledge are from investigations made on behalf of said plaintiff.

Thomas M. Oliva

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff(s),

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

ANSWER TO AMENDED COMPLAINT

Index No. 17115/08

S I R S :

PLEASE TAKE NOTICE, that the defendant, **RICARDO BROWN**, by his attorneys, CONNORS & CONNORS, P.C., answering the Supplemental Summons and Amended Verified Complaint herein, states as follows:

ANSWERING THE FIRST CAUSE OF ACTION

1. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations of the complaint set forth in paragraphs 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 26, 27.

2. Denies each and every allegation of the complaint set forth in paragraphs 3 and 6.

3. Denies each and every allegation of the complaint set forth in paragraph 4, except admits that the defendant RICARDO BROWN carried out the responsibilities of an owner.

4. Denies each and every allegation of the complaint set forth in paragraphs 21 and 22, except admits that a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license number DWV6808 was purchased by the defendant RICARDO BROWN and was designed and manufactured by the defendant LEXUS MOTOR CARS, INC. but may have been sold by a dealer.

5. Denies each and every allegation of the complaint set forth in paragraphs 29, 31, 32, 33 insofar as this answering defendant is concerned and refer all questions of law to the Court.

6. Denies each and every allegation of the complaint set forth in paragraph 30 insofar as this paragraph states a conclusion of law which is respectfully referred to the Court.

7. Admits each and every allegation of the complaint set forth in paragraphs 2, 5, 20, 23, 24, 25, 28.

ANSWERING A SECOND CAUSE OF ACTION

8. Answering paragraph number 34, defendant RICARDO BROWN, repeats and reiterates each and every allegation contained in paragraphs 1 through 8, inclusive of this Answer as if set forth at length herein.

9. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations of the complaint set forth in paragraphs 35, 36, 37, 61, 62, 63.

10. Denies each and every allegation of the complaint set forth in paragraph 56, except admits that if there was any negligence, then the plaintiff's accident and/or injury was caused as a result of the defendant LEXUS' and/or Toyota's negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license number DWV6808 with no negligence by defendant RICARDO BROWN.

11. Denies each and every allegation of the complaint set forth in paragraphs 47 and 73, except admits that a 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license number DWV6808 was purchased by the defendant RICARDO BROWN and was designed and manufactured by the defendant LEXUS MOTOR CARS, INC. but may have been sold by a dealer.

12. Denies each and every allegation of the complaint set forth in paragraph 57 insofar as this paragraph states a conclusion of law which is respectfully referred to the Court.

13. Denies each and every allegation of the complaint set forth in paragraphs 52, 54, 58, 59, 60, 78, 80 insofar this answering defendant is concerned.

14. Admits each and every allegation of the complaint set forth in paragraphs 45, 50, 71, and 76.

15. Admits upon information and belief the allegations of the complaint set forth in paragraphs 38, 39, 40, 41, 42, 43, 44, 46, 48, 49, 51, 53, 55, 64, 65, 66, 67, 68, 69, 70, 72, 74, 75, 76, 77, 79, 81.

16. Denies each and every allegation of the complaint set forth in paragraphs 56, 82, except admits that if there was any negligence at all by any defendant, then the plaintiff's accident and/or injury was caused as a result of the defendants', LEXUS AND/OR TOYOTA, negligence in its design, manufacture, distribution and sale of the 2007 Lexus VIN# JTHBJ46GX72075738, bearing New York State license plate number DWV6808 with no negligence by defendant Brown.

17. Denies each and every allegation of the complaint set forth in paragraph 83 insofar as this paragraph states a conclusion of law which is respectfully referred to the Court.

18. Denies each and every allegation of the complaint set forth in paragraphs 84, 85, 86 insofar this answering defendant is concerned.

ANSWERING A THIRD CAUSE OF ACTION

19. Answering paragraph number 87, defendant RICARDO BROWN, repeats and reiterates each and every allegation contained in paragraphs 1 through 19, inclusive of this Answer as if set forth at length herein.

20. Denies each and every allegation of the complaint set forth in paragraph 95, 103 insofar as this answering defendant is concerned.

21. Admits upon information and belief, without admitting that defendant Brown was

aware of said matters before the accident, the allegations of the complaint set forth in paragraphs 88, 89, 90, 91, 92, 96, 97, 98, 99, 100.

22. Admits each and every allegation of the complaint set forth in paragraphs 93, 101.

23. Denies each and every allegation of the complaint set forth in paragraphs 94, and 102 insofar as these paragraphs state conclusions of law which are respectfully referred to the Court

ANSWERING A FOURTH CAUSE OF ACTION

24. Answering paragraph number 104, defendant RICARDO BROWN, repeats and reiterates each and every allegation contained in paragraphs 1 through 24, inclusive of this Answer as if set forth at length herein.

25. Denies any knowledge or information sufficient to form a belief as to the truth of the allegations of the complaint set forth in paragraph 106.

26. Denies each and every allegation of the complaint set forth in paragraphs 105, 107, 108, 109 insofar as this answering defendant is concerned.

PLEASE TAKE FURTHER NOTICE, that the following affirmative defenses are set forth as follows:

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The personal injuries alleged to have been sustained by the plaintiff was caused in whole or in part as a result of the culpable conduct attributable to the plaintiff, including, but not limited to, plaintiff's contributory negligence and/or assumption of the risk, and the defendant, RICARDO BROWN, seeks a reduction of any recovery had by the plaintiff in the proportion which the culpable conduct attributable to the plaintiff bears to the culpable conduct which caused the damages.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

If the plaintiff was not wearing a seat belt at the time of the accident, answering defendant

pleads the failure to wear same in mitigation of damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate damages.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

The joint and several liability of the defendants is limited by application of Article 16 of the CPLR.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

The joint and several liability of the defendants is limited by application of Article 14 of the CPLR.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

On information and belief, some or all of plaintiff's economic loss will be replaced or indemnified in whole or in part from collateral sources, and the answering defendant is entitled to the benefits of CPLR 4545.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

To the extent that plaintiff has not sustained a serious injury as defined in the Insurance Law, plaintiff has failed to state a cause of action and cannot recover herein.

AS AND FOR A CROSS-CLAIM AGAINST THE DEFENDANTS DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC., THE DEFENDANT, RICARDO BROWN SET(S) FORTH AS FOLLOWS:

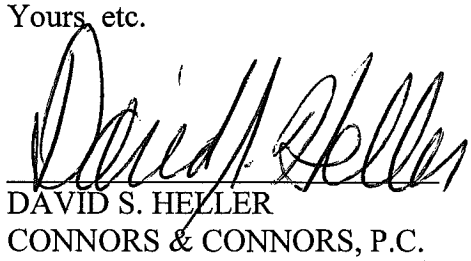
On the authority of Dole v. Dow Chemical, 30 N.Y.2d 143; Rogers v. Dorchester, 32 N.Y.2d, Kelly v. Deisel Construction, 35 N.Y.2d 1, if the plaintiff sustained the injuries and damages in the manner and at the time and place alleged, and if it is found that this answering defendant is liable to the plaintiff herein, then upon said allegations of the complaint, and upon the pleadings and evidence, said damages were sustained by reason of the sole, active and

primary carelessness and/or recklessness and/or negligence and/or affirmative acts of omissions or commissions and/or breach of contract and/or breach of warranty and/or strict liability by the co-defendants and this answering defendant is entitled to complete indemnification from any judgment over and against all the co-defendants herein, for all or part of any verdict or judgment that plaintiff may recover against said answering defendant, and/or in the event that judgment over is not recovered on the basis of full indemnification, then this answering defendant demands judgment over and against all the co-defendants herein on the basis of an apportionment of responsibility for the alleged occurrence for all or part of any judgment or verdict that plaintiff may recover against said answering defendant, and that all of the provisions of limitation of liability under the Terms of Article 16 of the CPLR are pleaded herein by this cross claiming defendant, together with costs, disbursements and reasonable attorney's fees.

WHEREFORE, defendant, RICARDO BROWN demands judgment dismissing the plaintiff's complaint against him, together with the costs and disbursements of this action, and further demands that in the event this defendant is found liable to plaintiff herein, then said defendant, on the basis of the apportionment of responsibility, have judgment over and against the aforementioned co-defendants for all or part of the verdict or judgment that plaintiff may recover against this answering defendant, together with the costs and disbursements of this action and for any expenses incurred by him in the defense thereof, including attorney's fees.

Dated: Staten Island, New York
November 6, 2008

Yours, etc.



DAVID S. HELLER
CONNORS & CONNORS, P.C.
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700
File No.: DGE 23830B

TO: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue - suite 2750
New York, New York 10170
(212) 986-7353

DCFS TRUST
Defendant
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
Defendant
17 Rales Drive
Fairfield, NJ 07004

LEXUS MOTOR CARS, INC.
Defendant
Suite 711
45 John Street
New York, NY 10038

TOYOTA MOTOR SALES U.S.A., INC.
Defendant
c/o CT CORPORATION SYSTEM
111 Eighth Avenue
New York, New York 10011

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF RICHMOND)

I, the undersigned, an attorney admitted to practice in the Courts of the State of New York and state that I am the attorney of record for the Defendants, in the within action; I have read the foregoing VERIFIED ANSWER, and know the contents thereof, the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The reason for this verification is made by me and not by the Defendant, is that the Defendant does not reside in the County wherein I maintain my offices. The grounds of my belief as to all matters not stated upon my own knowledge are based on information contained in my file, correspondence, etc.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: Staten Island, New York
November 6, 2008

DAVID S. HELLER

CT Corporation

Service of Process Transmittal

11/17/2008
CT Log Number 514093282

LEGAL SERVICES

NOV 19 2008

GROUP RECEIVED

TO: Dorothy Sutton, Administrative Assistant
Toyota Motor Sales, U.S.A., Inc.
19001 S. Western Ave., HQ11
Torrance, CA 90501

RE: **Process Served in New York**

FOR: Toyota Motor Sales, U.S.A., Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Ezatt Azizi, Pltf. vs. Ricardo Brown, et al. including Toyota Motor Sales U.S.A., Inc., Dfts. *Name discrepancy noted.*
DOCUMENT(S) SERVED:	Answer, Verification, Demand(s), Notice(s)
COURT/AGENCY:	Kings County: Supreme Court, NY Case # 17175/08
NATURE OF ACTION:	Product Liability Litigation - Manufacturing Defect - Dft. Ricardo Brown answering the Supplemental Summons and Amended Verified Complaint
ON WHOM PROCESS WAS SERVED:	C T Corporation System, New York, NY
DATE AND HOUR OF SERVICE:	By Regular Mail on 11/17/2008 postmarked on 11/11/2008
APPEARANCE OR ANSWER DUE:	Within 20 days of the receipt - Produce for discovery, inspection and/or copying // 1/08/2009 at 2:00 p.m. - Pltf.'s Examination before trial
ATTORNEY(S) / SENDER(S):	David S. Heller Connors & Connors, P.C. 766 Castleton Avenue Staten Island, NY 10310 718-442-1700
ACTION ITEMS:	SOP Papers with Transmittal, via Fed Ex 2 Day , 791186098012 Image SOP Email Notification, Shari Goldsworthy shari_goldsworthy@toyota.com Email Notification, Webster Burns webster_burns@toyota.com Email Notification, Dorothy Sutton dorothy_sutton@toyota.com
SIGNED:	C T Corporation System
PER:	Christopher Tilton
ADDRESS:	111 Eighth Avenue New York, NY 10011
TELEPHONE:	212-894-8940

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

CT Corporation

Service of Process Transmittal

11/17/2008
CT Log Number 514093282

LEGAL SERVICES

NOV 19 2008

GROUP RECEIVED

TO: Dorothy Sutton, Administrative Assistant
Toyota Motor Sales, U.S.A., Inc.
19001 S. Western Ave., HQ11
Torrance, CA 90501

RE: **Process Served in New York**

FOR: Toyota Motor Sales, U.S.A., Inc. (Domestic State: CA)

DOCKET HISTORY:

DOCUMENT(S) SERVED:	DATE AND HOUR OF SERVICE:	TO:	CT LOG NUMBER:
Request(s), Rider(s), Motion	By Regular Mail on 10/23/2008 postmarked on 10/20/2008	Dorothy Sutton, Administrative Assistant Toyota Motor Sales, U.S.A., Inc.	514003355
Letter, Supplemental Summons, Amended Verified Complaint, Verification(s), Summons, Verified Complaint	By Certified Mail on 09/22/2008 postmarked on 09/17/2008	Dorothy Sutton, Administrative Assistant Toyota Motor Sales, U.S.A., Inc.	513883019

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

P

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

DEMAND FOR VERIFIED BILL OF PARTICULARS

Plaintiff(s),

-against-

Index No. 17115/08

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

RECEIVED
NOV 19 2008
LEGAL DEPT.

COUNSELORS:

PLEASE TAKE NOTICE, that pursuant to CPLR Sections 3041 and 3044, you are hereby required to serve a Verified Bill of Particulars upon the law firm of CONNORS & CONNORS, P.C., within thirty (30) days from the date of service of this demand:

1. State the plaintiff's date of birth and social security number.

2. State the date and time of the occurrence.

3. State the location of the occurrence.

4. State the street or streets including reference to intersections, crosswalks, corners or curbs, where necessary to accurately locate the place; and the direction in which each vehicle involved was traveling.

5. State how it is claimed the accident occurred.

6. State what part of the respective vehicles came into contact.

7. State all the acts and/or omissions constituting the negligence claimed.

8. State the traffic controls, if any, plaintiff claims were in place at the time of the occurrence.

9. State any and all laws, rules, regulations and ordinances that are claimed to be applicable to the occurrence and/or claimed to be violated by the defendant.

10. State the nature and extent of all injuries claimed.

11. Specify those injuries which are claimed to be permanent.

12. State whether the plaintiff had ever sustained any injury to, or had ever received treatment from any health care provider, for any part(s) of the body which the plaintiff claims to have injured in this accident.

13. If the response to No. 12 is affirmative, identify the part of the body involved, the nature of the prior injury or condition, and the names of all health care providers from whom the plaintiff sought treatment.

14. Accurately state the length of time the plaintiff was confined to bed.

15. Accurately state the length of time the plaintiff was confined to home.

16. State the name and address of each and every hospital, clinic or institution where any treatment or examination of the plaintiff were rendered and the length of time, if any, confined thereto. If not confined to any such facility, so indicate.

17. If it is claimed that the plaintiff was treated by a physician or other health care provider, give the name and address of said physician.

18. Accurately state the number of visits it is claimed the plaintiff made to each of the physicians specified in the preceding answer.

19. State name and address of plaintiff's employer:

(a) at the time of the accident; and

(b) at the present time.

20. State length of time incapacitated from employment.

21. State the nature of the plaintiff's employment at the time of the occurrence.

22. If self-employed, state nature of self-employment and business address.

23. State the total amount claimed as loss of earnings, including a detailed statement as to how such lost earnings were computed.

24. If the plaintiff was a student, give the name and address of the school attended, at or about the time of the accident, and accurately state the length of time incapacitated from attending school.

25. State the total amount claimed as special damages for:

(a) Physicians expenses;
(b) Medical expenses;
(c) Nursing expenses;
(d) Hospital expenses;
(e) X-ray expenses; and
(e) Any other expenses which it is claimed resulted as a result of the occurrence.

26. State the present address of the plaintiffs.

27. Since this accident involves automobiles, give the year, make and model of each vehicle involved.

28. If a claim for property damage is being asserted, accurately state the cost of property alleged to have been damaged and its value before and after the occurrence.

29. Provide an itemized list of the property damage claimed, including the cost of repairing each and every item.

30. State in what respect plaintiff has sustained a serious injury, as defined in Subdivision D of Section 5102 of the Insurance Law, or economic loss greater than basic

economic loss, as defined in Subdivision A2 of Section 5102 of the Insurance Law of the State of New York.

31. If loss of services is claimed, state the pecuniary loss alleged and in what respects there was a loss of services and/or consortium, and amount claimed for medical or other expenses as a result thereof.

32. State if the plaintiff has been convicted of or plead guilty to either a misdemeanor or felony crime within the past ten (10) years.

33. If the answer to the foregoing questions is in the affirmative, identify the nature of the offense and the Court in which the conviction or plea was entered.

PLEASE TAKE FURTHER NOTICE, that the failure of the plaintiff to comply with the demand of this answering defendant within thirty (30) days will serve as the basis of a motion to compel plaintiff's compliance with same.

Dated: Staten Island, New York
November 6, 2008

Yours, etc.

DAVID S. HELLER
CONNORS & CONNORS, P.C.
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700
File No.: DGE 23830B

TO: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue - suite 2750
New York, New York 10170
(212) 986-7353

DCFS TRUST
Defendant
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
Defendant
17 Rales Drive
Fairfield, NJ 07004

LEXUS MOTOR CARS, INC.
Defendant
Suite 711
45 John Street
New York, NY 10038

TOYOTA MOTOR SALES U.S.A. INC.
Defendant
c/o CT CORPORATION SYSTEM
111 Eighth Avenue
New York, New York 10011

P

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff(s),

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

NOTICES FOR DISCOVERY AND INSPECTION

Index No. 17115/08

RECEIVED
NOV 19 2008
LEGAL DEPT.

DEMAND FOR COLLATERAL SOURCE INFORMATION

C O U N S E L O R (S):

PLEASE TAKE NOTICE that pursuant to Article 31 of the Civil Practice Laws & Rules, you are hereby required to produce for discovery, inspection and photocopying, at the offices of CONNORS & CONNORS, P.C., 766 Castleton Avenue, Staten Island, New York, within twenty (20) days after receipt of this notice, the following:

1. If plaintiff is self-employed or obtained income from sources other than employment, submit copies of plaintiff's income tax returns for a three year period preceding the date of the accident to the present.

2. A duly executed and acknowledged written authorization directed to plaintiff's employers for a three year period preceding the date the accident to the present.

3. Duly executed and acknowledged written authorizations directed to the Internal Revenue Service for a three year period preceding the date of the accident to the present. Said authorization must include a photocopy of two forms of photo identification.

4. A duly executed and acknowledged written authorization directed to

plaintiff's No-Fault carrier to permit the defendant to obtain the records maintained by the No-Fault carrier with regard to the accident alleged in plaintiff's complaint.

5. If a claim has or will be made pursuant to the terms of Article XVIII of the Insurance Law of the State of New York, with respect to each and every application:

a) set forth the name, address, policy number of each company to which a claim has been or will be made.
b) set forth duly executed and acknowledged written authorizations enabling the undersigned to obtain the records relating to the plaintiff from each company identified in response to paragraph 5(a).

6. If a claim has or will be made pursuant to the terms of the worker's compensation law, with respect to each and every application:

a) Set forth the name, address, policy number and claim number of each company to which a claim has been or will be made, together with the worker's compensation board file number.

b) Set forth duly executed and acknowledged written authorizations enabling the undersigned to obtain the records relating to the plaintiff from each company identified in response to paragraph 6(a).

7. If a disability claim has or will be made pursuant to the terms of the social security laws, with respect to each and every application:

a) Set forth the claim office, the address, and the claim number assigned.
b) Set forth a duly executed and acknowledge written authorization enabling the undersigned to obtain the records relating to the plaintiff.

8. Pursuant to CPLR Section 4545©), produce and permit the defendants to inspect and copy the contents of:

a) each and every collateral source of payment, including but not limited to insurance agreements, social security, worker's compensation or employee benefit programs and any other

collateral source of payment for past or future costs or expenses alleged to have been incurred by the plaintiffs or for which recovery is sought in the instant action; and

b) a written statement setting forth any such collateral sources and their amounts; and

c) duly executed original authorizations permitting the defendants to obtain and make copies of all records relating to collateral source information as set forth herein.

9. Duly executed and acknowledge original authorizations permitting this defendant to obtain and copy:

a) employment records for three years prior to the date of the accident to the present;

b) union records for three years prior to the date of the accident to the present;

PLEASE TAKE FURTHER NOTICE, that the within demand is a continuing demand. In the event that any of the above items are obtained after service of this demand, they are to be furnished to the undersigned pursuant to this demand.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief will be made to this court.

PLEASE TAKE FURTHER NOTICE, that in lieu of producing the items demanded herein, you may serve and submit to the undersigned true and conformed copies of the items demanded herein within twenty (20) days after receipt of this notice.

DEMAND FOR NAMES AND ADDRESSES OF ALL WITNESSES

C O U N S E L O R S :

PLEASE TAKE NOTICE that pursuant to Article 31 of the Civil Practice Laws & Rules, the undersigned demands that plaintiff produce within twenty (20) days after receipt of this notice,

for the purpose of discovery, inspection and photocopying, the following:

1. The names and addresses of each person known or claimed by you or any party you represent in this action to be a witness to:

(a) The occurrence alleged in the complaint in this action; or,

(b) Any acts, omissions, or conditions which allegedly caused the occurrence alleged in the complaint; or,

(c) Any actual notice allegedly given to the defendants or any employee of defendant of any condition which allegedly caused the occurrence alleged in the complaint; or,

(d) The nature and duration of any alleged condition which allegedly caused the occurrence alleged in the complaint.

If no such witnesses are known, so state in reply to this demand. The undersigned will object upon trial to the testimony of any witnesses not so identified.

PLEASE TAKE FURTHER NOTICE that appropriate motions will be made at the trial of this action to preclude the testimony of any witness to the above described facts and circumstances who is not identified by you in response to this notice.

NOTICE TO PRODUCE PURSUANT TO CPLR 3101(e)

COUNSELORS:

PLEASE TAKE NOTICE, that defendants represented by the undersigned demands that you produce, pursuant to CPLR 3101(e) and 3120, and permit us to discover, inspect, copy and photograph:

1. Any signed statements, unsigned statement or copy of any recorded statement or document made by or taken from any party represented by the undersigned in this action, or from any agent, servant or employee of any defendant represented by this office; or,

(b) Any signed statement, undersigned statement, or copy of any recorded statement or document made by or taken from any co-defendant or agent, servant or employee of any

co-defendant at the office of CONNORS & CONNORS, P.C., 766 Castleton Avenue, Staten Island, New York, 10310, on December 8, 2008, at 2:00 in the afternoon.

PLEASE TAKE FURTHER NOTICE, that the within demand is a continuing demand. In the event that any of the above items are obtained after service of this demand, they are to be furnished to the undersigned pursuant to this demand.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief will be made to this court.

PLEASE TAKE FURTHER NOTICE, that in lieu of producing the items demanded herein, you may serve and submit to the undersigned true and conformed copies of the items demanded herein within twenty (20) days after receipt of this notice.

NOTICE TO PRODUCE (GENERAL)

C O U N S E L O R S :

PLEASE TAKE NOTICE that pursuant to CPLR 3120, you are hereby required to produce for discovery, inspection and photocopying the following:

1. All photographs depicting the scene of the accident;

2. All photographs depicting the vehicles involved in the incident, both before and after, if applicable.

3. All photographs depicting the condition of the place of the accident as it existed at the time of the accident.

4. All photographs depicting any bodily injuries alleged to have been suffered by the plaintiff.

5. All photographs depicting any property damage alleged to have been suffered by the plaintiff.

6. All photographs depicting the instrumentality which caused the damages, if applicable.

7. All repair bills and estimates for damages claimed to have been sustained by the plaintiff.

8. All accident reports prepared or signed by any party, including MV-104 reports, relating to the alleged documents.

Said documents are to be produced at the offices of CONNORS & CONNORS, P.C., 766 Castleton Avenue, Staten Island, New York, 10310, on December 8, 2008 at 2:00 in the afternoon.

PLEASE TAKE FURTHER NOTICE, that the within demand is a continuing demand. In the event that any of the above items are obtained after service of this demand, they are to be furnished to the undersigned pursuant to this demand.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief will be made to this court.

PLEASE TAKE FURTHER NOTICE, that in lieu of producing the items demanded herein, you may serve and submit to the undersigned true and conformed copies of the items demanded herein within twenty (20) days after receipt of this notice.

DEMAND OF NAMES OF EXPERT WITNESSES

COUNSELORS:

PLEASE TAKE NOTICE that pursuant to Section 3101(d) of the CPLR, you are hereby required to produce for discovery, inspection and photocopying the following:

1. The full identity of each and every person whom the party expects to call as an expert witness at trial, including the name and address of said person;

2. The subject matter on which each expert is expected to testify;

3. The substance of the facts and opinions on which each expert is expected to testify;

4. The qualifications of each expert witness;

5. A summary of the grounds for each expert's opinion.

6. State when this expert was retained by plaintiff's counsel.

7. State the names of each person with whom the expert has consulted in reaching his/her opinions and conclusions with regard to this matter and provide his/her last known business address.

8. State whether this expert has had occasion to visit the scene of the accident. If so, state the dates on which said expert visited the scene of the occurrence.

9. Attach a complete copy of each expert's report, including photographs, exhibits, diagrams, charts, and any other material prepared by this expert in connection with plaintiff's claim.

10. State whether the named experts previously have testified on behalf of your law office in other litigation. If so, provide the name and index number of said cases.

PLEASE TAKE FURTHER NOTICE, that the within demand is a continuing demand. In the event that any of the above items are obtained after service of this demand, they are to be furnished to the undersigned pursuant to this demand.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief will be made to this court.

PLEASE TAKE FURTHER NOTICE, that in lieu of producing the items demanded herein, you may serve and submit to the undersigned true and conformed copies of the items demanded herein within twenty (20) days after receipt of this notice.

DEMAND FOR MEDICAL INFORMATION

C O U N S E L O R (S):

PLEASE TAKE NOTICE that pursuant to Article 31 of the Civil Practice Laws & Rules, you are hereby required to produce for discovery, inspection and photocopying, at the offices of CONNORS & CONNORS, P.C., 766 Castleton Avenue, Staten Island, New York, 10310, within twenty (20) days after receipt of this notice, the following:

1. The names and addresses of all physicians or other health care providers of every description who have consulted, examined or treated the plaintiffs for each of the conditions allegedly caused by, or exacerbated by, the occurrence described in the complaint including the date of such treatment or examination.

2. Duly executed and acknowledged written authorizations directed to any hospital, clinic or other health care facility in which the injured plaintiff(s) herein is or was treated or confined due to the occurrence set forth in the complaint so as to permit the securing of a copy of the entire hospital record or records including x-rays and technicians' reports.

3. Duly executed and acknowledged written authorizations to allow the defendant to obtain the complete office medical records relating to plaintiffs of each health care provider

identified in (1) above.

4. Copies of all medical reports received from health care providers identified in (1) above. These shall include a detailed recital of the injuries and conditions as to which testimony will be offered at the trial, referring to and identifying those x-rays and technicians' reports which will be offered at the trial.

5. Duly executed and acknowledged written authorizations to allow defendants to obtain complete pharmacy or drug store records with respect to any drugs prescribed for plaintiffs from one (1) year prior to the occurrence described in the complaint to the present date.

PLEASE TAKE FURTHER NOTICE, that the within demand is a continuing demand. In the event that any of the above items are obtained after service of this demand, they are to be furnished to the undersigned pursuant to this demand.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief will be made to this court.

PLEASE TAKE FURTHER NOTICE, that in lieu of producing the items demanded herein, you may serve and submit to the undersigned true and conformed copies of the items demanded herein within twenty (20) days after receipt of this notice.

DEMAND PURSUANT TO CPLR 3101(f) FOR INSURANCE

C O U N S E L O R S :

PLEASE TAKE NOTICE, that pursuant to CPLR 3101(f), the defendant, **RICARDO BROWN** demands that co-defendants produce for discovery, inspection and/or copying within twenty (20) days of the receipt of this notice, the following:

1. With respect to any and all insurance in effect at the time of the occurrence complained of under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;

(a) all primary insurance agreements and policies of liability insurance and,

(b) all excess and umbrella insurance agreements and policies of liability insurance.

PLEASE TAKE FURTHER NOTICE that any insurance document and policy produced in response to the above demand shall be the complete document and policy including but not limited to declaration sheets, riders, limitations, endorsements, amendments, cancellations, face sheets and/or binders, etc.

YOU ARE FURTHER REQUIRED to state the number of claims brought against the defendant during the applicable policy period, the amount sought in each such claim, and the amount already paid, if any; Folgate v. Brookhaven Memorial Hospital, 381 N.Y.S. 2d 384.

PLEASE TAKE FURTHER NOTICE that if it is claimed that no liability insurance of any kind, type or description was in effect at the time of the occurrence complained of, then demand is hereby made that the above named part set forth, by affidavit, said claim.

PLEASE TAKE FURTHER NOTICE, that the within demand is a continuing demand. In the event that any of the above items are obtained after service of this demand, they are to be furnished to the undersigned pursuant to this demand.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief

will be made to this court.

PLEASE TAKE FURTHER NOTICE, that in lieu of producing the items demanded herein, you may serve and submit to the undersigned true and conformed copies of the items demanded herein within twenty (20) days after receipt of this notice.

DEMAND FOR LIST OF ATTORNEYS APPEARING IN ACTION

C O U N S E L O R S :

PLEASE TAKE NOTICE that pursuant to CPLR Section 3102(a) and CPLR Rule 2103(e), you are hereby required to provide the undersigned with a list of those attorneys who have appeared in this action together with their addresses and the name of the party for whom such attorney has appeared.

Dated: Staten Island, New York
November 6, 2008

Yours, etc.

DAVID S. HELLER
CONNORS & CONNORS, P.C.
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700
File No.: DGE 23830B

TO: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue - suite 2750
New York, New York 10170
(212) 986-7353

DCFS TRUST
Defendant
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
Defendant
17 Rales Drive
Fairfield, NJ 07004

LEXUS MOTOR CARS, INC.
Defendant
Suite 711
45 John Street
New York, NY 10038

TOYOTA MOTOR SALES, INC.
Defendant
c/o CT CORPORATION SYSTEM
111 Eighth Avenue
New York, NY 10011

RECEIVED
NOV 19 2008
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff(s),

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

NOTICE FOR AN EXAMINATION BEFORE TRIAL

Index No. 17115/08

C O U N S E L O R (S) :

PLEASE TAKE NOTICE, that pursuant to CPLR Article 31, you are hereby demanded to produce the **PLAINTIFF** represented by you and/or any officers, agents or employees thereof having knowledge of and concerning all the relevant facts and circumstances in connection with the same accident and/or claimed injury including negligence, liability, damage, affirmative defenses, denials as set forth in the pleading herein for a deposition.

Said deposition will take place at **Supreme Court, County of Kings, 141 Livingston Street, Brooklyn, New York at 2:00 p.m. on January 8, 2009.** Said persons to be examined are required to produce at such examination all memoranda, reports, diagrams, measurements, books, notes, notations, records, memoranda, supply records, inventory records, accident reports, daily logs, daily work records, photographs, documents, correspondence, maps, charts, diagrams and other writings, papers and other materials in the possession of this defendant and relevant to the issues herein.

In the event you cannot produce any of the persons to be examined in compliance with this notice, will you please advise us immediately so that arrangements can be made for a time and place agreeable to all parties.

PLEASE TAKE FURTHER NOTICE, that pursuant to rule 3111 of the CPLR, each plaintiff and any co-defendant is required to produce the following items at the time of deposition:

1. The accident report prepared by or on behalf of the witness.

2. All medical bills and any receipts, canceled checks or estimates relating to special damages.

3. If lost earnings are claimed, Federal and State Income Tax returns for the year when loss is claimed and two years prior thereto and one year after loss claimed.

4. Any contracts, leases or documents relied upon with respect to the claim.

5. Any statements given by or on behalf of any defendant serving this notice.

6. Any and all exhibits, papers and/or documents relative to the claim.

Dated: Staten Island, New York
November 6, 2008

Yours, etc.

DAVID S. HELLER
CONNORS & CONNORS, P.C.
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700
File No.: DGE 23830B

TO: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue - suite 2750
New York, New York 10170
(212) 986-7353

DCFS TRUST
Defendant
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
Defendant
17 Rales Drive
Fairfield, NJ 07004

LEXUS MOTOR CARS, INC.
Defendant
Suite 711
45 John Street
New York, NY 10038

TOYOTA MOTOR SALES U.S.A., INC.
Defendant
c/o CT CORPORATION SYSTEM
111 Eighth Avenue
New York, New York 10011

Index 17115/08 Year RJI No. Hon.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants, and

third party action

ANSWER TO AMENDED COMPLAINT, DEMAND FOR VERIFIED BILL OF PARTICULARS, NOTICES FOR DISCOVERY & INSPECTION, NOTICE FOR AN EXAMINATION BEFORE TRIAL

CONNORS & CONNORS, P.C.
Attorneys for - Defendants, RICARDO BROWN
Office and Post Office Address, Telephone
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700 PHONE
(718) 442-1717 FAX

To

Signature (Rule 130-1.1-a)

DAVID S. HELLER

Attorney(s) for

Service of a copy of the within is hereby admitted,

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges
of the within named court, at
on at M

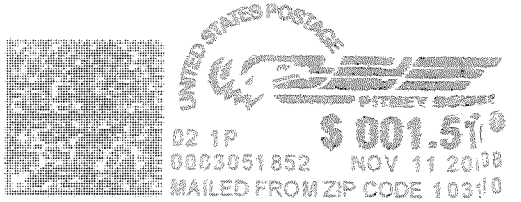
Dated,

Yours, etc.
CONNORS & CONNORS, P.C.
Attorneys for

To

Office and Post Office Address
766 CASTLETON AVENUE
STATEN ISLAND, NEW YORK 10310

Attorney(s) for



First Class Mail

THE LAW FIRM OF
CONNORS & CONNORS
PC
766 CASTLETON AVENUE
STATEN ISLAND, NEW YORK 10310-9003

TO:

TOYOTA MOTOR SALES USA, INC.
C/o CT CORPORATION SYSTEM
111 Eighth Avenue
New York, NY 10011

TOY-RQ-05E-00003512

CT Corporation

Service of Process Transmittal

10/23/2008
CT Log Number 514003355

TO: Dorothy Sutton, Administrative Assistant
Toyota Motor Sales, U.S.A., Inc.
19001 S. Western Ave., HQ11
Torrance, CA 90501

LEGAL SERVICES

OCT 27 2008

GROUP RECEIVED

RE: **Process Served in New York**

FOR: Toyota Motor Sales, U.S.A., Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Ezatt Azizi, Pltf. vs. Ricardo Brown, et al. including Toyota Motor Sales U.S.A., Inc., Dfts. *Name discrepancy noted.*
DOCUMENT(S) SERVED:	Request(s), Rider(s), Motion
COURT/AGENCY:	Kings County: Supreme Court, NY Case # 17175/08
NATURE OF ACTION:	Product Liability Litigation - Manufacturing Defect - Order to consolidate
ON WHOM PROCESS WAS SERVED:	C T Corporation System, New York, NY
DATE AND HOUR OF SERVICE:	By Regular Mail on 10/23/2008 postmarked on 10/20/2008
APPEARANCE OR ANSWER DUE:	None Specified
ATTORNEY(S) / SENDER(S):	David S. Heller Connors & Connors, P.C. 766 Castleton Avenue Staten Island, NY 10310 (718) 442-1700
ACTION ITEMS:	SOP Papers with Transmittal, via Fed Ex 2 Day , 790118722304 Image SOP Email Notification, Shari Goldsworthy shari_goldsworthy@toyota.com Email Notification, Webster Burns webster_burns@toyota.com Email Notification, Dorothy Sutton dorothy_sutton@toyota.com
SIGNED:	C T Corporation System
PER:	Christopher Tilton
ADDRESS:	111 Eighth Avenue New York, NY 10011
TELEPHONE:	212-894-8940

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

CT Corporation

Service of Process Transmittal

10/23/2008
CT Log Number 514003355

TO: Dorothy Sutton, Administrative Assistant
Toyota Motor Sales, U.S.A., Inc.
19001 S. Western Ave., HQ11
Torrance, CA 90501

RE: **Process Served in New York**

FOR: Toyota Motor Sales, U.S.A., Inc. (Domestic State: CA)

DOCKET HISTORY:

DOCUMENT(S) SERVED:	DATE AND HOUR OF SERVICE:	TO:	CT LOG NUMBER:
Letter, Supplemental Summons, Amended Verified Complaint, Verification(s), Summons, Verified Complaint	By Certified Mail on 09/22/2008 postmarked on 09/17/2008	Dorothy Sutton, Administrative Assistant Toyota Motor Sales, U.S.A., Inc.	513883019

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

REQUEST FOR JUDICIAL INTERVENTION

INDEX NO.: 25273/08 In Action #1
DATE PURCHASED: 9/4/08

For Clerk Only
IAS Entry Date
Judge Assigned
RJI Date

LEGAL SERVICES
OCT 27 2008
GROUP RECEIVED

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI, OTA., Action #1

Plaintiffs, Index No. 25273/08

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. And TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

EZATT AZIZI, Action #2

Plaintiff,

- against - Index No. 17115/08

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

FRO SERVICE CORP., Action #3

Plaintiff,

Index No. 13778/08

- against -

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

Date Issue: October 16, 2008 (Action #1)

Bill of Particulars Served: [ ] Yes [X] No

NATURE OF JUDICIAL INTERVENTION (Check ONE box only AND Enter information)

[ ] Request for preliminary conference
[ ] Note of Issue and/or certificate of readiness
[x] Notice of motion date:**11/24/08**
Relief sought **Order to Consolidate**
[ ] Order to Show Cause
(Clerk enter return date _____)
Relief sought _____
[ ] Other ex parte application (specify
_____)

[ ] Notice of Petition (return date _____)
Relief Sought
[ ] Notice of medical or dental action
(specify
[ ] Statement of net worth
[ ] Writ of habeas corpus
[ ] Other (specify _____)
_____)

NATURE OF ACTION OR PROCEEDING (Check ONE box only)

MATRIMONIAL
[ ] Contested -CM
[ ] Uncontested -UM

COMMERCIAL
[ ] Contract -CONT
[ ] Corporate -CORP
[ ] Insurance (where insurer is a party, except arbitration) -INS
[ ] UCC (including sales, negotiable instruments) -UCC
[ ] * Other Commercial _____ -OC

REAL PROPERTY
[ ] Tax Certiorari -TAX
[ ] Foreclosure -FOR
[ ] Condemnation -COND
[ ] Landlord/Tenant -LUCENT TECHNOLOGIES
[ ] *Other Real Property _____ -ORP

OTHER MATTERS
[ ] * _____ -OTH

TORTS
Malpractice
[ ] Medical/Podiatric -MM
[ ] Dental -DM
[ ] * Other Professional _____ -OPM
[X] **Motor Vehicle** -MV
[ ] *Product Liability _____ -PL
[ ] Environmental -EN
[ ] Asbestos -ASB
[ ] Breast Implant -BI
[ ] *Other Negligence -PI -OTN
[ ] *Other Tort (including intentional) _____ -OT

SPECIAL PROCEEDINGS
[ ] Art. 75 (Arbitration) -ART75
[ ] Art. 77 (Trusts) -ART77
[ ] Art. 78 -ART78
[ ] Election Law -ELEC
[ ] Guardianship (MHL Art. 81) -GUARD81
[ ] *Other Mental Hygiene _____ -MHYG
[ ] *Other Special Proceeding _____ -OSP

* If asterisk used, please specify further

Check "YES" OR "NO" for each of the following questions.

Is this action/proceeding against a:

[ ] YES [X] NO Municipality: (Specify _____)
[ ] YES [X] NO Public Authority: Specify: Specify _____)
[ ] YES [X] NO Does this action/proceeding seek equitable relief?
[X] YES [ ] NO Does this action/proceeding seek recovery for personal injury?
[ ] YES [X] NO Does this action/proceeding seek recovery for property damage?

Pre-Note Time Frames:
(This applies to all cases except contested matrimonials and tax certiorari cases)

Estimated time period for case to be ready for trial from filing to RJI to filing of Note/Issue
[ ] Expedited: 0-8 months [x] Standard: 9-12 months [ ] Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)
Has Summons been served? [ ] NO [ ] YES Date
Was a Notice of No Necessity Filed? [ ] NO [ ] YES Date

ATTORNEY(S) FOR PLAINTIFF(S):

Self Rep	Name	Address	Phone #
	Geller & Siegel, LLP (Action #1)	419 Park Ave. S, Ste. 700, NY, NY 10016	(212) 532-0532
	Wingate, Russotti & Shapiro (#2)	420 Lexington Ave., Ste. 2750, NY, NY 10170	(212) 986-7353
	Gerber & Gerber (#3)	26 Court St., Ste. 1405, B'klyn, NY 11242	(718) 834-4850

ATTORNEY(S) FOR DEFENDANT(S):

Self Rep	Name	Address	Phone #
	Connors & Connors, PC (for Brown in Actions #1, #2 & #3)	766 Castleton Ave., Staten Island, NY 10310	(718) 442-1700
	Eckert Siemans Cherin & Merllot, LOC (for Lexus & Toyota in Act.#1)	10 Bank Street, Ste. 1061, White Plains, NY 10606	(914) 949-2909

	Ahmuty, Demers & McManus (for DCFS & Leon in Action #2)	200 I.U. Willets Road, Albertson, NY 11507	(516) 294-5433

*Self Represented: parties representing themselves without an attorney should check the "Self-Rep." Box and enter their name, address and phone # in the space provided above of attorneys.

INSURANCE CARRIERS:

Geico

RELATED CASES: (If NONE, write "NONE" below)

Title	Index #	Court	Nature of Relationship
Azizi v. Brown	17115/08	Supreme/Kings	same accident
Fro Service v. Brown	13778/08	Supreme/Kings	same accident

I affirm under penalty of perjury that, to my knowledge, other than as noted above, there are and have been no related actions or proceedings, nor has a request for judicial intervention previously been filed in this action or proceeding.

Dated: October 16, 2008
Staten Island, New York

David S. Heller

(SIGNATURE)

David S. Heller, Esq.

CONNORS & CONNORS, P.C.

(PRINT OR TYPE NAME)

Defendant-Brown in Actions #1, #2, and #3

ATTORNEY FOR

ATTACH RIDER SHEET IF NECESSARY TO PROVIDE REQUIRED INFORMATION

RIDER TO RJI

SELF REPRESENTED DEFENDANTS:

ALEJANDRO LEON
Defendant in Actions #1 and #3
17 Bates Drive
Fairfield, NJ 07004

DCFS TRUST
Defendant in Action #1
P.O. Box 685
Roanoke, TX

EZATT AZIZA
Defendant in Action #1
146-33 35th Avenue
Flushing, NY 11354

FRO SERVICE
Defendant in Action #1
134-02 33RD Avenue
Flushing, New York 11354

LEXUS
Defendant in Action #2
P.O. Box 2991-Mail Drop L201
Torrance, CA 90501

TOYOTA MOTOR SALES USA
Defendant in Actions #3
19001 South Western Avenue
Torrance, CA 90501
- and
111 Eighth Avenue
New York, New York 10011

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI, OTA.,

Plaintiffs,

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. And TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

Action #1

Index No. 25273/08

MOTION TO CONSOLIDATE

LEGAL SERVICES
OCT 27 2008
GROUP RECEIVED

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

Action #2

Index No. 17115/08

FRO SERVICE CORP.,

Plaintiff,

- against -

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

Action #3

Index No. 13778/08

SIRS:

PLEASE TAKE NOTICE, that upon the annexed Affirmation of DAVID S. HELLER, ESQ., dated the 15th day of October, 2008, and upon all the pleadings and proceedings heretofore had herein, as well as the pleadings in the two existing cases arising out of the same

accident as the case at bar, the undersigned will move this Court at IAS Motion Office, thereof to be held at the Courthouse located at 360 Adams Street, Brooklyn, New York, on the 24th day of November, 2008, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order consolidating the above entitled actions for all purposes on the ground that each of the above entitled actions arises out of the same accident, involves the same parties, and involves common questions of law and fact, and for such other and further relief as to the Court may seem just and proper and equitable.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR 2214(b), answering Affidavits, if any, are required to be served upon the undersigned at least seven (7) days prior to the return date of this motion.

Dated: Staten Island, New York

October 15, 2008

Yours etc.,

DAVID S. HELLER
CONNORS & CONNORS, P.C.
Attorneys for Defendant in Actions #1, #2 & #3
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310
(718) 442-1700
File No. DGE 23830C

TO: SEAN CONNERY
GELLER & SIEGEL, LLP
Attorneys for Plaintiffs in Action #1
JEAN DAVID CHAMPAGNE and
KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016
(212) 532-0532

Eckert Siemans Cherin & Mellot, LOC
Attorneys for Defendants in Action #1
LEXUS, TOYOTA MOTOR SALES U.S.A. INC.
TOYOTA MOTOR NORTH AMERICA, INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909

ALEJANDRO LEON
Defendant in Actions #1 and #3
17 Bates Drive
Fairfield, NJ 07004

DCFS TRUST
Defendant in Actions #1
P.O. Box 685
Roanoke, TX

EZATT AZIZA
Defendant in Action #1
146-33 35th Avenue
Flushing, NY 11354

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Defendant in Action #1
134-02 33RD Avenue
Flushing, New York 11354

LEXUS
Defendant in Actions #2
P.O. Box 2991-Mail Drop L201
Torrance, CA 90501

TOYOTA MOTOR SALES USA
Defendant in Action #3
19001 South Western Avenue
Torrance, CA 90501
- and
111 Eighth Avenue
New York, New York 10011

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
420 Lexington Avenue - Suite 2750
New York, New York 10170
(212) 986-7353

Andria Simone Kelly, Esq.
Ahmuty, Demers & McManus, Esqs.
Attorneys for Defendants in Action #2
DCFS TRUST and ALEJANDRO LEON
i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
File No.: ENC0884408ASK

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242
(718) 834-4850

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI, OTA., Action #1

Plaintiffs, Index No. 25273/08

-against- **AFFIRMATION**

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., . LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. And TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

EZATT AZIZI, Action #2

Plaintiff,

- against - Index No. 17115/08

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

FRO SERVICE CORP., Action #3

Plaintiff, Index No. 13778/08

- against -

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

DAVID S. HELLER, an attorney duly admitted to practice law in the Courts of the State of New York, hereby affirms the following statements under the penalties of perjury:

1. I am an attorney with Connors & Connors, attorneys for defendant, RICARDO

BROWN in the above-entitled case.

2. This case involves the claim that on or about April 13, 2008, the plaintiff was involved in an automobile accident that happened on West 34th Street between Madison Avenue and Fifth Avenue. See the complaint, **Exhibit A** at paragraphs 20-26.

3. The moving defendant is the operator of one of the cars involved in that accident.

4. There are at least two previously filed cases arising from the same accident presently pending. See **Exhibit B**, the pleadings for the other two cases. Those cases are presently pending in Kings County under Index numbers 13778/08 and 17115/08.

5. The law is clear that where two or more actions are commenced arising out of the same transaction, in this case the automobile accident, they are to be consolidated.

6. CPLR 602 states as follows:

> "When actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters at issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

7. In order to avoid the duplication of costs, since otherwise all of the parties defendant in the other case would have to be deposed as non-parties in this case, the possibility of inconsistent verdicts, or a double recovery by the plaintiff, is respectfully submitted that these three actions should be consolidated in the part with the earliest index number.

8. The caption will read:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI, OTA., **Action #1**

Plaintiffs, Index No. 25273/08

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. And TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

EZATT AZIZI, **Action #2**

Plaintiff,

- against - Index No. 17115/08

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

FRO SERVICE CORP., **Action #3**

Plaintiff,

Index No. 13778/08

- against -

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

9. A motion to consolidate the two prior actions is presently pending and has not been opposed. This motion is needed because there is now a third action arising out of this accident.

WHEREFORE, it is respectfully submitted that movants should have relief as follows:

1. An order consolidating the three actions arising out of this incident, into the city part, and

2. An order granting movants such other and further relief as they are entitled to under the circumstances.

Dated: Staten Island, New York
October 15, 2008

DAVID S. HELLER

Exhibit A

VERIFICATION BY ATTORNEY

Thomas M. Oliva, an attorney duly admitted to practice before the Courts in the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. That deponent is the attorney for the plaintiff in the action within; that deponent has read the foregoing **AMENDED COMPLAINT** and know the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

2. The reason that this verification is not made by plaintiff and is made by deponent is that plaintiff does not reside in the county where the attorneys for the plaintiff have their office.

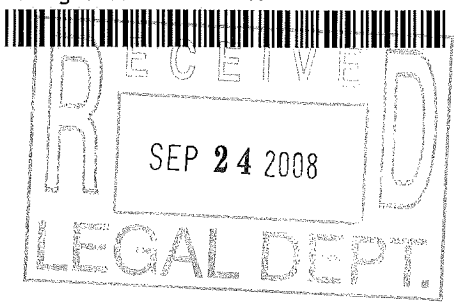
3. Deponent further says that the source of deponent's information and the grounds of deponent's belief as to all matters not stated upon deponent's knowledge are from investigations made on behalf of said plaintiff.

Thomas M. Oliva

CT Corporation

Service of Process Transmittal

09/22/2008
CT Log Number 513883019



TO: Dorothy Sutton, Administrative Assistant
Toyota Motor Sales, U.S.A., Inc.
19001 S. Western Ave., HQ11
Torrance, CA 90501

RE: **Process Served in New York**

FOR: Toyota Motor Sales, U.S.A., Inc. (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Ezatt Azizi, Pltf. vs. Ricardo Brown, et al. including Toyota Motor Sales U.S.A., Inc., Dfts. *Name discrepancy noted.*
DOCUMENT(S) SERVED:	Letter, Supplemental Summons, Amended Verified Complaint, Verification(s), Summons, Verified Complaint
COURT/AGENCY:	Kings County: Supreme Court, NY Case # 17175/08
NATURE OF ACTION:	Product Liability Litigation - Manufacturing Defect - Vehicle Collision - Personal Injury - On 04/13/2008 - '2007 Lexus Vin #JTHBJ46GX72075738'
ON WHOM PROCESS WAS SERVED:	C T Corporation System, New York, NY
DATE AND HOUR OF SERVICE:	By Certified Mail on 09/22/2008 postmarked on 09/17/2008
APPEARANCE OR ANSWER DUE:	Within 30 days after the service is complete
ATTORNEY(S) / SENDER(S):	Thomas M. Oliva Wingate, Russotti & Shapiro, LLP 420 Lexington Avenue Suite 2750 New York, NY 10170 212-986-7353
REMARKS:	Papers were served on the New York State Secretary of State on 09/15/2008.
ACTION ITEMS:	SOP Papers with Transmittal, via Fed Ex 2 Day , 790090374598 Image SOP Email Notification, Shari Goldsworthy shari_goldsworthy@toyota.com Email Notification, Webster Burns webster_burns@toyota.com Email Notification, Dorothy Sutton dorothy_sutton@toyota.com
SIGNED: **PER:** **ADDRESS:** **TELEPHONE:**	C T Corporation System Christopher Tilton 111 Eighth Avenue New York, NY 10011 212-894-8940

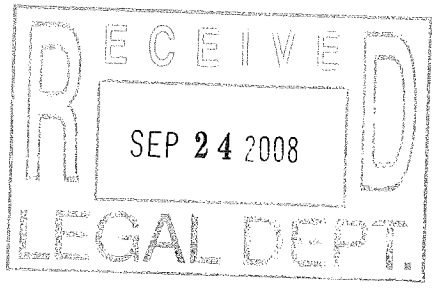
Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

State of New York - Department of State
Division of Corporations

Party Served:
TOYOTA MOTOR SALES U.S.A., INC.

Plaintiff/Petitioner:
AZIZI, EZATT

C/O C T CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NY 10011



Dear Sir/Madam:
Enclosed herewith is a legal document which was served upon the Secretary of State on 09/15/2008 pursuant to SECTION 306 OF THE BUSINESS CORPORATION LAW. This copy is being transmitted pursuant to such statute to the address provided for such purpose.

Very truly yours,
Division of Corporations

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff(s),

-against-

RICARDO BROWN, DCFS TRUST and LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.

Defendant(s).

----------X

SUPPLEMENTAL SUMMONS

Index No.: 17175/08

RECEIVED
SEP 24 2008
LEGAL DEPT.

Plaintiff designates Kings County as the place of trial. The basis of venue is the defendant, RICARDO BROWN 's residence, located at 46 Granite Street, Brooklyn, NY 11207.

To the above-named Defendants:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete, if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
August 25, 2008

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

SERVED

TO: RICARDO BROWN
46 Granite Street
Brooklyn, NY 11207

DCFS TRUST
P. O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

LEXUS MOTOR CARS, INC.
45 John Street, Suite 711
New York, New York, 10038

TOYOTA MOTOR SALES U.S.A., INC.
C/O CT CORPORATION SYSTEM
111 Eighth Avenue
New York, New York 10011

Exhibit B

COUNTY OF KINGS

X

FRO SERV. CORP.

Plaintiffs)

INDEX NO. 13778/2008

SUMMONS

-against-

Basis for Venue
Plaintiff Transacts Business In Kings County

Privilege Defendant(s)

RICARDO BROWN

X

TO THE ABOVE NAMED DEFENDANT(S)
YOU ARE HEREBY SUMMONED TO APPEAR IN THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF KINGS, AT THE OFFICE OF SAID COURT AT 360 ADAMS STREET, BROOKLYN, NY, IN THE COUNTY OF KINGS CITY AND STATE OF NEW YORK, WITHIN THE TIME PROVIDED BY LAW AS NOTED BELOW AND TO FILE YOUR ANSWER TO THIS SUMMONS AND ENDORSED COMPLAINT WITH THE CLERK: UPON YOUR FAILURE TO ANSWER, JUDGMENT WILL BE TAKEN AGAINST YOU FOR THE SUM OF $ 35,837.19 WITH INTEREST THEREON FROM APRIL 13, 2008, TOGETHER WITH THE COSTS OF THIS ACTION.

DATED: May 7, 2008 BROOKLYN, NY,

GERBER & GEBER P.L.L.C
Attorneys for Plaintiff
26 Court Street - Suite 1405
Brooklyn, NY 11242
(718) 834-4850

Plaintiff(s) Address:
Fro Serv. Corp., 134-02 33 Ave., Flushing, NY 11354
Defendant(s) Address:
Ricardo Brown, 46 Granite Street , Brooklyn, NY 11207

NOTE: The law provides that (a) If this summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or (b) If this summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY days after proof of service thereof is filed with the Clerk of this Court within which to appear and answer.

ENDORSED COMPLAINT

Privilege A STATEMENT OF THE NATURE AND SUBSTANCE OF THE PLAINTIFF'S CAUSE OF ACTION AS FOLLOWS: THIS IS AN ACTION FOR PROPERTY DAMAGE AND LOSS OF USE IN THE SUM OF $ 35,837.19 WITH INTEREST FROM THE DATE OF THE ACCIDENT. THE ACCIDENT RESULTED FROM THE NEGLIGENT OPERATION OF THE DEFENDANT'S MOTOR VEHICLE BEARING REGISTRATION NUMBER DVW6808 STATE OF NY ON OR ABOUT THE APRIL 13, 2008 AT OR NEAR THE INTERSECTION OF 34TH STREET BETWEEN 5TH AVE AND MADISON AVE NEW YORK AND WITHOUT ANY CONTRIBUTORY NEGLIGENCE ON THE PART OF THE PLAINTIFF. PLAINTIFF'S PLATE NUMBER: 4P60B

The undersigned hereby affirms that the within papers contain assertions supported by reasonable efforts made to ascertain the underlying merits of the pleading and that same have been found by the undersigned, an attorney admitted to practice law in the State of New York, to be meritorious, non-frivolous, and submitted in good faith furtherance of the interests of the undersigned attorney's client.

SIGNED: GERBER & GERBER PLLC

Privilege

INDEX NO.:
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

FRO SERV. CORP.

Plaintiff(s)

-against-

RICARDO BROWN

Defendant(s)

SUMMONS

Action not based
upon a Consumer Credit Transaction

GERBER & GERBER, PLLC
Attorneys for Plaintiff(s)
26 COURT STREET- SUITE 1405
BROOKLYN, NY 11242
(718) 834-4850

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI OTA,

Plaintiffs,

-against-

RICARDO BROWN, LEON ALEJANDRO, DCFS TRUST, EZATT AZIZI, FRO SERVICE CORP, LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.

Defendants.

----------X

COMBINED DEMANDS

Action #1
Index # 25273/08

EZATT AZIZI,

Plaintiff(s),

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.

Defendant(s).

----------X

Action #2
Index No.: 17175/08

FRO SERVICE CORP,

Plaintiff

-against-

RICARDO BROWN and TOYOTA MOTOR CO.

Defendants

----------X

PLEASE TAKE NOTICE, that plaintiff by his attorneys WINGATE, RUSSOTTI & SHAPIRO, LLP hereby make the following demands upon you returnable at the office of the undersigned at 10:00 a.m. on June 30, 2009 within thirty (30) days after receipt as follows:

ITEMS TO BE PRODUCED RELATING TO ACCIDENT OF April 13, 2008:

a) ALL CONTRACTS OF INSURANCE coverage in effect at the time of the accident and/or incident which took place on the date aforementioned that would afford primary insurance coverage or excess insurance coverage for the owner and/or the lessee of the vehicle and/or premises and/or land which is the subject of this action.

b) ALL LIABILITY POLICIES of insurance held by the family and/or employer and/or leasing company, which would afford primary coverage for the owner and/or driver and/or lessee of the defendant(s)'s vehicle, premises, property or land. ALSO include name of any LEASING COMPANY and/or FINANCING COMPANY that also holds title or receives loan payments to any vehicle involved in the accident or other household vehicle.

c) Any other EXCESS OR UMBRELLA INSURANCE contract which would afford primary or excess coverage.

d) PLAINTIFFS STATEMENTS - Any and all statements, abstracts of recordings and/or writings taken by the defendant(s) individually or by the defendant(s)'s attorneys and/or agents, from the plaintiff(s) with reference to the within litigation which are presently within the possession of the defendant(s), agents or attorneys, C.P.L.R. 3101(c).

e) WRITTEN ACCIDENT REPORTS - A copy of the written report of the subject accident prepared in the course of business or operations or practices of the defendant(s) and/or their servants, agents and/or employees. (C.P.L.R. Section 3101(g), Laws of 1980, chapter 283).

f) NAMES OF WITNESSES - The names and addresses of any witnesses to the within accident or any conditions that may have caused said accident obtained by the defendant(s), agents, servants and/or employees. Zellman v. Metropolitan Transportation, 40 A.D. 2d. 298. Additionally, plaintiff demands the names of any witness, individual, or other person who any party expects to call at the time of trial. Further, plaintiff demands that any witness employed by the defendants and/or within their control that they expect to call as a witness at the time of trial ***must*** be disclosed and produced for a deposition, or plaintiff will object to said witness at the time of trial.

g) PHOTOS OF SCENE - All photographs under the control of the defendant(s) and/or their attorneys and/or representatives depicting the scene/location of the accident and immediate area where the accident occurred. Additionally, plaintiff demands copies of any photographs, instruments, diagrams, models and/or any similar piece of evidence that any party expects to use at the time of trial.

h) ALL PHOTOGRAPHS, VIDEO TAPES AND/OR OTHER VISUAL REPRODUCTIONS of the Plaintiff(s) taken by the Defendant(s). See: Marte v.

TOY-RQ-05E-00003537

W.O. Hickock Mfg. Co., (App. Div. First Dept., N.Y.L.J., March 19, 1990, P.1, Col. 3).

l) OTHER LAWSUITS - Any and all lawsuits arising from the within accident, if any, including the names of all parties, the names and addresses of the attorneys representing all parties, who have appeared in those actions, the court where the actions are pending, and the index numbers assigned to those actions.

j) CRIMINAL RECORDS – Any criminal records pertaining to a ***criminal conviction***, to include but not limited to any certificates of conviction for any defendant and/or principals, officers, executives or other employees of said corporation

k) DEMAND FOR DOCUMENTS - Any and all documents, reports, memos or other writings that defendant(s) will seek to offer into evidence at the time of trial of this action.

PLEASE TAKE FURTHER NOTICE, that in the event the subject accident was one involving motor vehicles, produce the following items:

l) COPIES OF MEDICAL REPORTS - Copies of any medical statements, medical bills and/or no-fault applications obtained from the plaintiff(s) or from any other source other than counsel for the plaintiff(s) relating to the accident, physical condition of this plaintiff.

m) PHOTOS OF DEFENDANT(S) VEHICLE - Photographs taken of the vehicle of the defendant(s) showing the extent of damage, if any, to defendant(s)'s vehicle following the accident herein. Moore v. Kaminsky, NYLJ 12/2/75; Wolen v. E.W. Howell Co., 41 A.D. 2d. 45.

n) PHOTOS OF PLAINTIFF(S) VEHICLE - Photographs taken of the he vehicle of the plaintiff(s) showing the extent of damage, if any, to plaintiff(s)'s vehicle following the accident herein.

o) AFFIDAVITS OF NO-EXCESS INSURANCE POLICY In the event that there is no excess coverage we demand an affidavit from the defendant confirming that there is no excess insurance. Said affidavit **must** also include a statement that the vehicle is not leased, financed, and that no other family or household member owns a vehicle under another insurance policy.

p) NAMES OF OTHER INSURANCE POLICES Plaintiff demands the names of any other insurance companies that provide insurance coverage for any other vehicles owned by any party or any household member of any party, as well as

TOY-RQ-05E-00003538

any homeowner insurance policies of any party or a household member of any party that may provide excess insurance coverage.

q) CELLULAR TELEPHONE BILLS - Plaintiff demands a copy of the cellular telephone bill for the defendant and/or any other household member for the date of the accident.

r) REPAIR BILLS - Plaintiff demands copies of any repair bills for work performed on the defendants vehicle within six (6) months prior to the date of the accident.

PLEASE TAKE FURTHER NOTICE, that in the event it is the intention of any party to offer expert testimony upon the trial of this action, that such party produce at the offices of the undersigned as soon as such information becomes available and no later than thirty (30) days prior to trial and pursuant to C.P.L.R. 3101(d):

s) The names of all such experts.

t) The qualifications of each expert in the field in which he or she will be offered as an expert witness.

u) The subject matter on which each expert will testify.

v) The substance of the facts and opinions on which each expert will testify.

w) The grounds forming the basis for each expert's opinion.

x) The dates of all reports provided by the expert to the attorney.

y) The office records and/or notes taken by any expert during the course of his examination of the plaintiff or any other party.

PLEASE TAKE FURTHER NOTICE, that demand is hereby made for defendant(s) to produce all documents that their witness(es) testified were in existence at their deposition and/or any and all documents requested by any attorney during the course of any deposition of a witness produced by the defendant(s) pursuant to Order, Notice, or Subpoena.

PLEASE TAKE FURTHER NOTICE, that demand is hereby made pursuant to CPLR 306-a, that defendant/third party plaintiff purchase and provide to the plaintiff the index numbers assigned to all current and subsequent third-party actions, please be advised that this is a continuing demand.

TOY-RQ-05E-00003539

PLEASE TAKE FURTHER NOTICE, that in the event of your failure to comply, a motion will be made for an Order to Strike your Answer, with costs.

Dated: New York, New York
May 26, 2009

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff(s) Ezatt Azizi
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

TO: Eckert, Seamans, Cerin & Mellot, LLC
Attorney For: Toyota Motor Sales
10 Bank St.
White Plains, NY 10606
Phone: (914) 949-2909
Fax: (914) 949-5424

Connors & Connors
Attorney For: Ricardo Brown
766 Castleton Avenue
Staten Island, N.Y. 10310
Phone: (718) 442-1700
Fax: (718) 442-1717

Ahmuty, Demer, & McManus
Attorney For: Leon Alejandro and DCFS Trust
200 I.U. Willets Road
Albertson, NY 11507
Phone: (516) 294-5433
Fax: (516) 294-5387

Gerber & Gerber, P.C.
Attorney For: FRO Service Corp.
26 Court Street, Suite 1100
Brooklyn, N.Y. 11242
Phone: (718) 834-4850
Fax:

Geller, Siegel & Coonerty, LLP
Attorneys for Kumi Ota and Jean David Champagne
419 Park Ave. So., 7th fl.

TOY-RQ-05E-00003540

New York, NY 10016
Phone: (212) 532-0532
Fax: (212) 532-1871

TOY-RQ-05E-00003541

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI OTA,

Plaintiffs,

-against-

RICARDO BROWN, LEON ALEJANDRO, DCFS TRUST, EZATT AZIZI, FRO SERVICE CORP, LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.

Defendants.

----------X

EZATT AZIZI,

Plaintiff(s),

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.

Defendant(s).

----------X

FRO SERVICE CORP,

Plaintiff

-against-

RICARDO BROWN and TOYOTA MOTOR CO.

Defendants

----------X

DEMAND FOR A VERIFIED BILL OF PARTICULARS

Action #1
Index # 25273/08

Action #2

Index No.: 17175/2008

PLEASE TAKE NOTICE, that the plaintiff hereby demands of defendants that he serve the undersigned within twenty (20) days from the date of service of this Notice, a Verified Bill of Particulars of the Affirmative Defenses plead in his Answer, setting forth in detail the following:

DEMAND WITH RESPECT TO AFFIRMATIVE DEFENSE

OF LACK OF JURISDICTION

1. Set forth how it is alleged that service upon the defendants was improper.

2. Set forth the full name and title of all individuals designated to accept service on behalf of the defendants.

3. Set forth who it is alleged was served on behalf of the defendant in this action, and further state their job title and current employment status.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF CULPABLE CONDUCT

4. Set forth how it is alleged that plaintiff's conduct contributed to this occurrence.

5. Set forth a precise statement of all acts or omissions constituting the negligence claimed of the plaintiff.

6. Set forth the dates, times of day of the alleged acts, culpable conduct and/or negligence which will be alleged and claimed against the plaintiff herein.

7. Set forth: (a) the locations of the occurrence of each of the alleged acts of culpable conduct and/or negligence which will be alleged and claimed against the plaintiff herein; (b) indicate the name and/or identity of each party present as to each of the above.

8. Set forth with particularity each and every act and/or omission which the defendants will claim as the basis of the alleged culpable conduct and/or negligence of the plaintiff herein.

9. If defendant will attempt to advance any claim of vicarious liability with respect to acts and/or omissions of culpable conduct and/or negligence as to the plaintiff herein, set forth the names and addresses of each and every individual who performed each act or failed to perform any act of alleged culpable conduct and/or negligence on behalf of the plaintiff with the date of each such act or omission. If the names are not known, describe each individual by

TOY-RQ-05E-00003543

physical appearance or otherwise with sufficient clarity to make possible and ready identification.

10. Set forth each and every injury and/or damage to the plaintiff which were caused in whole or in part by the alleged culpable conduct and/or negligence of the plaintiff and the manner in which damages must be reduced.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE THAT PLAINTIFF'S CLAIM IS BARRED BY THE WORKERS COMPENSATION LAW

11. Set forth the dates of plaintiff's employment by the defendant.

12. Set forth the nature of the alleged employer-employee relationship between defendant and plaintiff.

13. Set forth the basis of the defense that plaintiff's claim is barred by the Workers Compensation Law.

DEMAND WITH RESPECT TO AFFIRMATIVE DEFENSE OF ASSUMPTION OF THE RISK

14. Set forth precisely how it is alleged that plaintiff was engaged in an inherently dangerous activity.

15. Set forth a precise statement of all dangers and risks which are alleged to have been known or assumed by the plaintiff.

16. Set forth the length of time it is alleged that the risks and dangers stated above are claimed to have existed prior to the occurrence.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF FAILURE TO MITIGATE DAMAGES

17. Set forth precisely what damages it is alleged plaintiff failed to mitigate.

TOY-RQ-05E-00003544

18. Set forth precisely how it is alleged the plaintiff could have mitigated his damages.

DEMAND WITH RESPECT TO AFFIRMATIVE DEFENSE OF ARTICLE 16

19. Set forth how it is alleged Article 16 is applicable.

20. Set forth how it is alleged Article 10 of the Labor Law is not applicable.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF FAILURE TO STATE A CAUSE OF ACTION

21. Set forth in what respect plaintiff's complaint fails to state a cause of action against this defendant.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF FAILURE TO USE AVAILABLE SEAT BELTS

22. State with particularity which injuries are alleged to have been sustained or worsened by the plaintiff's alleged failure to utilize a seat belt.

23. State whether it is alleged plaintiff's vehicle was equipped with a seat belt.

PLEASE TAKE FURTHER NOTICE, that upon your failure to comply with the foregoing demand, plaintiff will move for an Order for Preclusion herein, pursuant to the rules of this Court.

Dated: New York, New York
May 26, 2009

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff(s) Ezatt Azizi
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

TOY-RQ-05E-00003545

TO: Eckert, Seamans, Cerin & Mellot, LLC
Attorney For: Toyota Motor Sales
10 Bank St.
White Plains, NY 10606
Phone: (914) 949-2909
Fax: (914) 949-5424

Connors & Connors
Attorney For: Ricardo Brown
766 Castleton Avenue
Staten Island, N.Y. 10310
Phone: (718) 442-1700
Fax: (718) 442-1717

Ahmuty, Demer, & McManus
Attorney For: Leon Alejandro and DCFS Trust
200 I.U. Willets Road
Albertson, NY 11507
Phone: (516) 294-5433
Fax: (516) 294-5387

Gerber & Gerber, P.C.
Attorney For: FRO Service Corp.
26 Court Street, Suite 1100
Brooklyn, N.Y. 11242
Phone: (718) 834-4850
Fax:

Geller, Siegel & Coonerty, LLP
Attorneys for Kumi Ota and Jean David Champagne
419 Park Ave. So., 7th fl.
New York, NY 10016
Phone: (212) 532-0532
Fax: (212) 532-1871

TOY-RQ-05E-00003546

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

Index No.: 17175/08

REQUEST FOR PRODUCTION OF DOCUMENTS

RECEIVED
OCT 17 2008
LEGAL DEPT.

Defendant, TOYOTA MOTOR SALES, U.S.A., INC. ("TMS"), by its attorneys, ECKERT SEAMANS CHERIN & MELLOTT, LLC, hereby requests that all parties, pursuant to Section 3120 of the CPLR, produce the following documents and tangible objects at the offices of ECKERT SEAMANS CHERIN & MELLOTT, LLC , 10 Bank Street, Suite 1061, White Plains, New York, 10606:

DEFINITIONS

(1) "Documents" is an all-inclusive term referring to any writing and/or recorded or graphic matter, however produced or reproduced. The term documents includes, without limitation, correspondence, memoranda, interoffice communications, minutes, reports, notes, schedules, analyses, drawings, diagrams, tables, graphs, charts, maps, surveys, books of account, ledgers, invoices, purchase orders, pleadings, questionnaires, contracts, bills, checks, drafts, diaries, logs, proposals, print-outs, recordings, telegrams, films, and all other such documents tangible or retrievable of any kind. Documents also include any preliminary notes and drafts of all the foregoing, in whatever form, for example, printed, typed, longhand, shorthand, on paper, paper tape, tabulating cards, ribbon blueprints, magnetic tape, microfilm, film, motion picture film, phonograph records, or other form.

(2) "Concerning" means relating to, referring to, describing, evidencing or constituting.

(3) "And/or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

TOY-RQ-05E-00003547

(4) "Subject vehicle" means a certain 2007 Lexus Model ES 350, bearing Vehicle Identification Number JTHBJ46GX72075738, and any of its component parts identified in plaintiff's Complaint.

(5) "Incident" and "accident" mean the April 13, 2008 incident referred to in plaintiff's Complaint.

TOY-RQ-05E-00003548

ITEMS TO BE PRODUCED

1. Copies of any and all advertisements or vehicle brochures, in your possession, authored by this answering defendant, which you claim that you relied upon.

2. Copies of all invoices, receipts, warranties, or other writings concerning the purchase, ownership, registration, or title of the subject vehicle.

3. Copies of all work orders, receipts, warranties, or other documents concerning the service, repair, or maintenance of the subject vehicle.

4. All documents concerning the towing, storage, and disposition of the subject vehicle subsequent to the accident.

5. Duplicate original copies of any and all photographs, films, or videotapes, which depict or purport to depict the accident scene or any aspect of the accident scene in this case.

6. Duplicate original copies of any and all photographs, films, or videotapes, which depict or purport to the subject vehicle.

7. Duplicate original copies of any and all photographs, films, or videotapes, which depict or purport the other vehicles involved in the accident.

8. Duplicate original copies of any and all photographs, films, or videotapes, in your possession, which depict or purport to depict any aspect of plaintiff's injuries herein.

9. All reports, memos, and/or documentation prepared by any municipal, county, or state law enforcement agency or other agency relating to the subject vehicle or accident.

10. All documents concerning the events which led to the alleged discovery of what you contend are defects in the subject vehicle as described in plaintiff's Complaint.

11. Any repair estimates, property damage appraisals, or other documents reflecting damage to the subject vehicle as a result of the accident.

12. Any repair estimates, property damage appraisals, or other documents reflecting damage to the other vehicles involved in the accident as a result of the accident.

13. The subject vehicle and any component parts thereof.

14. The other vehicles involved in the accident.

15. The operator's manual and any other materials concerning the operation, maintenance, or service of the subject vehicle.

16. All documents concerning any warranty or representation made by this defendant concerning the subject vehicle.

17. All pleadings or other documents in any legal or administrative proceeding other than this litigation arising out of the accident.

18. Any release, covenant not to sue, or other documents entered into by plaintiff, which relieves another person, party, or entity for liability and/or damages to plaintiff for losses and/or injuries arising out of the accident, giving rise to this litigation.

19. All documents which plaintiff contends substantiate his claim for loss of income or earning capacity arising out of the accident.

Dated: White Plains, New York
October 13, 2008

Yours, etc.

By: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909
Fax: (914) 949-5424

TOY-RQ-05E-00003550

To: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170
(212) 986-7353

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

TOY-RQ-05E-00003551

AFFIDAVIT OF SERVICE

STATE OF NEW YORK :
: ss:
COUNTY OF WESTCHESTER

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On October 13, 2008, deponent served the within REQUEST FOR PRODUCTION OF DOCUMENTS upon:

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI &
SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

XX By depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York; and

☐ By transmitting the papers by electronic means to the telephone numbers listed above, which number was designated by the attorney for such purpose. I received a signal from the equipment of the attorney served indicating that the transmission was received.

☐ By depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest designated by the overnight delivery service for overnight delivery

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
13th day of October, 2008

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

REQUEST FOR PRODUCTION OF DOCUMENTS

ECKERT SEAMANS CHERIN & MELLOTT, LLC.
Attorneys for Defendant
TOYOTA MOTOR SALES USA., INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

TOY-RQ-05E-00003553

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

INTERROGATORIES ADDRESSED TO PLAINTIFF

RECEIVED
OCT 17 2008
LEGAL DEPT.

Defendant, TOYOTA MOTOR SALES, U.S.A., INC. ("TMS"), by its attorneys, ECKERT SEAMANS CHERIN & MELLOTT, LLC , hereby requests that the plaintiff answers fully, in writing and under oath, the following interrogatories pursuant to Article 31 of the CPLR.

DEFINITIONS AND INSTRUCTIONS

Unless negated by the context of the interrogatory, the following definitions are to be considered to be applicable to all interrogatories contained herein:

(A) "Documents" is an all-inclusive term referring to any writing and/or recorded or graphic matter, however produced or reproduced. The term documents includes, without limitation, correspondence, memoranda, interoffice communications, minutes, reports, notes, schedules, analyses, drawings, diagrams, tables, graphs, charts, maps, surveys, books of account, ledgers, invoices, purchase orders, pleadings, questionnaires, contracts, bills, checks, drafts, diaries, logs, proposals, print-outs, recordings, telegrams, films, and all other such documents tangible or retrievable of any kind. Documents also include any preliminary notes and drafts of all the foregoing, in whatever form, for example, printed, typed, longhand, shorthand, on paper, paper tape, tabulating cards, ribbon blueprints, magnetic tape, microfilm, film, motion picture film, phonograph records, or other form.

(B) With respect to documents, the term "identify" means to give the date, title, author and addressee; identify with respect to documents further means:

(I) to describe a document sufficiently well to enable the interrogator to know what such document is and to retrieve it from a file or wherever it may be located;

(II) to describe it in a manner suitable for use as a description in a subpoena;

(III) to give the name, address, position or title of the person(s) who has custody of the document and/or copies thereof.

(C) "Identify" when used in reference to an individual means:

(I) to state his/her full name;

(II) present residence address or last known residence;

(III) present or last known business address;

(IV) present employer or last known employer; and

(V) whether ever employed by any party to this action and, if so, the dates he (she) was employed by such party, the name of such party, and the last position held as an employee of such party.

(D) Whenever the expression "and/or" is used in these interrogatories, the information called for should be set out in the conjunctive and disjunctive, and wherever the information is set out in the disjunctive, it should be given separately for each and every element sought.

(E) Whenever a date, amount or other computation or figure is requested, the exact date, amount or other computation or figure is to be given unless it is not known; and then the approximate date, amount or other computation or figure should be given or the best estimate thereof; and the answer shall state that the date, amount or other computation or figure is an estimate or approximation.

(F) No answer is to be left blank. If the answer to an interrogatory or subparagraph of an interrogatory is "none" or "unknown", such statement must be written in the answer. If the question is inapplicable, "N/A" must be written in the answer. If an answer is omitted because of the claim of privilege, the basis of the privilege is to be stated.

(G) These interrogatories are continuing, and any information secured subsequent to the filing of your answers which would have been includable in the answers had it been known or available, are to be supplied by supplemental answers.

(H) "Plaintiff" means EZATT AZIZI, or any person or entity acting on his behalf.

(I) "Subject product" means a certain 2007 Lexus Model ES 350, bearing Vehicle Identification Number JTHBJ46GX72075738, and any of its component parts.

(J) "Subject accident" means the April 13, 2008 accident described in plaintiff's complaint.

INTERROGATORIES ADDRESSED TO PLAINTIFF

1. Give the names and addresses of the following persons:

(a) those who witnessed the occurrence giving rise to this suit; and

(b) those who have any information or knowledge concerning the facts, events, circumstances or conditions surrounding the happening of said occurrence.

ANSWER:

2. State whether any person gave any statement or prepared any document, memorandum, drawing or any other tangible thing pertaining to the occurrence giving rise to this suit.

(a) If your answer is in the affirmative, as to each person state the following:

(1) Identify each person;

(2) Describe the nature of what was done or produced; and

(3) Give the name and address of the person having custody of each item described above.

ANSWER:

3. State whether any photographs were taken of the site of the occurrence, the subject product or persons involved in the incident:

(a) If your answer is in the affirmative, state:

(1) the subject matter of the photographs;

(2) the date and time of day said photographs were taken;

(3) the name, address and job classification of the person taking same, and the name and address of his employer, if not in your employ; and

TOY-RQ-05E-00003556

(4) the name, address and classification of the person having custody of the same.

ANSWER:

4. State whether any plans, drawings, blueprints, sketches or diagrams exist or were made of the site of the occurrence or the subject vehicle involved herein.

(a) If your answer is in the affirmative, state:

(1) the identity of each said plan, drawing, blueprint, sketch or diagram by subject matter;

(2) the date and time of day when each of the same was made if subsequent to the occurrence;

(3) the name, address and job classification of the person making same, if made subsequent to the occurrence; and

(4) the name, address and job classification of the person having custody of the plans, drawings, blueprints, sketches or diagrams.

ANSWER:

5. State the following with respect to the plaintiff:

(a) age;

(1) at the time of the incident here involved; and

(2) at the present time.

(b) date of birth;

(c) place of birth;

(d) marital status;

(1) at the time of the incident here involved; and

(2) at the present time.

TOY-RQ-05E-00003557

(e) number of children or other dependents;

(1) at the time of the incident here involved; and

(2) at the present time.

(f) Plaintiff's Social Security Number, if any;

(g) Plaintiff's Veteran's Claim Number, if any;

(h) name and policy number of any health and accident coverage in existence at the time of the occurrence here involved, if any; and

(i) name and policy number of any insurance coverage providing benefits for the injuries or medical expenses alleged to be involved in this action, if any.

ANSWER:

6. State in detail and with particularity the injuries you allege were sustained as a result of the occurrence here involved.

ANSWER:

7. State the name and address of each physician, hospital, clinic, nursing home or other institution/medical provider to which you have gone for examination and/or treatment or in which you have been confined as a result of the injuries alleged to have been sustained in the occurrence involved in this action.

ANSWER:

8. At the time of the occurrence here involved, what was the nature of your employment and/or occupation?

(a) Give the name and address of your employer at the time of the occurrence here involved.

(b) If self-employed, state the address of your usual place of business and the name under which you operate it.

(c) If you are claiming loss of earnings, state the total amount of such loss and the computation used to arrive at that sum.

(d) If you are claiming a loss of earning capacity, state the total amount of such loss, the basis for the claim and the computation of the loss.

ANSWER:

9. Identify all persons whom you claim to have, or who claim to have a subrogation interest in the outcome of this litigation and for each such person, state the dollar value of the subrogation interest.

ANSWER:

10. Give the year, model, and serial number, of the subject product at the time of the incident in question.

ANSWER:

11. State the date that the subject product was purchased.

(a) Identify the individual or entity which sold said product;

(b) Identify the individual or entity which purchased said product; and

(c) Indicate whether said product was purchased new or refurbished.

(1) if the product was purchased refurbished, state the condition of the product at the time of its last sale.

(d) Identify each previous owner of the subject vehicle from the date of its purchase until the time of the incident in question.

ANSWER:

12. If anyone to your knowledge ever observed, noticed, or experienced anything unusual or complained about the subject vehicle prior to the incident in question:

(a) Identify each such person;

(b) State with particularity what was observed, noticed, or experienced about said product; and

(c) State when such observation was made.

ANSWER:

13. Identify each individual or business entity which performed any maintenance or repairs on the subject product from the date of its acquisition to the present:

(a) Set forth the date of each such maintenance or repair; and

(b) Identify the precise work done.

ANSWER:

14. Trace the location of the subject vehicle from the date of the incident to the present.

(a) Identify the dates when the subject vehicle was at each location;

(b) Identify the person or organization owning and/or having possession of or control over the subject vehicle.

ANSWER:

15. Trace the location of any component part removed from the subject vehicle from the date of the incident to the present.

(a) Identify the dates when the component part was at each location; and

(b) Identify the person or organization owning and/or having possession of or control over the component part.

ANSWER:

16. State whether the subject product or any of its component parts has been examined, inspected, or tested since the time of the incident in question.

(a) Identify each such person or entity conducting such examination, inspection, or testing;

(b) Identify the parts of the product examined, inspected, or tested;

(c) Indicate the date of each such examination, inspection, or test; and

(d) State whether a written report of same has been submitted to you or to anyone acting on your behalf.

ANSWER:

17. Identify each component part of the subject vehicle which you contend either was defective or malfunctioned at the time of the incident in question.

ANSWER:

18. State in detail the defective condition that allegedly existed in the subject vehicle and the manner in which said condition caused the incident in question.

ANSWER:

19. Do you contend that any aspect of the design of the subject vehicle was improper? If so:

(a) Identify each part that was improperly designed; and

(b) Identify the specific elements of the design which were unsafe.

ANSWER:

20. Do you contend that, at the time of this incident, there was being sold, on the public marketplace, an alternate design(s) to the subject vehicle (or component or subcomponent thereof) which would have either prevented or reduced your injury?

(a) Identify each and every alternate design. (Please include the year, model number(s), and/or serial number(s)).

ANSWER:

21. Do you contend that this defendant breached any warranty, whether express or implied, that it made concerning the subject product.

(a) State whether the warranty was written or oral;

(b) If oral, identify who made the warranty or representation;

(c) If oral, identify when the warranty or representation was made;

(d) If oral, identify where the warranty or representation was made; and

(e) State the terms of the warranty or representation.

ANSWER:

Dated: White Plains, New York
October 13, 2008

Yours, etc.

By: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909
Fax: (914) 949-5424

To: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170
(212) 986-7353

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

AFFIDAVIT OF SERVICE

STATE OF NEW YORK :
: ss:
COUNTY OF WESTCHESTER

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On October 13, 2008, deponent served the within INTERROGATORIES ADDRESSED TO PLAINTIFF upon:

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI &
SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

XX By depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York; and

☐ By transmitting the papers by electronic means to the telephone numbers listed above, which number was designated by the attorney for such purpose. I received a signal from the equipment of the attorney served indicating that the transmission was received.

☐ By depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest designated by the overnight delivery service for overnight delivery

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
13th day of October, 2008

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

TOY-RQ-05E-00003564

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

INTERROGATORIES ADDRESSED TO PLAINTIFF

ECKERT SEAMANS CHERIN & MELLOTT, LLC.
Attorneys for Defendant
TOYOTA MOTOR SALES USA., INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

TOY-RQ-05E-00003565

Private-Internal Use Only

VEHICLE	CUSTOMER	HOUSEHOLD
2007 LEXUS ES 350 (9000)	[redacted]	Household Lifetime Value:*
JTHBJ46GX72[redacted]		*Information Updated Monthly

VEHICLE DETAILS

Product: 2007 LEXUS ES 350 (9000)	**VIN: JTHBJ46GX72[redacted]**	**Original Selling Dealer: LEXUS OF MASSAPEQUA (63102)**
DOFU: 02/15/2007	Model Description: ES 350 4-DOOR SEDAN	**Last Known Mileage: 25**
Built Date: 11/24/2006 (Est)	Exterior Color: TUNGSTEN PEARL (01G1)	Last Known Mileage Date: 02/15/2007
Transmission Type: 6ECTI	Interior Color: BLACK (LB25)	Last Known Mileage Source: RDR
Engine Type: 2GR	Edition: ES350 4-DR SEDAN	

ADDITIONAL VEHICLE DETAILS

Original MSRP: $0	Plant of Manufacture: TMC	Tire Make/Brand: UNSPECIFIED
Order Date: 11/2006	Body Style: 4-DOOR SEDAN	Tire Size:
Port Damage: No	Engine Serial Number: A120690	

Port/Factory Installed Equipment

Description	Installation Source
Navigation/Mark Levinson Premium Audio Package: Generation 5 Navigation System with Rear Camera, Bluetooth, Voice-Activation w/Destination Input, Mark Levinson Premium Surround Audio with 14-Speakers, In-Dash 6-Disc DVD/CD Changer and Cassette Player(VN)	Factory
Intuitive Parking Assist(PA)	Factory
Luxury Package Includes: Perforated Leather Trim Interior w/Memory Driver's & Front Passenger's Seats, Outside Mirrors, Power Tilt/Telescoping Wood Steering Wheel, Panorama Glass Roof, Heated and Ventilated Front Seats, High Intensity Headlamps (HID) with AFS, Power Rear Sunshade, Rear Seat Side Airbags, Driver's Power Cushion Extender, Rain-Sensing Wipers, Bluetooth, 10-Spoke Graphite Wheels with Full Spare Tire(UL)	Factory
Preferred Accessory Package: Trunk Mat, Cargo Net and Wheel Locks (Z1)	Port
All Weather Mats(WF)	Port

Standard Installed Equipment

Description
PERFORMANCE FEATURES
3.5 Liter 272HP Four Cam 24-Valve V6 Engine
All-Aluminum Engine Construction & Dual VVTi
6-Speed Automatic Transmission w/Sequential Shift
Front Wheel Drive
Dual Exhaust with Seamless Chrome Tips
4-Wheel Independent MacPherson Strut-Type
Suspension with Gas Pressurized Shock Absorbers
Front and Rear Stabilizer Bar
4-Wheel Power Assisted Ventilated Front/Solid
Rear Disc Brakes

PRIVATE

17" Aluminum Alloy 7-Spoke Wheels
215/55R17 All-Season Tires
SAFETY FEATURES
Dual Front Airbags, Dual Front Knee Airbags, Front Seat-Mounted Side Impact Airbags, Fr & Rr Side Curtain Airbags, Supplemental Restraint Sys (SRS)
3-Point Safety Belts for All Seating Positions
Fr & Rr Outboard Seat Belt Pretensioners with Force Limiters
Vehicle Stability Control (VSC) with TRAC
4-Wheel Anti-Lock Braking System (ABS) with Electronic Brakeforce Distribution (EBD)
Energy Managing Crumple Zones, Side Door Beams
Theft-Deterrent System w/ Engine Immobilizer
Projector-Bulb Headlamps w/ Integrated Foglamps/ Daytime Running Lights (DRL)
Variable Intermittent Wipers with Mist Control
Tire Pressure Monitor System
Tool Kit and First Aid Kit
LUXURY AND CONVENIENCE FEATURES
SmartAccess with Push Button Start/Stop
10-Way Power Adjustable Driver & Passenger Seats includes 2-way Power Lumbar
Electrochromic Auto-Dimming Interior Mirror
Heated Outside Mirrors
One-Touch Open/Close Pwr Tilt-and-Slide Moonroof
Automatic Dual Zone Climate Control
Automatic On/Off Headlamps
Lexus Premium Audio System w/In-Dash 6-Disc CD Player Automatic Sound Levelizer (ASL) & MP3 Player Connectivity (miniplug) & 8-Speakers
Power Front and Rear Windows with Auto One-Touch Up/Down and Pinch Protection
Power Door Locks with Anti-Lock Out
Power Tilt/Telescoping Steering Wheel w/Audio & Display Functions & Column-Mounted Cruise Control
Key FOB-Integrated Multi-Function Remote Entry Sys
Rear Glass Imprinted Antenna w/FM Diversity Sys
Front Cup Holders with Adjustable Holder Ring
Rear Arm Rest with Cup Holders
Heavy-Duty Rear Window Defogger with Timer
Scheduled Maintenance Indicator Light
Lexus Personalized Settings
LED Interior Lighting
Carpeted Floor Mats
Carpeted Floor Mats

TFS PRODUCT SUMMARY

Type	ID	Product Status

No records found.

SERVICE HISTORY

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
11/21/2007	11/21/2007	3,318	LEXUS OF MASSAPEQUA-(63102)	MARASA, G	0145955	$17.43

Condition 1 — **Pay Type:** WARRANTY PAY

Op Code Desc: OTHERS — **SSC No.** ----

FRONT/REAR BODY — **Agreement** ----

Op Code Desc:

FRONT/REAR BODY ~|~LEFT SIDE DOOR CHROME HANDLE CAP FELL OFF ~|~WEAK RETENTION ~|~REPLACE LEFT FRONT DOOR LOCK HANDLE CAP — **Agreement** ----

Condition 2 — **Pay Type:** CUSTOMER PAY

Op Code Desc: — **SSC No.** ----

DISTRIBUTOR/HDLIGHT/T. SGNL — **Agreement** ----

Op Code Desc:

DISTRIBUTOR/HDLIGHT/T. SGNL ~|~CK TIRE LIGHT ~|~ ~|~NO LEAKS FOUND ADJUST TIRE PRESSURE — **Agreement** ----

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
:/03/2007	08/03/2007	2,344	LEXUS OF MASSAPEQUA-(63102)	ZATKOWSKI, R	0137488	$16.56

ndition 1 — **Pay Type:** WARRANTY PAY

Op Code Desc: — **SSC No.** ----

FRONT/REAR BODY ~|~C/S DOOR LOCK COVER HAS FALLEN OFF ~|~WEAK FIT AND RETENTION ~|~REPLACE COVER — **Agreement** ----

Op Code Desc: OTHERS

FRONT/REAR BODY — **Agreement** ----

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
07/17/2007	07/17/2007	2,342	LEXUS OF MASSAPEQUA-(63102)	ZATKOWSKI, R	0135741	$92.44

Condition 1 — **Pay Type:** CUSTOMER PAY

Op Code Desc: — **SSC No.** ----

WHEELS & TIRES ~|~CK NAIL IN TIRE ~|~PLUGED TIRE ~|~COMPLETED — **Agreement** ----

Op Code Desc:

WHEELS & TIRES — **Agreement** ----

Condition 2 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code Desc: — **SSC No.** ----

PERSONLIZED SETTINGS ~|~CUSTOMER REQUEST TO PERSONALIZED SETTINGS ~|~ALREADY DONE ON RO 124317 ~|~COMPLETED E PERSONLIZED SETTINGS — **Agreement** ----

Condition 3 — **Pay Type:** WARRANTY PAY

Op Code Desc: 5,000 MILE SERVICE — **SSC No.** ----

25000 MILE SERVICE NON WARRANTY-NON OEM — **Agreement** ----

Op Code Desc:

25000 MILE SERVICE NON WARRANTY-NON OEM ~|~REPLACE ENGINE OIL & FILTER, ROTATE TIRES, INSPECT WIPER BLADES, INSPECT BATTERY & CONNECTIONS, LUBE HINGES. CHECK & REPLENISH ALL FLUID LEVELS. INSPECT AIR FILTER. CHECK ALL INSTRUMENTS, ACCESSORIES & LIGHTS. CHECK TIRE WEAR & RESET TIRE PRESSURE. ROAD T ~|~========== ========== ~|~COMPLETED 5K — **Agreement** ----

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
06/15/2007	06/15/2007	103	LEXUS OF MASSAPEQUA-(63102)		0133436	$200.10

Condition 1 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code Desc: — **SSC No.** ----

NON WARRANTABLE OPERATION CODE ~|~TOP EDGE: INSTALLED WINDOW TINT. INV #56047 WORK DONE ON 2-9-07, JUST RECEIVED BILL 6-15-07 SEE RO #124338 — **Agreement** ----

Op Code Desc:
NON WARRANTABLE OPERATION CODE

Agreement ----

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
:/07/2007	03/07/2007	101	LEXUS OF MASSAPEQUA-(63102)		0125906	$0.00

ndition 1

Pay Type: INTERNAL (DEALER) PAY

Op Code Desc:

SSC No. ----

LOANER CAR ~|~A COURTESY LOANER/RENTAL CAR HAS BEEN RESERVED FOR YOUR DAY OF SERVICE ONLY. A FEE OF $124.95 PER DAY WILL BE APPLIED TO YOUR BILL IF ADDITIONAL DAY(S) ARE NOT AUTHORIZED BY LEXUS OF MASSAPEQUA SERVICE DEPARTMENT. ~|~ ~|~COMPLETED LOANER CAR

Agreement ----

Condition 2

Pay Type: INTERNAL (DEALER) PAY

Op Code Desc:

SSC No. ----

MISC ~|~C/S CAR DID NOT START CHECK BATTERY ~|~ ~|~CHECKED BATTERY GOOD CUSTOMER INFORMED TO APPLY BRAKE TILL GREEN LIGHT COMES ON

Agreement ----

Op Code Desc:
MISC

Agreement ----

Condition 3

Pay Type: INTERNAL (DEALER) PAY

Op Code Desc:

SSC No. ----

NON WARRANTABLE OPERATION CODE ~|~TOP EDGE TO RETINT DRI WINDOW ..PEELING..PLEASE CK OTHER WINDOWS ~|~ ~|~OKAY

Agreement ----

Op Code Desc:
NON WARRANTABLE OPERATION CODE

Agreement ----

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
02/16/2007	02/16/2007	25	LEXUS OF MASSAPEQUA-(63102)	BALLETTA, M	0124532	$2,606.00

Condition 1

Pay Type: CUSTOMER PAY

Op Code Desc:

SSC No. ----

NON WARRANTABLE OPERATION CODE ~|~GIVE TO ROBBIE TO REMOVE MARK FROM HOOD ~|~CLEANED OFF

Agreement ----

Op Code Desc:
NON WARRANTABLE OPERATION CODE

Agreement ----

Condition 2

Pay Type: INTERNAL (DEALER) PAY

Op Code Desc:

SSC No. ----

WHEELS & TIRES ~|~INSTALL CHROME RIMS ~|~REMOVED PRESSURE SENSORS FROM FACTORY WHEELS AND INSTALLED I IN AFTERMARKET CHROME WHEELS

Agreement ----

Op Code Desc:
WHEELS & TIRES

Agreement ----

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
:/13/2007	02/13/2007	22	LEXUS OF MASSAPEQUA-(63102)		0124338	$522.00

ndition 1

Pay Type: INTERNAL (DEALER) PAY

Op Code Desc:

SSC No. ----

NON WARRANTABLE OPERATION CODE ~|~CLEAN/WAX

Agreement ----

Op Code Desc:
NON WARRANTABLE OPERATION CODE

Agreement ----

Condition 2

Pay Type: INTERNAL (DEALER) PAY

Op Code

SSC No. ----

Desc:
NYS SAFETY INSPECT ~|~#11105135 ~|~REQUIRED NYS SAFETY INSPECT — **Agreement** ----

Condition 3 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code
Desc: — **SSC No.** ----

MOVIN ON SOUNDS ~|~REMOTE START (TO BE DONE AT MASS.) ~|~ ~|~INV #456254 MOVIN ON SOUNDS — **Agreement** ----

Condition 4 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code
Desc: — **SSC No.** ----

ACCESSORY ~|~TOP EDGE-50% (TO BE DONE AT MASS.) — **Agreement** ----

Op Code ACCESSORY
Desc:
ACCESSORY — **Agreement** ----

R.O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
02/09/2007	02/09/2007	20	LEXUS OF MASSAPEQUA-(63102)	GREENIDGE, E	0124317	$1,284.05

Condition 1 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code
Desc: — **SSC No.** ----

INSTALL CHROME GRILL ~|~INSTALL CHROME GRILLE ~|~DONE ~|~SALES POLICY INSTALL CHROME GRILL — **Agreement** ----

Condition 2 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code
Desc: — **SSC No.** ----

INSTALL XM RADIO ~|~INSTALL XM RADIO SYSTEM ~|~J1WYNOCR RADIO ID ~|~SALES POLICY INSTALL XM RADIO — **Agreement** ----

Condition 3 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code
Desc: — **SSC No.** ----

WOOD KIT ~|~INSTALL WOOD PACKAGE ~|~ ~|~INSTALLED WOOD TRIM PACKAGE SALES POLICY WOOD KIT — **Agreement** ----

Condition 4 — **Pay Type:** WARRANTY PAY

Op Code LEXUS PERSONALIZED SETTINGS — **SSC No.** ----
Desc:
PERSONLIZED SETTINGS — **Agreement** ----

Op Code
Desc:
PERSONLIZED SETTINGS ~|~CUSTOMER REQUEST TO PERSONALIZED SETTINGS ~|~ ~|~DONE — **Agreement** ----

O. Open	R.O. Close	R.O. Mileage	Servicing Dealer	Service Advisor	R.O. No.	R.O. Total
01/02/2007	01/02/2007	7	LEXUS OF MASSAPEQUA-(63102)		0121513	$251.48

Condition 1 — **Pay Type:** INTERNAL (DEALER) PAY

Op Code
Desc: — **SSC No.** ----

GAS MEMO ~|~GAS MEMO ~|~ ~|~GAS MEMO FOR OFFICE GAS MEMO — **Agreement** ----

Condition 2 — **Pay Type:** WARRANTY PAY

Op Code PRE-DELIVERY SERVICE FOR USA ALL ALTITUDES — **SSC No.** ----
Desc:
PRE-DELIVERY SERVICE FOR USA ALL ALTITUDES — **Agreement** ----

Op Code
Desc:
PRE-DELIVERY SERVICE FOR USA ALL ALTITUDES ~|~PERFORM PRE-DELIVERY INSPECTION — **Agreement** ----

Disclaimer: This information is proprietary and confidential and is intended for internal use only by authorised TMS/TFS personnel.It may not be shared with customers,dealers, or other parties outside TMS/TFS

PRIVATE PRIVATE PRIVATE

Service Experience Survey

Customer Information
[redacted]
Overall Experience (Q10):
Truly outstanding
Surveys Received: **01/14/2008**

Vehicle Information
VIN:JTHBJ46GX72[redacted]
Vehicle: 2007 ES350
Repair Date: 11/21/2007
Repair Order #: 0145955 C

Service Dealer Information
Dealer: **63102-LEXUS OF MASSAPEQUA**
Svc Consultant: **MARASA, GIUSEPPE**

Grouping	#	Question	Response	Score
SCHEDULING YOUR SERVICE APPOINTMENT	1A	MADE APPOINTMENT	By phone	-
	1B	EASE OF APPOINTMENT	Truly outstanding	100
ON ARRIVAL	2	GREET PROMPTLY	Yes	100
	2	PROVIDED TIME ESTIMATE	Yes	100
	2	THOROUGH DOCUMENTATION	Yes	100
	2	CLEAR EXPLANATION	Yes	100
	2	CLEAR ESTIMATE	Yes	100
DURING YOUR VEHICLE SERVICING	3A	WAIT FOR VEHICLE	Yes	-
	3B	COMFORT	-	-
	3B	LUXURIOUSNESS	-	-
	3B	MET MY PERSONAL NEEDS	-	-
	3B	COMMUNICATION DEVICES	-	-
	3B	ENTERTAINMENT	-	-
	3B	REFRESHMENTS	-	-
	4A	PROVIDED TRANSPORTATION	No, I did not require transportation	-
	4B	RATE TRANSPORTATION	-	-
	5	KEPT INFORMED	No	0
	5	CONTACTED TIMELY MANNER	Yes	100
	16B	RATING OF THE CUSTOMER LOUNGE	Truly outstanding	100
	5	OFFERED CONVENIENT TIME	-	-
	5	EXPLAINED ALL WORK	Yes	100
	5	INFORMED OF ADDITIONAL WORK	N/A	-
	5	INFORMED ADDITIONAL CHARGES	N/A	-
	6A	SERVICE TYPE	Repair work covered under warranty	-
INTERIOR FEATURES	6B	AUDIO SYSTEM	-	-
	6B	HEATING/AC	-	-
	6B	INSTRUMENT PANEL	-	-
	6B	INTERIOR TRIM	-	-
	6B	INTERIOR SWITCHES	-	-
	6B	REMOTE ENTRY	-	-
	6B	SEATS	-	-
	6B	SPECIAL FEATURES	-	-
	6B	WINDOWS/DOORS	-	-
EXTERIOR FEATURES	6B	BODY FIT	-	-
	6B	EXTERIOR TRIM	-	-
	6B	PAINT FINISH	-	-
MECHANICAL FEATURES	6B	BRAKES	-	-
	6B	ENGINE	-	-
	6B	TRANSMISSION	-	-
	6B	STEERING	-	-
	6B	SUSPENSION	-	-
GENERAL CONDITIONS	6B	NOISES	-	-
	6B	WIND NOISES	-	-
	6B	SQEAKS/RATTLES	-	-
DURING YOUR VEHICLE SERVICING	6D	FIXED RIGHT FIRST TIME	Yes	100
	6E	REASONS NOT FIXED RIGHT FIRST TIME	-	-
	7A	REQUIRED PARTS	No	-
	7B	PARTS AVAILABLE	-	-
	7C	KEPT INFORMED ON PARTS	-	-
PICKING UP YOUR LEXUS VEHICLE	8A	VEHICLE READINESS	Yes	100
	8B	COURTESY OF DEALERSHIP	Truly outstanding	100
	8B	RESPECT FOR TIME	Truly outstanding	100
	8B	PERSONALIZED SERVICE/ATTENTION	Truly outstanding	100
	8B	REVIEWED WORK PERFORMED	Truly outstanding	100
	8B	REVIEWED COSTS	Truly outstanding	100
	8B	ACCURATE DIAGNOSIS	Truly outstanding	100

	8B	EASE OF PAYMENT	Truly outstanding	100
	8B	CLEANLINESS OF VEHICLE	Truly outstanding	100
	8B	QUALITY OF WORK PERFORMED	Truly outstanding	100
	8B	FULFILLMENT OF COMMITMENTS	Truly outstanding	100
AFTER-SERVICE CONTACT	9A	FOLLOW UP	No	0
	9B	METHOD OF CONTACT	-	-
	9C	FOLLOW UP RATING	-	-
YOUR OVERALL IMPRESSIONS	10	OVERALL SERVICE EXPERIENCE	Truly outstanding	100
	12A	WOULD RETURN - SERVICE	Yes	100
	12A	WOULD RECOMMEND DEALER - SERVICE	Yes	100
	13A	VEHICLE RATING	-	-
	13B	WOULD RECOMMEND VEHICLE	-	-
CHOOSING YOUR LEXUS DEALERSHIP	14	WHAT ATTRACTED YOU TO DEALER	Purchased vehicle at this location	-
DURING YOUR VEHICLE SERVICING	16D	CUSTOMER LOUNGE PREFERENCE	An environment where I can relax	-

Open-ended Questions

No verbatim responses.

End of Report

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On the 24th day of June, 2009, deponent served the within **TOYOTA MOTOR SALES, U.S.A., INC.'S RESPONSE TO PLAINTIFFS' COMBINED DEMANDS** upon:

Sean Coonerty Esq.
GELLER, SIEGEL & COONERTY, LLP
Attorneys for Plaintiffs
419 Park Avenue South, Suite 700
New York, New York 10016

David S. Heller, Esq.
CONNORS & CONNORS
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI &
SHAPIRO, LLP
Attorneys for Defendant
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, New York 10170

GERBER & GERBER, PLLC
Attorneys for Defendant
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
24th day of June, 2009

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

TOY-RQ-05E-00003573

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

Index No. 112865/09

ANSWER TO THIRD-PARTY COMPLAINT

RECEIVED
FEB 05 2010
LEGAL DEPT.

Third-Party Defendant, TOYOTA MOTOR NORTH AMERICA, INC. ("TMA"), by its attorneys, Eckert Seamans Cherin & Mellott, LLC, hereby answers third-party plaintiff's Third Party Complaint (the "third-party complaint") as follows:

1. TMA denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the third-party complaint.

2. TMA denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "2" of the third-party complaint.

TOY-RQ-05E-00003574

3. TMA denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "3" of the third-party complaint and refers to the allegations contained in the pleadings attached to the third-party complaint.

4. TMA denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "4" of the third-party complaint.

5. TMA denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5" of the third-party complaint and refers to the allegations contained in the pleadings attached to the third-party complaint.

6. TMA denies the allegations contained in paragraph "6" of the third-party complaint.

7. TMA denies the allegations contained in paragraph "7" of the third-party complaint.

8. TMA denies the allegations contained in paragraph "8" of the third-party complaint.

FIRST AFFIRMATIVE DEFENSE

9. The third-party complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

10. The incident described in the third-party complaint was caused and/or contributed to by the negligence of plaintiff thereby barring or reducing recovery by plaintiff.

THIRD AFFIRMATIVE DEFENSE

11. Plaintiff's claims may be barred by the applicable Statute of Limitations.

FOURTH AFFIRMATIVE DEFENSE

12. The negligent acts or omissions of other individuals or entities may have constituted an intervening, superseding cause of the injuries and damages alleged to have been sustained by plaintiff.

FIFTH AFFIRMATIVE DEFENSE

13. The alleged injuries and losses sustained by plaintiff was caused entirely by, or contributed to by, the negligent or liability-producing acts or omissions of individuals or entities other than TMA over whom TMA exercises no authority or control.

SIXTH AFFIRMATIVE DEFENSE

14. The injuries or damages alleged to have been sustained by plaintiff were not proximately caused by any acts or omissions on the part of TMA or any of its authorized representatives.

SEVENTH AFFIRMATIVE DEFENSE

15. Although TMA denies the existence of a defect as alleged by plaintiff, if plaintiff had knowledge of the defect and proceeded unreasonably to make use of the product, such use bars recovery by plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

16. The subject vehicle may have been misused, thereby barring any recovery by plaintiff.

NINTH AFFIRMATIVE DEFENSE

17. The subject vehicle may have been modified or altered thereby barring any recovery by plaintiff.

TENTH AFFIRMATIVE DEFENSE

18. Some or all of the damages requested in the third-party complaint are not recoverable in this action.

ELEVENTH AFFIRMATIVE DEFENSE

19. TMA hereby pleads as a separate defense any and all releases entered into by plaintiff or to be entered into by plaintiff as a reduction, in whole or in part, of any damages that plaintiff may be entitled to recover from TMA, it being specifically denied that TMA is liable to plaintiff in any respect.

TWELFTH AFFIRMATIVE DEFENSE

20. Plaintiff may have failed to give timely notice of any alleged breach of warranty as required by law.

THIRTEENTH AFFIRMATIVE DEFENSE

21. Plaintiff's sole warranty rights, if any, are governed by the terms, provisions, remedies and limitations set forth in the written New Car Limited Warranty applicable to the subject vehicle.

FOURTEENTH AFFIRMATIVE DEFENSE

22. Although TMA denies the existence of a defect as alleged by plaintiff, any defects, nonconformities or conditions resulted from the abuse, neglect or unauthorized modifications or alterations to the vehicle by the plaintiff.

FIFTEENTH AFFIRMATIVE DEFENSE

23. Plaintiff may have failed to use an available occupant restraint as required by New York Vehicle and Traffic Law § 1229-c and/or failed to use properly or misused an

available occupant restraint in the vehicle at the time of the accident described in the third-party complaint, as a result of which the alleged injuries were sustained or aggravated.

WHEREFORE, defendant TMA demands judgment dismissing third-party plaintiff's complaint and such other relief as the Court deems just and proper.

Dated: White Plains, New York
February 2, 2010

Yours, etc.

Steven R. Kramer, Esq.
Edward A. Gray, Esq.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Third-Party Defendant
TOYOTA MOTOR NORTH AMERICA, INC
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909

TO: David S. Heller, Esq.
CONNORS & CONNORS, P.C.
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212-532-0532
File #: 08-6484

Thomas M. Oliva, Esq.
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Andria Simone Kelly, Esq.
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(516) 294-5433
File No.: ENC0884408ASK

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26 Court Street, Suite 1405
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(718) 834-4850

TOY-RQ-05E-00003579

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On the 2nd day of February, 2010, deponent served the within **ANSWER TO THIRD-PARTY COMPLAINT** upon:

David S. Heller, Esq.
CONNORS & CONNORS, P.C.
Attorneys for Defendant/Third-Party Plaintiff
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
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New York, NY 10170

Alan Wenig, Esq.
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Andria Simone Kelly, Esq.
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Albertson, NY 11507

Sean Coonerty Esq.
GELLER & SIEGEL, LLP
Attorneys for Plaintiffs in Action #1
JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, NY 11242

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
2nd day of February, 2010

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

{V0027881.1}

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

Index No. 112865/09

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

ANSWER TO THIRD-PARTY COMPLAINT

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR NORTH AMERICA, INC.
10 Bank Street, Suite 1061
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(914) 949-2909
Fax (914) 949-5424

TOY-RQ-05E-00003581

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Champagne

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

Index No. 112865/09

ANSWER TO THIRD-PARTY COMPLAINT

RECEIVED
FEB 05 2010
LEGAL DEPT.

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

Third-Party Defendant, TOYOTA MOTOR SALES, U.S.A., INC., s/h/a LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. ("TMS"), by its attorneys, Eckert Seamans Cherin & Mellott, LLC, hereby answers third-party plaintiff's Third Party Complaint (the "third-party complaint") as follows:

1. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the third-party complaint.

2. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "2" of the third-party complaint.

TOY-RQ-05E-00003582

3. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "3" of the third-party complaint and refers to the allegations contained in the pleadings attached to the third-party complaint.

4. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "4" of the third-party complaint.

5. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5" of the third-party complaint and refers to the allegations contained in the pleadings attached to the third-party complaint.

6. TMS denies the allegations contained in paragraph "6" of the third-party complaint.

7. TMS denies the allegations contained in paragraph "7" of the third-party complaint.

8. TMS denies the allegations contained in paragraph "8" of the third-party complaint.

FIRST AFFIRMATIVE DEFENSE

9. The third-party complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

10. The incident described in the third-party complaint was caused and/or contributed to by the negligence of plaintiff thereby barring or reducing recovery by plaintiff.

THIRD AFFIRMATIVE DEFENSE

11. Plaintiff's claims may be barred by the applicable Statute of Limitations.

FOURTH AFFIRMATIVE DEFENSE

12. The negligent acts or omissions of other individuals or entities may have constituted an intervening, superseding cause of the injuries and damages alleged to have been sustained by plaintiff.

FIFTH AFFIRMATIVE DEFENSE

13. The alleged injuries and losses sustained by plaintiff was caused entirely by, or contributed to by, the negligent or liability-producing acts or omissions of individuals or entities other than TMS over whom TMS exercises no authority or control.

SIXTH AFFIRMATIVE DEFENSE

14. The injuries or damages alleged to have been sustained by plaintiff were not proximately caused by any acts or omissions on the part of TMS or any of its authorized representatives.

SEVENTH AFFIRMATIVE DEFENSE

15. Although TMS denies the existence of a defect as alleged by plaintiff, if plaintiff had knowledge of the defect and proceeded unreasonably to make use of the product, such use bars recovery by plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

16. The subject vehicle may have been misused, thereby barring any recovery by plaintiff.

NINTH AFFIRMATIVE DEFENSE

17. The subject vehicle may have been modified or altered thereby barring any recovery by plaintiff.

TENTH AFFIRMATIVE DEFENSE

18. Some or all of the damages requested in the third-party complaint are not recoverable in this action.

ELEVENTH AFFIRMATIVE DEFENSE

19. TMS hereby pleads as a separate defense any and all releases entered into by plaintiff or to be entered into by plaintiff as a reduction, in whole or in part, of any damages that plaintiff may be entitled to recover from TMS, it being specifically denied that TMS is liable to plaintiff in any respect.

TWELFTH AFFIRMATIVE DEFENSE

20. Plaintiff may have failed to give timely notice of any alleged breach of warranty as required by law.

THIRTEENTH AFFIRMATIVE DEFENSE

21. Plaintiff's sole warranty rights, if any, are governed by the terms, provisions, remedies and limitations set forth in the written New Car Limited Warranty applicable to the subject vehicle.

FOURTEENTH AFFIRMATIVE DEFENSE

22. Although TMS denies the existence of a defect as alleged by plaintiff, any defects, nonconformities or conditions resulted from the abuse, neglect or unauthorized modifications or alterations to the vehicle by the plaintiff.

FIFTEENTH AFFIRMATIVE DEFENSE

23. Plaintiff may have failed to use an available occupant restraint as required by New York Vehicle and Traffic Law § 1229-c and/or failed to use properly or misused an

available occupant restraint in the vehicle at the time of the accident described in the third-party complaint, as a result of which the alleged injuries were sustained or aggravated.

WHEREFORE, defendant TMS demands judgment dismissing third-party plaintiff's complaint and such other relief as the Court deems just and proper.

Dated: White Plains, New York
February 2, 2010

Yours, etc.

Steven R. Kramer, Esq.
Edward A. Gray, Esq.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Third-Party Defendant
TOYOTA MOTOR SALES, U.S.A., INC. s/h/a
LEXUS A DIVISION OF TOYOTA MOTOR
SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909

TO: David S. Heller, Esq.
CONNORS & CONNORS, P.C.
Attorneys for Defendant/Third-Party Plaintiff
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310
(718) 442-1700
File No.: DGE23830D

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Sean Coonerty Esq.
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JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016
212-532-0532
File #: 08-6484

Thomas M. Oliva, Esq.
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Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
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File No.: ENC0884408ASK

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26 Court Street, Suite 1405
Brooklyn, New York 11242
(718) 834-4850

TOY-RQ-05E-00003587

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On the 2nd day of February, 2010, deponent served the within **ANSWER TO THIRD-PARTY COMPLAINT** upon:

David S. Heller, Esq.
CONNORS & CONNORS, P.C.
Attorneys for Defendant/Third-Party Plaintiff
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310

Thomas M. Oliva, Esq.
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Attorneys for Plaintiff in Action #2
EZATT AZIZI
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New York, NY 10170

Alan Wenig, Esq.
WENIG & WENIG, ESQS.
Attorneys for Plaintiff
150 Broadway, Suite 911
New York, NY 10038

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants in Action #2
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507

Sean Coonerty Esq.
GELLER & SIEGEL, LLP
Attorneys for Plaintiffs in Action #1
JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, NY 11242

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
2nd day of February, 2010

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

TOY-RQ-05E-00003588

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Index No. 112865/09

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

ANSWER TO THIRD-PARTY COMPLAINT

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A., INC., s/h/a LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

Charge

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

Index No. 112865/09

NOTICE OF DEPOSITION

RECEIVED
FEB 05 2010
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PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules, the testimony, upon oral examination of all parties will be taken before a Notary Public, who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at a place and time to be mutually agreed upon and/or in compliance with a scheduling order of the Court, with respect to evidence material and necessary in the prosecution/defense of this proceeding.

That the said person to be examined is required to produce at such examination the following: all papers, documents and other instruments concerning the within action.

Dated: White Plains, New York
February 2, 2010

Yours, etc.

Steven R. Kramer, Esq.
Edward A. Gray, Esq.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Third-Party Defendant
TOYOTA MOTOR SALES, U.S.A., INC. s/h/a
LEXUS A DIVISION OF TOYOTA MOTOR
SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909

TO: David S. Heller, Esq.
CONNORS & CONNORS, P.C.
Attorneys for Defendant/Third-Party Plaintiff
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310
(718) 442-1700
File No.: DGE23830D

Alan Wenig, Esq.
WENIG & WENIG, ESQS.
Attorneys for Plaintiff
150 Broadway, Suite 911
New York, NY 10038
(212) 374-9840

Sean Coonerty Esq.
GELLER & SIEGEL, LLP
Attorneys for Plaintiffs in Action #1
JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016
212-532-0532
File #: 08-6484

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants in Action #2
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
File No.: ENC0884408ASK

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242
(718) 834-4850

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On the 2nd day of February, 2010, deponent served the within **NOTICE OF DEPOSITION** upon:

David S. Heller, Esq.
CONNORS & CONNORS, P.C.
Attorneys for Defendant/Third-Party Plaintiff
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, NY 10170

Alan Wenig, Esq.
WENIG & WENIG, ESQS.
Attorneys for Plaintiff
150 Broadway, Suite 911
New York, NY 10038

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants in Action #2
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507

Sean Coonerty Esq.
GELLER & SIEGEL, LLP
Attorneys for Plaintiffs in Action #1
JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, NY 11242

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
2nd day of February, 2010

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

TOY-RQ-05E-00003593

SUPREME COURT OF ..IE STATE OF NEW YORK
COUNTY OF NEW YORK

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Index No. 112865/09

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

NOTICE OF DEPOSITION

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A., INC., s/h/a LEXUS
A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

TOY-RQ-05E-00003594

0

Champagne

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

Index No. 112865/09

NOTICE OF DEPOSITION

RECEIVED
FEB 05 2010
LEGAL DEPT.

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules, the testimony, upon oral examination of all parties will be taken before a Notary Public, who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at a place and time to be mutually agreed upon and/or in compliance with a scheduling order of the Court, with respect to evidence material and necessary in the prosecution/defense of this proceeding.

TOY-RQ-05E-00003595

That the said person to be examined is required to produce at such examination the following: all papers, documents and other instruments concerning the within action.

Dated: White Plains, New York
February 2, 2010

Yours, etc.

Steven R. Kramer, Esq.
Edward A. Gray, Esq.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Third-Party Defendant
TOYOTA MOTOR NORTH AMERICA, INC
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909

TO: David S. Heller, Esq.
CONNORS & CONNORS, P.C.
Attorneys for Defendant/Third-Party Plaintiff
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310
(718) 442-1700
File No.: DGE23830D

Alan Wenig, Esq.
WENIG & WENIG, ESQS.
Attorneys for Plaintiff
150 Broadway, Suite 911
New York, NY 10038
(212) 374-9840

Sean Coonerty Esq.
GELLER & SIEGEL, LLP
Attorneys for Plaintiffs in Action #1
JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016
212-532-0532
File #: 08-6484

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants in Action #2
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
File No.: ENC0884408ASK

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242
(718) 834-4850

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On the 2nd day of February, 2010, deponent served the within **NOTICE OF DEPOSITION** upon:

David S. Heller, Esq.
CONNORS & CONNORS, P.C.
Attorneys for Defendant/Third-Party Plaintiff
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310

Alan Wenig, Esq.
WENIG & WENIG, ESQS.
Attorneys for Plaintiff
150 Broadway, Suite 911
New York, NY 10038

Sean Coonerty Esq.
GELLER & SIEGEL, LLP
Attorneys for Plaintiffs in Action #1
JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, NY 10016

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, NY 10170

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants in Action #2
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, NY 11242

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
2nd day of February, 2010

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

TOY-RQ-05E-00003598

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ENCOMPASS INSURANCE COMPANY OF NEW JERSEY, a/s/o DAWN LEON,

Index No. 112865/09

Plaintiffs,

-against-

RICARDO BROWN, FRO SERVICE CORP. and EZATT AZIZA,

Defendants.

RICARDO BROWN,

Third-Party Plaintiff,

-against-

LEXUS A DIVISION OF TOYOTA MOTOR SALES, U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Third-Party Defendants.

NOTICE OF DEPOSITION

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR NORTH AMERICA, INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

RECEIVED
JAN 2010
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI, OTA.,

Plaintiffs,

-against-

SUPPLEMENTAL NOTICE FOR DISCOVERY AND INSPECTION

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. And TOYOTA MOTOR NORTH AMERICA, INC.,

Index No. 25273/08

Defendants.

----------X

EZATT AZIZI,

Action #2

Plaintiff,

- against -

Index No. 17115/08

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

FRO SERVICE CORP.,

Action #3

Plaintiff,

Index No. 13778/08

- against -

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

C O U N S E L O R S :

PLEASE TAKE NOTICE, that pursuant to Article 31 of the C.P.L.R., the Defendant, RICARDO BROWN, by his attorneys, CONNORS & CONNORS, P.C.,

hereby demands that the plaintiff JEAN DAVID CHAMPAGNE produce the following documents at the offices of the undersigned within 20 days of the date of the this demand all of the items requested at the deposition of plaintiff Ota, including but not limited to the following.

1. All things requested from Mr. Champagne at his deposition, including but not limited to the following:

2. A duly executed HIPAA compliant authorization for the records of the doctor who plaintiff testified removed his stitches after his release from the hospital.

3. A duly executed HIPAA compliant authorization for the x-rays taken of the plaintiff prior to his return to France.

4. A full and complete copy of plaintiff's passport with all endorsements and visas for the years 2005 to the present.

5. An authorization for the CVS pharmacy in Tarrytown and/or any other place where plaintiff obtained medications for any problems arising from the injuries allegedly suffered in this accident.

6. A duly executed HIPAA compliant authorization for plaintiff's complete records with Dr. Balerio.

7. All documents that plaintiff will rely on for his alleged out of pocket expenses.

8. An authorization for plaintiff's college records at MJM Design or any other institution of education attended by the plaintiff since the date of the accident.

9. An authorization and/or plaintiff's complete records of his boxing activities including but not limited to his license, his record and any records with a club that he belonged to for that purpose, including but not limited to LeCompt.

10. An authorization for and complete records of plaintiff's attendance at the gym and/or club where he practices body building.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief will be made to this court.

Dated: Staten Island, New York
November 23, 2009

Yours etc.,

CONNORS & CONNORS, P.C.

DAVID S. HELLER
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700
Our File No.: DGE 23038C

TO: GELLER & SIEGEL, LLP
Attorneys for Plaintiff
419 Park Avenue South, Suite 700
New York, NY 10016
212/532-0532

ECKERT SEAMANS CHERIN & MELLOTT
Attorneys for Defendant
TOYOTA MOTOR N.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
420 Lexington Avenue - Suite 2750
New York, NY 10170
(212) 986-7353

AHMUTY, DEMERS & MCMANUS, ESQS.
Attorneys for Defendants in Action #2
DCFS TRUST and ALEJANDRO LEON
i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, NY 11242
(718) 834-4850

Index No. 25273/08 RJI No. Hon.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

JEAN DAVID CHAMPAGNE AND KUMI, OTA.,

Plaintiffs,

-against-

RICARDO BROWN, ALEJANDRO, LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. AND TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

AND OTHER ACTIONS

SUPPLEMENTAL NOTICE FOR DISCOVERY AND INSPECTION

CONNORS & CONNORS, P.C.
Attorneys for Defendant, RICARDO BROWN
Office and Post Office Address, Telephone
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700 PHONE
(718) 442-1717 FAX

To

Signature (Rule 130-1.1-a)

DAVID S. HELLER

Service of a copy of the within is hereby admitted,

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges
of the within named court, at
on at M
Dated,

Yours, etc.

CONNORS & CONNORS, P.C.
Attorneys for Defendant
Office and Post Office Address
766 CASTLETON AVENUE
STATEN ISLAND, NY 10310

To

RECEIVED
2009
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI, OTA.,

Plaintiffs,

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. And TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

FRO SERVICE CORP.,

Plaintiff,

- against -

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

SUPPLEMENTAL NOTICE FOR DISCOVERY AND INSPECTION FOR PLAINTIFF EZATT AZIZI

Index No. 25273/08

Action #2

Index No. 17115/08

Action #3

Index No. 13778/08

C O U N S E L O R S :

PLEASE TAKE NOTICE, that pursuant to Article 31 of the CPLR, the Defendant, RICARDO BROWN, by his attorneys, CONNORS & CONNORS, P.C., hereby demand that you produce the following documents at the offices of the undersigned within 20 days of the date of the this demand.

1. A duly executed HIPAA compliant authorizations for release of plaintiff's therapy records.

2. Photographs of the car plaintiff was driving as testified to in his deposition.

3. Newspaper articles which plaintiff saw, which may be in his possession, as testified to at plaintiff's deposition.

PLEASE TAKE FURTHER NOTICE, that upon your failure to produce the aforesaid documents at the time and place required in this notice, the defendants will oppose any attempts by the plaintiff to place this case on the trial calendar of this court and appropriate motions for relief will be made to this court.

Dated: Staten Island, New York
November 9, 2009

Yours etc.,

CONNORS & CONNORS, P.C.

LEONARD A. ROBUSTO
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700
Our File No.: DGE ~~23038C~~
23830C

Index No. 25273/08 RJI No. Hon.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

JEAN DAVID CHAMPAGNE AND KUMI, OTA.,

Plaintiffs,

-against-

RICARDO BROWN, ALEJANDRO, LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. AND TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

and two other actions

SUPPLEMENTAL NOTICE FOR DISCOVERY AND INSPECTION

CONNORS & CONNORS, P.C.
Attorneys for Defendant, RICARDO BROWN
Office and Post Office Address, Telephone
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700 PHONE
(718) 442-1717 FAX

To

Signature (Rule 130-1.1-a)

LEONARD A. ROBUSTO

Service of a copy of the within is hereby admitted,

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for settlement to the HON. one of the judges
of the within named court, at
on at M
Dated,

Yours, etc.

CONNORS & CONNORS, P.C.
Attorneys for Defendant
Office and Post Office Address
766 CASTLETON AVENUE
STATEN ISLAND, NY 10310

To

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NOV 30 2009
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE AND KUMI OTA,

Plaintiff,

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

Index No. 25273/08

Action No. 1

SUPPLEMENTAL NOTICE FOR DISCOVERY AND INSPECTION TO PLAINTIFF CHAMPAGNE

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

Index No. 1717/08

Action No. 2

FRO SERVICE CORP.,

Plaintiff,

-against-

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

Index No. 13778/08

Action No. 3

PLEASE TAKE NOTICE pursuant to CPLR 3101 and 3120 demand is hereby made upon the plaintiff, JEAN DAVID CHAMPAGNE, for discovery, inspection and

copying of the following to take place at the office of the undersigned on or before December 10, 2009 at 2:00 p.m.:

1. A duly executed HIPAA compliant authorization to obtain the medical records, including all x-rays and diagnostic tests, of Dr. Balerio regarding his treatment of plaintiff CHAMPAGNE.

2. A duly executed HIPAA compliant authorization to obtain the pharmacy records from CVS in Tarrytown, New York regarding plaintiff CHAMPAGNE.

3. A copy of the CD of the 3D x-ray taken at the request of Dr. Balerio that is currently in the plaintiff's possession.

4. A copy of all receipts for medicine, x-rays, the wheel chair and cane, doctors and transportation as testified to by plaintiff CHAMPAGNE at his deposition.

5. A duly executed authorization to obtain the records from MJM Design regarding plaintiff CHAMPAGNE.

6. A copy of the plaintiff's current passport reflecting the trips he testified to at his deposition.

7. A duly executed authorization to obtain the records from La Compt Boxing Club in Italy regarding plaintiff CHAMPAGNE.

8. The full name and address of the gym plaintiff goes to in Nice, France and a duly executed authorization to obtain the records regarding plaintiff CHAMPAGNE from same.

PLEASE TAKE FURTHER NOTICE that a response to the foregoing demands may be forwarded prior to the return date herein.

Dated: Albertson, New York
November 12, 2009

By: _____

ANDRIA SIMONE KELLY
AHMUTY, DEMERS & McMANUS
Attorneys for Defendants
Alejandro Leon & DCFS
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
Our File No.: ENC 084408 ASK

TO: GELLER & SIEGEL, LLP
Attorneys for Plaintiffs
JEAN DAVID CHAMPAGNE and KUMI, OTA
419 Park Avenue South, Suite 700
New York, New York 10016
212-532-0532

CONNORS & CONNORS, P.C.
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
718-422-1700
File No.: DGE23830C

ECKERT SEAMENS CHERIN & MELLOTT
Attorneys for Defendant
TOYOTA MOTOR N.A. INC.
10 Bank Street, Suite 1061
White Plains, New York 10606

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff, Action No. 2
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, New York 10170
212-986-7353

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action No. 3
FRO SERVICE CORP.
26 Court Street, 1405
Brooklyn, New York 11242
718-834-4850

RECEIVED
DEC 3 2009
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE AND KUMI OTA,

Plaintiff,

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

Index No. 25273/08

Action No. 1

SUPPLEMENTAL NOTICE FOR DISCOVERY AND INSPECTION TO PLAINTIFF OTA

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

Index No. 1717/08

Action No. 2

----------X

FRO SERVICE CORP.,

Plaintiff,

-against-

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

Index No. 13778/08

Action No. 3

PLEASE TAKE NOTICE pursuant to CPLR 3101 and 3120 demand is hereby made upon the plaintiff, KUMI OTA, for discovery, inspection and copying of the

following to take place at the office of the undersigned on or before December 5, 2009 at 2:00 p.m.:

1. The full name and address of the facility plaintiff went to for physical therapy and a duly executed HIPAA compliant authorization to obtain the medical records, including all x-rays and diagnostic tests, of same.

2. A copy of all receipts for car/cab service to and from the plaintiff's medical appointments as testified to by Ms. Ota at her deposition.

PLEASE TAKE FURTHER NOTICE that a response to the foregoing demands may be forwarded prior to the return date herein.

Dated: Albertson, New York
November 5, 2009

By:

ANDRIA SIMONE KELLY
AHMUTY, DEMERS & McMANUS
Attorneys for Defendants
Alejandro Leon & DCFS
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
Our File No.: ENC 084408 ASK

TO: GELLER & SIEGEL, LLP
Attorneys for Plaintiffs
JEAN DAVID CHAMPAGNE and KUMI, OTA
419 Park Avenue South, Suite 700
New York, New York 10016
212-532-0532

CONNORS & CONNORS, P.C.
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, New York 10310
718-422-1700
File No.: DGE23830C

ECKERT SEAMENS CHERIN & MELLOTT
Attorneys for Defendant
TOYOTA MOTOR N.A. INC.
10 Bank Street, Suite 1061
White Plains, New York 10606

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff, Action No. 2
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, New York 10170
212-986-7353

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action No. 3
FRO SERVICE CORP.
26 Court Street, 1405
Brooklyn, New York 11242
718-834-4850

RECEIVED
MAR 31 2009
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE AND KUMI OTA,

Plaintiff,

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS, A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. and TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

Index No. 25273/08

Action No. 1

SUPPLEMENTAL NOTICE FOR DISCOVERY AND INSPECTION TO PLAINTIFF, AZIZI

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

Index No. 1717/08

Action No. 2

----------X

FRO SERVICE CORP.,

Plaintiff,

-against-

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

Index No. 13778/08

Action No. 3

----------X

PLEASE TAKE NOTICE pursuant to CPLR 3101 and 3120 demand is hereby made upon the plaintiff, EZATT AZIZI, for discovery, inspection and copying of the

following to take place at the office of the undersigned on or before December 5, 2009 at 2:00 p.m.

1. The full name and address of the facility plaintiff went to for physical therapy and a duly executed HIPAA compliant authorization to obtain the medical records, including all x-rays and diagnostic tests, of same.

2. A duly executed authorization to obtain the plaintiff's income tax returns for the years 2007 and 2008, including the necessary IRS Form 4506.

3. A copy of the photographs the plaintiff's uncle took of the scene of the accident and/or of the vehicles involved in the accident as testified to by Mr. Azizi at his deposition.

4. A copy of the newspaper article/photo regarding the accident in question as testified to by Mr. Azizi at his deposition.

PLEASE TAKE FURTHER NOTICE that a response to the foregoing demands may be forwarded prior to the return date herein.

Dated: Albertson, New York
November 5, 2009

By:

ANDRIA SIMONE KELLY
AHMUTY, DEMERS & McMANUS
Attorneys for Defendants
Alejandro Leon & DCFS
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
Our File No.: ENC 084408 ASK

TO: GELLER & SIEGEL, LLP
Attorneys for Plaintiffs
JEAN DAVID CHAMPAGNE and KUMI, OTA
419 Park Avenue South, Suite 700
New York, New York 10016
212-532-0532

CONNORS & CONNORS, P.C.
Attorneys for Defendant
RICARDO BROWN
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Staten Island, New York 10310
718-422-1700
File No.: DGE23830C

ECKERT SEAMENS CHERIN & MELLOTT
Attorneys for Defendant
TOYOTA MOTOR N.A. INC.
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White Plains, New York 10606

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff, Action No. 2
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New York, New York 10170
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GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action No. 3
FRO SERVICE CORP.
26 Court Street, 1405
Brooklyn, New York 11242
718-834-4850

RECEIVED
JUN 2 0 2009
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE AND KUMI OTA,

Plaintiff(s),

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS - TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS A/K/A LEXUS, CORP. A/K/A LEXUS INC., TOYOTA MOTOR SALES U.S.A. INC. AND TOYOTA MOTOR NORTH AMERICA, INC.

Defendant(s).

----------X

VERIFIED BILL OF PARTICULARS

Index No.: 25273/08

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

Action# 2

Index No.: 17115/08

FRO SERVICE CORP.,

Plaintiff,

-against-

RICARDO BROWN, TOYOTA MOROR CO.,

Defendants.

----------X

Action# 3

Index No.: 13778/08

PLEASE TAKE NOTICE, that Plaintiffs, by their attorneys, **GELLER, SIEGEL & COONERTY LLP**, responding to the demand of defendant **FRO SERVICE CORP. and EZATT**

AZIZI i/s/h/a EZATT AZIZA, for a Bill of Particulars, alleges, upon information and belief, as follows:

1. Plaintiffs date of birth is as follow:

JEAN DAVID CHAMPAGNE:	November 7, 1986
KUMI OTA:	November 2, 1986

2. Plaintiff's address is as follow:

JEAN DAVID CHAMPAGNE:	8 av Cochrane, menton 06500, france
KUMI OTA:	3-19-8-401 Takahawa, Minato-Ku, Tokyo 108-0074.

3. The occurrence took place on April 13, 2008, at 5:25 P.M.

4. The accident occurred on West 34th Street, between 5th Avenue and Madison Avenue, in the County of New York and State of New York.

5. See response in paragraph 3 supra.

6. Objection. Said demand requests information evidentiary in nature, outside the scope of CPR3043, subject to further discovery. As such it is improper for a bill of particulars. It is well settled that a bill of particulars is "of limited scope and may not be used to gain evidentiary material. " Arroyo v. Fourteen Estusia Corp., 598 N.Y.S.2d 471 (1st Dept. 1993); Bouton v. county of Suffolk, 125 A.D.2d.620, 509 N.Y.S.2d846(2nd Dept.1986).

7. The above stated occurrence and the results thereof were caused by the negligence of the defendant(s) and/or said defendant(s)' agents, servants, employees and/or licensees in the ownership, operation, management, maintenance and control of their motor vehicles; in operating same without due regard to the rights and safety of the plaintiff; in operating their motor vehicles in a manner which unreasonably endangered the plaintiff; in failing to properly steer, guide, manage and

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control their vehicles; in operating same at a rate of speed greater than was reasonable and proper at the time and place of the occurrence; in failing to apply the brakes or slow down or stop in such a manner as would have prevented the occurrence; in failing to have made adequate and timely observation of and response to conditions; in failing to observe signs and signals prevailing at the time and place of the occurrence; in failing to keep a proper look-out when controlling their vehicles; in failing to properly maintain their vehicles according to law; in failing to properly maintain their vehicles braking systems, accelerating systems and/or driver side floor-mats; in failing to timely and properly warn owners/drivers of well known and reported floor-mat and/or braking/ accelerating system problems/ deficiencies/defects; in failing to recall floor mats and/or vehicles; in failing to repair vehicles; in violating warranties; in designing, manufacturing, marketing and selling dangerously defective driver side floor-mats and/or braking/accelerating systems; in failing to give adequate and timely signal, notice or warning; in operating their said motor vehicles in violation of the traffic rules, regulations, statutes and ordinances in such cases made and provided; and in being careless, reckless and negligent in the ownership, maintenance, operation and control of their motor vehicles.

Defendants violated all applicable sections of the New York State Vehicle and Traffic Law and the New York City Traffic Rules and Regulations concerning the safe and proper operation of a motor vehicle upon the public ways and streets of the State of New York that the Court will take judicial notice of at the time of trial.

8. As a result of this occurrence, plaintiff sustained the following personal injuries:

JEAN DAVID CHAMPAGNE:

BILATERAL HIP DISLOCATION.

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MULTIPLE BILATERAL HIP FRACTURES WITH INTRAARTICULAR FRAGMENTS.

SURGICAL REMOVAL OF BILATERAL HIP FRAGMENTS.

SURGICAL REMOVAL OF RETAINED LEFT HIP FRAGMENT.

BILATERAL HIP SURGERY – IRRIGATION AND DEBRIDEMENT.

LEFT EYE ORBITAL FLOOR FRACTURE WITH BONY FRAGMENT WITHIN THE LEFT MAXILLARY SINUS.

LEFT EYE MEDIAL WALL FRACTURE.

LEFT EYE OPTIC NERVE SHEATH HEMATOMA.

LEFT EYE LID LACERATION.

LEFT EYE HERNIATION OF INFERIOR RECTUS MUSCLE.

SURGICAL REPAIR OF LEFT ORBITAL FLOOR FRACTURE WITH ORIF WITH PLATE AND SCREWS.

PERSISTENT INTRAARTICULAR OSSIFIC FRAGMENTS IN LEFT HIP.

FACIAL LACERATIONS.

LEFT EYE LACERATIONS/DEFECTS.

INTUBATION.

IMPAIRED VISION.

PEMANENT SCARRING.

PERMANENT LOSS OF USE/STRENGTH/RANGE OF MOTION IN BOTH LEGS.

EXTENSIVE P.T./O.T.

WHEELCHAIR/WALKER/CRUTCHES/CANE.

KUMI OTA:

RIGHT COMMUNUTED INTRAARTICULAR DISTAL RADIUS FRACTURE.

HEPATIC LACERATION.

RIGHT LEG LACERATION.

RIGHT KNEE DERANGEMENT.

CERVICAL SPINE DERANGEMENT.

LUMBAR SPINE DERANGEMENT.

The above injuries are accompanied by severe pain, tenderness, swelling, stiffness, discomfort, distress, weakness, depression, stress, psychological difficulties, restriction of motion and with related injuries, damages, compromise and degeneration of the underlying soft tissues, blood vessels, bones, nerves, tendons, ligaments and musculature and all of the natural consequences flowing therefrom.

As a result of the above injuries, plaintiffs has suffered and continues to suffer severe and persistent headaches, dizziness, nervousness, tension, vertigo, anxiety, irritability, emotional anguish, depression and distress, loss of appetite and difficulty sleeping.

Plaintiffs have and will continue to experience impairment, disruption and difficulty with daily activities, way of life and enjoyment of life including significant impairment of numerous daily activities that plaintiff had previously taken for granted.

Anxiety, tension, difficulty sleeping, personality changes, depression, anhedonia and distress.

Limitations, diminution and/or impairment of functions, activities, vocation, avocation and other activities which plaintiff engaged in prior to this accident.

Impairment of spinal integrity and exacerbation of any pre-existing symptomatic and/or asymptomatic spondylitic changes, osteoporosis, arthritis, hypertrophic vertebral changes, narrowing of vertebral spaces, degenerative vertebral or disc changes.

Aggravation, activation and/or precipitation of any underlying hypertrophic,

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degenerative, arthritic, circulatory, arterial, venous or systemic condition complained of.

The Plaintiffs suffered, still suffers, and upon information and belief will continue to suffer pain, discomfort and limited movement of the injured portions of his body, including the adjacent and surrounding muscles, tendons, nerves, joints, fascia, vessels and soft tissues.

Any and all of the above injuries at/or near any body joint will result in traumatic arthritis and/or onset of arthritis, osteoarthritis involvement, osteoporosis and/or necrosis at an earlier age, at an accelerated rate and with greater severity than would have otherwise occurred.

All of the above injuries are permanent in nature and duration, and were caused, precipitated, aggravated and/or exacerbated by the aforementioned occurrence.

All of the aforementioned injuries, resulting disabilities, aggravations, exacerbations and involvements are associated with further soft tissue injuries to the areas traumatically affected, including: fracture, tearing, derangement and damage to the associated muscle groups, ligaments, tendons, cartilage, blood, tissue, epithelial tissue, all concomitant to the specific injuries and related to the specific portions of the body mentioned hereinabove, with resultant scars, hemorrhage, pain, ecchymosis, deformity and disability; stiffness, tenderness, weakness and partial restriction and limitation of motion, pain on motion and loss of use of the abovementioned parts; atrophy, anxiety and mental anguish; all of which have substantially prevented the Plaintiffs from enjoying the normal fruits of social activities.

Upon information and belief, all of the above injuries are permanent and continuing in nature, except for objective signs of contusions and abrasions.

All of the injuries and conditions caused and/or contributed to the Plaintiffs living a lesser quality of life, including loss of enjoyment of life than the Plaintiffs would otherwise have experience, but for the injuries and conditions alleged herein.

Plaintiffs have and will continue to suffer psychological embarrassment due to the scarring, impairment and deformities causing the plaintiff to make both conscious and subconscious efforts to limit the use and visibility of those areas and impairments.

Plaintiff has further suffered and continues to suffer severe pain and difficulty with prolonged sitting, standing, walking, bending, climbing stairs, lifting or carrying heavy objects, performing strenuous activities, finding a comfortable position or

sleeping.

Impairment of spinal integrity and exacerbation of any pre-existing systematic and/or asymptomatic changes, spondylitic changes, osteoporosis, arthritic, hypertrophic vertebral changes, narrowing of vertebral spaces, degenerative vertebral or disc changes. Aggravation, activation and/or precipitation of any underlying hypertrophic, degenerative, arthritic, circulatory, arterial, venous or systemic condition complained of.

The foregoing injuries directly affected the bones, tendons, tissues, muscles, ligaments, nerves, blood vessels and soft tissues in and about the involved areas and sympathetic and radiating pains, from all of which the plaintiffs suffer, still suffer and may permanently suffer as a result of the accident and the injuries therein sustained.

All of the above injuries, with the exception of contusions, are permanent in nature. Plaintiffs will permanently suffer from the aforesaid injuries and will be limited in the scope of activities which Plaintiffs may perform. Plaintiffs will be restricted and prevented from leading a normal life and will require ongoing medical care and attention.

The Plaintiff reserves the right to prove any and all further consequences up to and at the time of trial.

9. Plaintiff JEAN DAVID CHAMPAGNE was confined as follows:

a) Bed; 4 months
b) Home; 4 months
c) Employment; Not applicable
d) Hospital; 3 months
e) Plaintiff is still totally disabled.
f) See response to paragraph 9(e) supra.

Plaintiff KUMI OTA was confined as follows:

a) Bed; 2 days
b) Home; 1 week
c) Employment; Not applicable
d) Hospital; None
e) Totally disabled; 3 months
f) Partially disabled: 4 months

10. The amounts incurred by plaintiffs as a result of the accident are as follow:

(a) Physicians expenses; Covered under No-Fault Claim Benefits

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(b) Hospital expenses; Covered under No-Fault Claim Benefits

(c) Medical expenses; Covered under No-Fault Claim Benefits

(d) X-ray expenses; Covered under No-Fault Claim Benefits

(e) Nursing expenses; and Covered under No-Fault Claim Benefits

(f) Not applicable.

(g) Not applicable.

(h) Not applicable.

(i) None.

(j) None presently known. If any additional special damages are known in the future, same will be provided upon receipt.

11. All of the injuries listed in paragraph 10 are permanent in nature.

12. Objection. Said demand requests information evidentiary in nature, outside the scope of CPR3043. As such it is improper for a bill of particulars. It is well settled that a bill of particulars is "of limited scope and may not be used to gain evidentiary material. " Arroyo v. Fourteen Estusia Corp., 598 N.Y.S.2d 471 (1st Dept. 1993); Bouton v. county of Suffolk, 125 A.D.2d.620, 509 N.Y.S.2d846(2nd Dept.1986).

13. See the annexed copy of the police accident report.

14. Not applicable.

15. Plaintiffs sustained serious injury as defined by § 5102 of the Insurance Law of

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the State of New York including, but not limited to, significant disfigurement; a fracture; permanent loss of use of a body organ, member, function or system; permanent consequential limitation of a use of a body organ or member; significant limitation of use of a body function or system; or a medically determined injury or impairment of a non-permanent nature which prevents plaintiffs from performing substantially all of the material acts which constitute plaintiffs' usual and customary daily activities for not less than ninety days during the one hundred eighty days immediately following the occurrence. Plaintiffs haves sustained a loss in excess of the basic loss as defined by § 5102 of the Insurance Law of the State of New York including, but not limited to, all necessary expenses incurred for medical, hospital, surgical, nursing, dental, ambulance, x-ray, prescription drug and prosthetic services; psychiatric, physical and occupational therapy and rehabilitation; any other professional health services; and all other reasonable and necessary expenses incurred.

17. Defendants **FRO SERVICE CORP. and EZATT AZIZI i/s/h/a EZATT AZIZA** violated all applicable sections of the New York State Vehicle and Traffic Law and the New York City Traffic Rules and Regulations concerning the safe and proper operation of a motor vehicle upon the public ways and streets of the State of New York that the Court will take judicial notice of at the time of trial.

PLEASE TAKE FURTHER NOTICE, that Plaintiff, reserves the right to amend, extend,

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supplement or otherwise add to this verified Bill of Particulars, if the need should arise, at any time prior to trial of this action.

Dated: New York, New York
May 27, 2009

Yours, etc.

SEAN COONERTY, ESQ.
GELLER, SIEGEL & COONERTY LLP
Attorneys for Plaintiff(s)
JEAN DAVID CHAMPAGNE AND KUMI OTA
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212-532-0532
Our File No. 08-6484

TO:

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Connors & Connors
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Ahmuty, Demers & McManus, Esqs.
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(516) 294-5433

TOY-RQ-05E-00003627

ECKERT SEAMANS CHERIN & MILLOTT
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(212) 986-7353

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ATTORNEY'S VERIFICATION

SEAN COONERTY, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at GELLER, SIEGEL & COONERTY LLP, attorneys of record for Plaintiffs, JEAN DAVID CHAMPAGNE and KUMI OTA, in the action within. I have read the annexed **BILL OF PARTICULARS** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because Plaintiff(s) is/are not presently in the county wherein I maintain my offices.

DATED: New York, New York
May 27, 2009

SEAN COONERTY

TOY-RQ-05E-00003629

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

VERIFIED ANSWER

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANRO and LEXUS MOTOR CARS, INC.

Defendants,

----------X

The defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, by their attorneys, AHMUTY, DEMERS & McMANUS, ESQS., as and for their answer to the plaintiff's complaint, allege upon information and belief:

AS AND FOR AN ANSWER TO A FIRST CAUSE OF ACTION

1: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "1", "2", "3", "4", "5", "6", "19", "20", "21", "22", "23", "24", "25" and "28" of the complaint.

2: Denies each and every allegation contained in paragraphs designated "7" and "31" of the complaint.

3: Denies upon information and belief each and every allegation contained in paragraphs designated "8", "9", "13" and "18" of the complaint.

4: Denies each and every allegation contained in paragraph designated "11" of the complaint except admits that at all times hereinafter mentioned the defendant, DCFS TRUST, was the title owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

5: Denies upon information and belief each and every allegation contained in paragraph designated "12" of the complaint except admits that DCFS TRUST, is the lessor of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

6: Denies upon information and belief each and every allegation contained in paragraphs designated "15", "16", "29" and "30" of the complaint and refers all questions of law to this Honorable Court.

7: Denies upon information and belief each and every allegation contained in paragraph designated "17" of the complaint except admits that at all times hereinafter mentioned the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the implied permission and consent of the defendant, DCFS TRUST.

8: Denies each and every allegation contained in paragraph designated "27" of the complaint as to these answering defendants otherwise denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "27" of the complaint and refer all questions of law to this Honorable Court.

AS AND FOR AN ANSWER TO A SECOND CAUSE OF ACTION

9: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "31" as if more specifically set forth in answer to paragraph designated "32" of the complaint and each and every part thereof.

10: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "33", "34", "35", "36", "37", "38", "39",

"40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54" and "55" of the complaint.

11: Denies upon information and belief each and every allegation contained in paragraphs designated "56" and "57" of the complaint and refers all questions of law to this Honorable Court.

12: Denies each and every allegation contained in paragraph designated "58" of the complaint.

AS AND FOR AN ANSWER TO A THIRD CAUSE OF ACTION

13: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "58" as if more specifically set forth in answer to paragraph designated "59" of the complaint and each and every part thereof.

14: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "60", "61", "62", "63", "64", "65" and "66" of the complaint.

15: Denies each and every allegation contained in paragraph designated "67" of the complaint.

AS AND FOR AN ANSWER TO A FOURTH CAUSE OF ACTION

16: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "67" as if more specifically set forth in answer to paragraph designated "68" of the complaint and each and every part thereof.

17: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "69", "70", "71" and "72" of the complaint.

18: Denies each and every allegation contained in paragraph designated "73" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

19: That the complaint fails to state a valid cause of action as against the defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

20: That the personal injuries and/or damages alleged to have been sustained by the plaintiff were caused entirely or in part through the culpable conduct of the plaintiff, without any negligence on the part of the answering defendants and the answering defendants seek a dismissal or reduction in any recovery that may be had by the plaintiff in the proportion which the culpable conduct, attributable to the plaintiff, bears to the entire measure of responsibility for the occurrence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

21: That plaintiff has failed to comply with C.P.L.R. 3016(g) in that the plaintiff has not sustained a serious injury, as defined in Section 5102(d) of the Insurance Law, or economic loss greater than basic economic loss, as defined in Section 5102(a) of the Insurance Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

22: That the plaintiff assumed the risk related to the activity causing the injuries sustained.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

23: If it be determined that the plaintiff failed to use available seatbelts, the answering defendants plead this fact in mitigation of damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

24: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

25: If any damages are recoverable against said defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26: The answering defendants assert the rights and benefits provided under the General Obligations Law §15-108.

AS AND FOR A EIGTH AFFIRMATIVE DEFENSE

27: The answering defendants were faced with an emergency situation through no-fault of their own and did not cause or contribute to this accident.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

28. Defendant DCFS Trust is not liable for this accident pursuant to 49 U.S.C.A. Section 30106.

AS AND FOR A CROSS COMPLAINT OVER AND AGAINST THE CO-DEFENDANTS, RICARDO BROWN AND LEXUS MOTOR CARS, INC., THESE DEFENDANTS, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, ALLEGE UPON INFORMATION AND BELIEF:

29: That if the plaintiff was caused to sustain personal injuries and resulting damages at the time and place set forth in the plaintiff's complaint and in the manner alleged therein, through any carelessness, recklessness, acts, omissions, negligence and/or breaches of duty and/or warranty and/or contract, other than of the plaintiff, then the said injuries and damages arose out of the several and joint carelessness, recklessness, acts, omissions, negligence and breaches of duty and/or obligation and/or Statute and/or Warranty and/or contract in fact or implied in law, upon the part of the co-defendants, with indemnification and save harmless agreement and/or responsibility by them in fact and/or implied in law and without any breaches or any negligence of the answering defendants contributing thereto; and if the answering defendants are found liable as to the plaintiff for the injuries and damages as set forth in the plaintiff's complaint, then, and in that event, the relative responsibilities of all said defendants in fairness must be apportioned by a separate determination in view of the existing factual disparity, and the said co-defendants herein will be liable over jointly and severally to the answering defendants and bound to fully indemnify and hold the answering defendants harmless for the full amount of any verdict or judgment that the plaintiffs herein may recover against the answering defendants in this action, including all costs of investigation, disbursements, expenses and attorney's fees incurred in the defense of this action and in the conduct of this cross complaint.

WHEREFORE, the defendants, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, demand judgment dismissing the plaintiff's complaint on the merits; and if the plaintiff, EZATT AZIZI, is found to have contributed to the accident or damages, that any damages be reduced in proportion to which the plaintiff may be found to have so contributed to the accident or damages and further demands judgment over and against the co-defendants, RICARDO BROWN and LEXUS MOTOR CARS, INC., on the cross-claim, for the amount of any judgment obtained against the answering defendants by plaintiff or any other party or on the basis of the apportionment of responsibility in such amounts as a jury or Court may direct together with the costs, disbursements and expenses of this action including attorney's fees.

Dated: Albertson, New York
August 21, 2008

By: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
File No.: ENC084408ASK

STATE OF NEW YORK)

: SS.:

COUNTY OF NASSAU)

ANDRIA SIMONE KELLY, being duly sworn, deposes and says:

That she is an associate of the law firm of **AHMUTY, DEMERS & McMANUS, ESQS.**, the attorneys for the defendants, DCFS TRUST AND ALEJANDRO LEON I/S/H/A DCFS TRUST AND LEON ALEJANDRO, in the above entitled action; that she has read and knows the contents of the foregoing, VERIFIED ANSWER WITH DEMANDS, and that same is true to her own knowledge, except as to those matters therein stated to be alleged on information and belief and that as to those matters she believes it to be true.

Deponent further says that the grounds for her belief as to all matters therein stated upon information and belief are statements made to her by the defendants and papers and documents received by deponent from the defendants or her representatives and which are now in her possession.

Deponent further says that the reason why this verification is made by deponent and not by the defendant is that the defendants are not within the County of Nassau, where deponent has her office.

ANDRIA SIMONE KELLY, ESQ.

STATE OF NEW YORK)

: SS.:

COUNTY OF NASSAU)

ANDRIA SIMONE KELLY, being duly sworn, deposes and says:

That she is an associate of the law firm of **AHMUTY, DEMERS & McMANUS, ESQS.**, the attorneys for the defendants, DCFS TRUST AND ALEJANDRO LEON I/S/H/A DCFS TRUST AND LEON ALEJANDRO, in the above entitled action; that she has read and knows the contents of the foregoing, VERIFIED ANSWER WITH DEMANDS, and that same is true to her own knowledge, except as to those matters therein stated to be alleged on information and belief and that as to those matters she believes it to be true.

Deponent further says that the grounds for her belief as to all matters therein stated upon information and belief are statements made to her by the defendants and papers and documents received by deponent from the defendants or her representatives and which are now in her possession.

Deponent further says that the reason why this verification is made by deponent and not by the defendant is that the defendants are not within the County of Nassau, where deponent has her office.

ANDRIA SIMONE KELLY, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR BILL OF PARTICULARS

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that pursuant to C.P.L.R. 3041 to 3044, plaintiff is required to serve upon the undersigned, within 30 days hereof, a Verified Bill of Particulars concerning the following matters:

1. The date, time and location of the occurrence.

2. Detailed description of each injury sustained.

3. Each injury claimed to have resulted in a permanent disability and describe the nature and degree of disability.

4. The periods of

   a) total disability;
   b) partial disability.

5. Length of time confined to:

   a) bed;
   b) home;
   c) hospitals.

6. The name of every hospital, clinic or institution where any treatment or examination was rendered, and dates of admission and discharge.

7. Name and address of each employer; if self employed state nature of self employment and business address.

8. Length of time incapacitated from employment.

9. The position held and/or type of work performed by the plaintiff.

10. Amounts claimed as lost earnings, including detailed statement as to how such lost earnings were computed.

11. If the plaintiff was a student, give the name and address of the school attended and the length of time incapacitated from attending said school.

12. The amounts claimed for:

    a) physicians' services
    b) medications, supplies and x-rays
    c) nurse, therapist and chiropractic services
    d) hospital expenses
    e) any other related expenses, identifying same in detail.

13. The residence address, date of birth and social security number of the plaintiff.

14. If the injuries alleged are claimed to have arisen out of the use or operation of a motor vehicle, state in what respect the plaintiff has sustained a serious injury as defined in Insurance Law Section 5102(d) or economic loss greater than basic economic loss as defined in Insurance Law 5102(a)

15. The street or streets, including reference to intersections, crosswalks, corners or curbs, where necessary to accurately locate the place and the direction in which each vehicle involved was traveling.

16. Describe in detail how it is claimed the accident occurred.

17. All the acts and/or omissions constituting the negligence of the following:
    a) these answering defendants
    b) each co-defendant.

18. Any and all laws, rules, regulations and ordinances that are claimed to be either applicable to the occurrence or to have been violated by each named defendant.

19. The year, make and model of each vehicle involved in this accident.

20. If a claim for property damage is being asserted, accurately state property alleged to have been damaged and its value before and after the occurrence.

21. Itemized list of the property damage claimed, including the cost of repairing each and every item.

22. State whether plaintiff claims to have suffered a dismemberment as a consequence of the occurrence alleged.

23. State whether plaintiff claims to have suffered a fracture as a result of the occurrence alleged.

24. State whether plaintiff claims to have suffered a loss of a fetus as a consequence of the occurrence alleged.

25. State whether plaintiff claims to have suffered a significant disfigurement as a consequence of the occurrence alleged.

26. State whether plaintiff claims as a consequence of the occurrence alleged a permanent loss of use of:

a) a body organ
b) a member
c) a function
d) a system

27. State whether plaintiff claims to have suffered a significant limitation of use of a body function or system as a result of the occurrence alleged.

28. If the answer to "27" is "yes", please set forth in particularity:

a) each and every body function or system the use of which plaintiff claims to have been limited;

b) each and every respect in which plaintiff will claim that the function or system has been limited;

c) each and every respect in which plaintiff will claim that the limitation is significant.

29. State whether plaintiff claims to have suffered a medically determined injury or impairment of a non-permanent nature which will be alleged to have prevented plaintiff from performing substantially all of the material acts which constitute such person`s usual and customary daily activities for not less than ninety days during the one hundred eighty days following the occurrence alleged, as a result of said occurrence.

30. If the answer to "29" is "yes", please state with particularity:

a) each and every such injury or impairment claimed to have been suffered by plaintiff;

b) each and every respect in which the plaintiff will claim that the injury or impairment was medically determined;

c) each and every material act which the plaintiff will claim to have been unable to perform as a consequence of the injuries or impairments alleged;

d) the precise time, including beginning and ending dates, of any such claimed inability to perform each of the acts set forth in answer to c).

31. A. Was the vehicle in which plaintiff was an occupant equipped with:

1) a lap seat belt;

2) a chest or shoulder belt.

B. At the time of the event, was plaintiff wearing the seat belt with which the vehicle was equipped.

32. State whether plaintiff will claim defendant violated any statute, law, rule, regulation or ordinance.

33. If the answer to "32" is "yes", set forth with particularity each such statute, law, rule, regulation or ordinance which plaintiff will claim to have been violated.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC084408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR BILL OF PARTICULARS

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that pursuant to C.P.L.R. 3041 to 3044, plaintiff is required to serve upon the undersigned, within 30 days hereof, a Verified Bill of Particulars concerning the following matters:

1. The date, time and location of the occurrence.

2. Detailed description of each injury sustained.

3. Each injury claimed to have resulted in a permanent disability and describe the nature and degree of disability.

4. The periods of

   a) total disability;
   b) partial disability.

5. Length of time confined to:

   a) bed;
   b) home;
   c) hospitals.

6. The name of every hospital, clinic or institution where any treatment or examination was rendered, and dates of admission and discharge.

7. Name and address of each employer; if self employed state nature of self employment and business address.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

NOTICE FOR DISCOVERY & INSPECTION

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE that the undersigned hereby demands that the plaintiff and co-defendants produce for discovery and inspection with leave to photocopy, at the office of the undersigned within twenty (20) days the following:

1. The names and addresses of all persons who were eyewitnesses to the occurrence. (Zellman v. Metropolitan Transit Authority 40 AD2d 248)

2. Any written or recorded statement taken of this party or its agents, servants, employees or representatives by any party or any party's representative.

3. All photographs which any party will allege fairly and accurately depict the condition of the vehicles after the happening of the occurrence.

4. All photographs which any party will allege fairly and accurately depict the scene of the accident.

5. Duly executed authorizations to obtain the complete no-fault file of the plaintiff with regard to this occurrence, including name, address and file number of no-fault carrier.

6. Copies of any accident, police, ambulance report and/or MV-104 form in any party's possession.

7. If plaintiff is claiming he/she lost time from work and/or school as a result of the alleged incident, duly executed authorization to obtain plaintiff's employment and/or school records.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust
and Alejandro Leon i/s/h/a DCFS
Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC084408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

NOTICE RE:MEDICALS

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that the plaintiffs are required to serve upon the undersigned within twenty (20) days following receipt of this notice, the following:

1. The names and addresses of all physicians or other health care providers who have treated, examined or consulted with the plaintiff for each of the conditions allegedly caused by, or exacerbated by, the occurrence described in the complaint, including the date of such treatment or examination.

2. Detailed narrative reports of all physicians and health care providers who will testify at the trial of this action regarding their treatment and care of, or consultation with the plaintiff. Said reports must identify any other medical documentation, including x-rays and technicians reports relied upon or intended to be offered as evidence in the plaintiff's behalf.

3. Duly executed and acknowledged HIPAA compliant authorizations of the plaintiff permitting the undersigned to secure the records, charts, bills and other documentation, including x-rays, of:

a) all hospitals, clinics and/or other health care facilities in which the injured plaintiff herein was treated or confined due to the occurrence set forth in the complaint;

and

b) all treating, examining and or consulting physicians and/or other health care providers relating to the injured plaintiff herein (Pizzo v. Bunora, 89 A.D.2d 1013, 454 N.Y.S.2d 455); and

c) all pharmacies from which the injured plaintiff herein purchased prescription medication for a period of one (1) year preceding the underlying occurrence to the present; and d) all hospitals or other facilities, in which the plaintiff was treated or confined and all physicians and/or health care providers who treated, examined or consulted with the injured plaintiff prior to the underlying occurrence for any injury or condition claimed to have been aggravated or exacerbated in the underlying occurrence or for any prior injury or condition affecting the same, related or adjacent body parts claimed to have been injured in the occurrence underlying this action.

The foregoing HIPAA compliant authorizations shall be directed to the appropriate hospital, physician, etc., with complete address of same and indicating any hospital or account number, dates of confinement or treatment and issued and executed in favor of the undersigned not more than thirty (30) days before receipt by the undersigned. The authorizations shall expire upon the completion of the case.

PLEASE TAKE FURTHER NOTICE, that the answering defendants will move to preclude the offer into evidence on behalf of the plaintiffs the testimony of any physician whose report has not been supplied in response hereto and as required by the applicable provisions of the C.P.L.R. and Appellate Division Rules and to preclude the offer into evidence of any demanded medical documentation or materials unless there has been full compliance with this demand.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust
and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

Index No. 17175/08

DEMAND FOR COLLATERAL SOURCE INFORMATION

PLEASE TAKE NOTICE, that you are hereby required to furnish to the undersigned within thirty (30) days hereof pursuant to 3101 and 4545 of the C.P.L.R., all documents, bills, invoices, receipts and/or cancelled checks concerning indemnification, payment and/or reimbursements, in whole or in part, which plaintiff(s) have received from collateral sources, including but not limited to insurance, social security, workers compensation or employee benefit programs for the cost of medical care, custodial care, rehabilitation services, loss of earnings and other economic loss which the plaintiff will claim as special damages in this action.

PLEASE TAKE FURTHER NOTICE, that failure to comply with the above mentioned request will render the plaintiff subject to available provisions provided under the C.P.L.R.

PLEASE TAKE FURTHER NOTICE, that this is a continuing demand and should any of the information requested become available or known in the future, then you are required to furnish same at such time.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust
and Alejandro Leon i/s/h/a DCFS Trust
and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
Tel: (516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR EXPERT WITNESS INFORMATION

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE that it is demanded pursuant to Section 3101(d) of the Civil Practice Law and Rules, that all parties are hereby required to serve upon the undersigned within twenty (20) days of the date of this notice, the following:

1. State whether there is any person you expect to call as an expert witness at the time of the trial of this action.

2. If the answer to the proceeding is in the affirmative, state in detail as to each and every such expert person:

a) Name.

b) Address.

c) Field of expertise.

d) Any sub-specialties of the witness within the field of expertise.

e) Names, dates and publishers of any treatises, books, articles or essays or other writings published or unpublished by the expert relating in any way to the subject matter on which said expert is expected to testify. For each published article and essay, state the title of the book, journal or other work in which it can be found and the name and address of the publisher and date of publication.

3. If the answer to number 1 is in the affirmative, state in reasonable detail:

a) The subject matter on which each and every expert is expected to testify;

b) The substance of the facts and opinions to which each and every expert is expected to testify;

c) The qualifications of each and every expert witness; and

d) A summary of the grounds for each expert's opinion.

PLEASE TAKE FURTHER NOTICE, that upon your failure to respond to this demand within twenty (20) days, a motion will be made pursuant to CPLR 3101(d) for sanctions and/or to compel compliance with same.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust and
Leon Alejandro
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

NOTICE DECLINING SERVICE BY ELECTRONIC MEANS

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that this defendant, DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro, hereby declines receipt of service of legal papers of any type whatsoever by facsimile or other electric means.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
(File No.: ENC084408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

DEMAND FOR PROOF OF FILING & INDEX NUMBER

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, pursuant to the applicable rules of the Civil Practice Law and Rules, Sections 306-a, as amended, and 3120, the defendant hereby demands that the plaintiffs file the Summons, show proof of purchase of an Index Number and proof of service of the Summons and Verified Complaint and produce copies of the following within thirty (30) days from the date thereof:

(1) A copy of the Summons filed with proof of service thereof.

(2) The Index Number assigned to this case.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust and
Leon Alejandro
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, pursuant to Art. 31, CPLR, the deposition upon oral questions of the persons named will be taken as follows:

TO BE EXAMINED	:	Plaintiff and Co-defendants
DATE, TIME & PLACE	:	September 24, 2008 at 10 a.m. Ahmuty, Demers & McManus, Esqs. 200 I.U. Willets Road Albertson, New York 11507

PLEASE TAKE NOTICE that testimony will be taken with respect to all relevant facts & circumstances including negligence, contributory negligence, comparative negligence, liability & damages in connection with the accident which is the subject matter of this lawsuit.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 3111, each plaintiff and any co-defendant is required to produce the following items at the deposition:

1. The accident report prepared by or on behalf of the party or person to be examined, his servants, agents or representatives.

2. All medical bills and any receipts, cancelled checks or estimates relating to special damages.

3. If lost earnings are claimed, Federal and State Income Tax returns covering the year when the incident occurred and for two years prior thereto and one year thereafter.

4. Any contracts, leases or documents which will be relied upon with respect to any claim of any party to this action.

5. Any statement given by or on behalf of the party serving this notice.

6. Any and all exhibits, papers and/or documents relative to this lawsuit and the underlying claim.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust and
Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
Tel: (516) 294-5433
(File No.: ENC088408ASK

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND PURSUANT TO CPLR §3017(c)

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that demand is hereby made that you serve upon the undersigned within fifteen (15) days hereof, a supplemental allegation stating the total damages to which the plaintiffs deem themselves entitled in this action pursuant to CPLR §3017(c).

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon
i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

DEMAND FOR ATTORNEY IDENTIFICATION

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that the undersigned hereby demands that the plaintiff provide the names and addresses of all the parties appearing in this action or the names and addresses of their respective attorneys together with copies of all pleadings heretofore served by those parties upon the plaintiff's attorney, pursuant to Sec. 2103(e) of the C.P.L.R.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon
i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR INSURANCE

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that demand is hereby made upon you, pursuant to CPLR 3101 (f) to produce and permit the undersigned attorney to inspect and copy the contents of (a) each and every primary, contributing and excess insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment, and (b) each and every insurance agreement in which the insurer is obligated to defend this action.

PLEASE TAKE FURTHER NOTICE, that said insurance agreements are to be produced within thirty (30) days hereof at 2:00 p.m. at the office of AHMUTY, DEMERS & McMANUS, ESQS., 200 I. U. Willets Road, Albertson, New York at which time they will be physically inspected, copied or mechanically reproduced and returned.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon
i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

STATE OF NEW YORK)

:SS.:

COUNTY OF NASSAU)

MICHAELA IANNUCCI, being duly sworn, deposes and says that deponent is not a party to this action, is over 18 years of age and resides in Westbury, New York.

That on the 14th day of August, 2008, deponent served a VERIFIED ANSWER WITH DEMANDS, upon:

Wingate, Russotti & Shapiro, LLP
420 Lexington Avenue, Suite 2750
New York, New York 10170

the attorneys for the respective parties, hereto at the address designated by them for that purpose, by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

MICHAELA IANNUCCI

Sworn to Before me this
18th day of August, 2008.

ANDRIA SIMONE KELLY
Notary Public, State of New York
No. 02KE5035083
Qualified in Nassau County
Commission Expires June 10, 2011

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

Index # 17175/08

CERTIFICATION PURSUANT TO PART 130

The accompanying papers are served/filed/submitted pursuant to Section 130-1.1-a:

[ ]	Answer	[ ]	Answer with counter-claim
[X]	Verified Answer to Amended Verified Complaint	[ ]	Demand Pursuant to CPLR §3017(c)
[ ]	Answer to third-party complaint	[ ]	Notice for discovery & inspection
[ ]	Demand for experts	[ ]	Demand for a bill of particulars
[ ]	Notice re: medicals	[ ]	Demand for insurance
[ ]	Demand for collateral source	[ ]	Declination of service via facsimile
[ ]	Notice to take deposition upon oral examination	[ ]	Demand for proof of filing and index number
[ ]	Demand to change venue	[ ]	Demand for attorney identification

Dated: Albertson, New York
September 24, 2008

BY: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
ATTORNEYS FOR DEFENDANTS DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. WILLETS ROAD
ALBERTSON, NEW YORK 11507
(516) 294-5433
Our File No.: ENC084408ASK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.

Defendants,

----------X

Index No. 17175/08

VERIFIED ANSWER TO AMENDED VERIFIED COMPLAINT

The defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, by their attorneys, AHMUTY, DEMERS & McMANUS, ESQS., as and for their answer to the plaintiff's complaint, allege upon information and belief:

AS AND FOR AN ANSWER TO A FIRST CAUSE OF ACTION

1: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "1", "2", "3", "4", "5", "6", "19", "20", "21", "22", "23", "24", "25", "26", "27" and "30" of the complaint.

2: Denies each and every allegation contained in paragraphs designated "7" and "33" of the complaint.

3: Denies upon information and belief each and every allegation contained in paragraphs designated "8", "9", "13" and "18" of the complaint.

4: Denies each and every allegation contained in paragraph designated "11" of the complaint except admits that at all times hereinafter mentioned, the defendant, DCFS TRUST, was the title owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

5: Denies upon information and belief each and every allegation contained in paragraph designated "12" of the complaint except admits that the defendant DCFS TRUST was the lessor of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

6: Denies upon information and belief each and every allegation contained in paragraphs designated "15", "16", "31" and "32" of the complaint and refers all questions of law to this Honorable Court.

7: Denies upon information and belief each and every allegation contained in paragraphs designated "17" of the complaint except admits that at all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the implied permission and consent of the defendant, DCFS TRUST.

8: Denies each and every allegation contained in paragraph designated "29" of the complaint as to this answering defendant otherwise denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "29" of the complaint and refers all questions of law to this Honorable Court.

AS AND FOR AN ANSWER TO A SECOND CAUSE OF ACTION

9: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "33" as if more specifically set forth in answer to paragraph designated "34" of the complaint and each and every part thereof.

10: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55", "56", "57", "61", "62", "63", "64", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "78", "79", "80", "81", "82" and "83" of the complaint.

11: Denies upon information and belief each and every allegation contained in paragraphs designated "58", "59", "84" and "85" of the complaint and refers all questions of law to this Honorable Court.

12: Denies each and every allegation contained in paragraphs designated "60" and "86" of the complaint.

AS AND FOR AN ANSWER TO A THIRD CAUSE OF ACTION

13: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "86" as if more specifically set forth in answer to paragraph designated "87" of the complaint and each and every part thereof.

14: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "88", "89", "90", "91", "92", "93", "94", "96", "97", "98", "99", "100", "101" and "102" of the complaint.

15: Denies each and every allegation contained in paragraphs designated "95" and "103" of the complaint.

AS AND FOR AN ANSWER TO A FOURTH CAUSE OF ACTION

16: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "103" as if more specifically set forth in answer to paragraph designated "104" of the complaint and each and every part thereof.

17: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "105", "106", "107" and "108" of the complaint.

18: Denies each and every allegation contained in paragraph designated "109" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

19: That the complaint fails to state a valid cause of action as against the defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

20: That the personal injuries and/or damages alleged to have been sustained by the plaintiff were caused entirely or in part through the culpable conduct of the plaintiff, without any negligence on the part of the answering defendants and the answering defendants seek a dismissal or reduction in any recovery that may be had by the plaintiff in the proportion which the culpable conduct, attributable to the plaintiff, bears to the entire measure of responsibility for the occurrence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

21: That plaintiff has failed to comply with C.P.L.R. 3016(g) in that the plaintiff has not sustained a serious injury, as defined in Section 5102(d) of the Insurance Law, or economic loss greater than basic economic loss, as defined in Section 5102(a) of the Insurance Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

22: That the plaintiff assumed the risk related to the activity causing the injuries sustained.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

23: If it be determined that the plaintiff failed to use available seatbelts, the answering defendants plead this fact in mitigation of damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

24: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

25: If any damages are recoverable against said defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26: The answering defendants assert the rights and benefits provided under the General Obligations Law §15-108.

AS AND FOR A EIGTH AFFIRMATIVE DEFENSE

27: The answering defendants were faced with an emergency situation through no-fault of their own and did not cause or contribute to this accident.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

28. Defendant DCFS Trust is not liable for this accident pursuant to 49 U.S.C.A. Section 30106.

AS AND FOR A CROSS COMPLAINT OVER AND AGAINST THE CO-DEFENDANTS, RICARDO BROWN, LEXUS MOTOR CARS, INC., TOYOTA MOTOR SALES U.S.A., INC. THESE DEFENDANTS, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, ALLEGE UPON INFORMATION AND BELIEF:

29: That if the plaintiff was caused to sustain personal injuries and resulting damages at the time and place set forth in the plaintiff's complaint and in the manner alleged therein, through any carelessness, recklessness, acts, omissions, negligence and/or breaches of duty and/or warranty and/or contract, other than of the plaintiff, then the said injuries and damages arose out of the several and joint carelessness, recklessness, acts, omissions, negligence and breaches of duty and/or obligation and/or Statute and/or Warranty and/or contract in fact or implied in law, upon the part of the co-defendants, with indemnification and save harmless agreement and/or responsibility by them in fact and/or implied in law and without any breaches or any negligence of the answering defendants contributing thereto; and if the answering defendants are found liable as to the plaintiff for the injuries and damages as set forth in the plaintiff's complaint, then, and in that event, the relative responsibilities of all said defendants in fairness must be apportioned by a separate determination in view of the

existing factual disparity, and the said co-defendants herein will be liable over jointly and severally to the answering defendants and bound to fully indemnify and hold the answering defendants harmless for the full amount of any verdict or judgment that the plaintiffs herein may recover against the answering defendants in this action, including all costs of investigation, disbursements, expenses and attorney's fees incurred in the defense of this action and in the conduct of this cross complaint.

WHEREFORE, the defendants, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, demand judgment dismissing the plaintiff's complaint on the merits; and if the plaintiff, EZATT AZIZI, is found to have contributed to the accident or damages, that any damages be reduced in proportion to which the plaintiff may be found to have so contributed to the accident or damages and further demands judgment over and against the co-defendants, RICARDO BROWN, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC., on the cross-claim, for the amount of any judgment obtained against the answering defendants by plaintiff or any other party or on the basis of the apportionment of responsibility in such amounts as a jury or Court may direct together with the costs, disbursements and expenses of this action including attorney's fees.

Dated: Albertson, New York
September 28, 2008

By: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
File No.: ENC084408ASK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index # 17175/08

Plaintiff,

CERTIFICATION
PURSUANT TO PART 130

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

The accompanying papers are served/filed/submitted pursuant to Section 130-1.1-a:

[ ]	Answer	[ ]	Answer with counter-claim
[X]	Verified Answer to Amended Verified Complaint	[ ]	Demand Pursuant to CPLR §3017(c)
[ ]	Answer to third-party complaint	[ ]	Notice for discovery & inspection
[ ]	Demand for experts	[ ]	Demand for a bill of particulars
[ ]	Notice re: medicals	[ ]	Demand for insurance
[ ]	Demand for collateral source	[ ]	Declination of service via facsimile
[ ]	Notice to take deposition upon oral examination	[ ]	Demand for proof of filing and index number
[ ]	Demand to change venue	[ ]	Demand for attorney identification

Dated: Albertson, New York
September 24, 2008

BY: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
ATTORNEYS FOR DEFENDANTS DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. WILLETS ROAD
ALBERTSON, NEW YORK 11507
(516) 294-5433
Our File No.: ENC084408ASK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.

Defendants,

----------X

Index No. 17175/08

VERIFIED ANSWER TO AMENDED VERIFIED COMPLAINT

The defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, by their attorneys, AHMUTY, DEMERS & McMANUS, ESQS., as and for their answer to the plaintiff's complaint, allege upon information and belief:

AS AND FOR AN ANSWER TO A FIRST CAUSE OF ACTION

1: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "1", "2", "3", "4", "5", "6", "19", "20", "21", "22", "23", "24", "25", "26", "27" and "30" of the complaint.

2: Denies each and every allegation contained in paragraphs designated "7" and "33" of the complaint.

3: Denies upon information and belief each and every allegation contained in paragraphs designated "8", "9", "13" and "18" of the complaint.

4: Denies each and every allegation contained in paragraph designated "11" of the complaint except admits that at all times hereinafter mentioned, the defendant, DCFS TRUST, was the title owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

5: Denies upon information and belief each and every allegation contained in paragraph designated "12" of the complaint except admits that the defendant DCFS TRUST was the lessor of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

6: Denies upon information and belief each and every allegation contained in paragraphs designated "15", "16", "31" and "32" of the complaint and refers all questions of law to this Honorable Court.

7: Denies upon information and belief each and every allegation contained in paragraphs designated "17" of the complaint except admits that at all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the implied permission and consent of the defendant, DCFS TRUST.

8: Denies each and every allegation contained in paragraph designated "29" of the complaint as to this answering defendant otherwise denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "29" of the complaint and refers all questions of law to this Honorable Court.

AS AND FOR AN ANSWER TO A SECOND CAUSE OF ACTION

9: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "33" as if more specifically set forth in answer to paragraph designated "34" of the complaint and each and every part thereof.

10: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55", "56", "57", "61", "62", "63", "64", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "78", "79", "80", "81", "82" and "83" of the complaint.

11: Denies upon information and belief each and every allegation contained in paragraphs designated "58", "59", "84" and "85" of the complaint and refers all questions of law to this Honorable Court.

12: Denies each and every allegation contained in paragraphs designated "60" and "86" of the complaint.

AS AND FOR AN ANSWER TO A THIRD CAUSE OF ACTION

13: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "86" as if more specifically set forth in answer to paragraph designated "87" of the complaint and each and every part thereof.

14: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "88", "89", "90", "91", "92", "93", "94", "96", "97", "98", "99", "100", "101" and "102" of the complaint.

15: Denies each and every allegation contained in paragraphs designated "95" and "103" of the complaint.

AS AND FOR AN ANSWER TO A FOURTH CAUSE OF ACTION

16: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "103" as if more specifically set forth in answer to paragraph designated "104" of the complaint and each and every part thereof.

17: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "105", "106", "107" and "108" of the complaint.

18: Denies each and every allegation contained in paragraph designated "109" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

19: That the complaint fails to state a valid cause of action as against the defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

20: That the personal injuries and/or damages alleged to have been sustained by the plaintiff were caused entirely or in part through the culpable conduct of the plaintiff, without any negligence on the part of the answering defendants and the answering defendants seek a dismissal or reduction in any recovery that may be had by the plaintiff in the proportion which the culpable conduct, attributable to the plaintiff, bears to the entire measure of responsibility for the occurrence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

21: That plaintiff has failed to comply with C.P.L.R. 3016(g) in that the plaintiff has not sustained a serious injury, as defined in Section 5102(d) of the Insurance Law, or economic loss greater than basic economic loss, as defined in Section 5102(a) of the Insurance Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

22: That the plaintiff assumed the risk related to the activity causing the injuries sustained.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

23: If it be determined that the plaintiff failed to use available seatbelts, the answering defendants plead this fact in mitigation of damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

24: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

25: If any damages are recoverable against said defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26: The answering defendants assert the rights and benefits provided under the General Obligations Law §15-108.

AS AND FOR A EIGTH AFFIRMATIVE DEFENSE

27: The answering defendants were faced with an emergency situation through no-fault of their own and did not cause or contribute to this accident.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

28. Defendant DCFS Trust is not liable for this accident pursuant to 49 U.S.C.A. Section 30106.

AS AND FOR A CROSS COMPLAINT OVER AND AGAINST THE CO-DEFENDANTS, RICARDO BROWN, LEXUS MOTOR CARS, INC., TOYOTA MOTOR SALES U.S.A., INC. THESE DEFENDANTS, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, ALLEGE UPON INFORMATION AND BELIEF:

29: That if the plaintiff was caused to sustain personal injuries and resulting damages at the time and place set forth in the plaintiff's complaint and in the manner alleged therein, through any carelessness, recklessness, acts, omissions, negligence and/or breaches of duty and/or warranty and/or contract, other than of the plaintiff, then the said injuries and damages arose out of the several and joint carelessness, recklessness, acts, omissions, negligence and breaches of duty and/or obligation and/or Statute and/or Warranty and/or contract in fact or implied in law, upon the part of the co-defendants, with indemnification and save harmless agreement and/or responsibility by them in fact and/or implied in law and without any breaches or any negligence of the answering defendants contributing thereto; and if the answering defendants are found liable as to the plaintiff for the injuries and damages as set forth in the plaintiff's complaint, then, and in that event, the relative responsibilities of all said defendants in fairness must be apportioned by a separate determination in view of the

existing factual disparity, and the said co-defendants herein will be liable over jointly and severally to the answering defendants and bound to fully indemnify and hold the answering defendants harmless for the full amount of any verdict or judgment that the plaintiffs herein may recover against the answering defendants in this action, including all costs of investigation, disbursements, expenses and attorney's fees incurred in the defense of this action and in the conduct of this cross complaint.

WHEREFORE, the defendants, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, demand judgment dismissing the plaintiff's complaint on the merits; and if the plaintiff, EZATT AZIZI, is found to have contributed to the accident or damages, that any damages be reduced in proportion to which the plaintiff may be found to have so contributed to the accident or damages and further demands judgment over and against the co-defendants, RICARDO BROWN, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC., on the cross-claim, for the amount of any judgment obtained against the answering defendants by plaintiff or any other party or on the basis of the apportionment of responsibility in such amounts as a jury or Court may direct together with the costs, disbursements and expenses of this action including attorney's fees.

Dated: Albertson, New York
September 28, 2008

By: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
File No.: ENC084408ASK

Index 17115/08 Year RJI No. Hon.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants, and

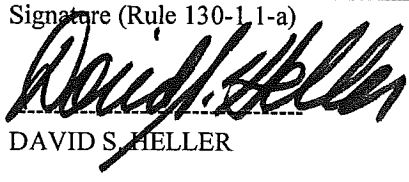
third party action

NOTICE OF MOTION TO CONSOLIDATE
AFFIRMATION

CONNORS & CONNORS, P.C.
Attorneys for - Defendants, RICARDO BROWN
Office and Post Office Address, Telephone
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700 PHONE
(718) 442-1717 FAX

To

Signature (Rule 130-1.1-a)



DAVID S. HELLER

Attorney(s) for

Service of a copy of the within is hereby admitted,

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges
of the within named court, at
on at M

Dated,

Yours, etc.
CONNORS & CONNORS, P.C.
Attorneys for

To

Attorney(s) for

Office and Post Office Address
766 CASTLETON AVENUE
STATEN ISLAND, NEW YORK 10310

RECEIVED
JAN 08 2009
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

JEAN DAVID CHAMPAGNE and KUMI, OTA,

Plaintiffs,

-against-

RICARDO BROWN, ALEJANDRO LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC., and TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

----------X

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

FRO SERVICE CORP.,

Plaintiff,

- against -

RICARDO BROWN, TOYOTA MOTOR CO.,

Defendants.

----------X

ORDER WITH NOTICE OF ENTRY

Index No.: 25273/08

Action #2

Index No.: 17115/08

Action #3

Index No. 13778/08

C O U N S E L O R S :

PLEASE TAKE NOTICE that the within is a true copy of an Order to be submitted to Honorable Justice Starkey, in the above-captioned action, on January 28, 2009.

Dated: Staten Island, New York
December 31, 2008

Yours, etc.,

CONNORS & CONNORS, P.C.

By:_____
Louis Rasso
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310
(718) 442-1700
Our File No.: DGE 23830C

TO: GELLER & SIEGEL, LLP
Attorneys for Plaintiff
419 Park Avenue South, Suite 700
New York, NY 10016
212/532-0532

ECKERT SEAMANS CHERIN & MELLOTT
Attorneys for Defendant
TOYOTA MOTOR N.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606

WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff in Action #2
EZATT AZIZI
420 Lexington Avenue - Suite 2750
New York, NY 10170
(212) 986-7353

AHMUTY, DEMERS & MCMANUS, ESQS.
Attorneys for Defendants in Action #2
DCFS TRUST and ALEJANDRO LEON
i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
File No.: ENC0884408ASK

GERBER & GERBER, PLLC
Attorneys for Plaintiff in Action #3
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, NY 11242
(718) 834-4850

Index No. 25273/08 RJI No. Hon.

JAN 02 2009

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

JEAN DAVID CHAMPAGNE AND KUMI, OTA.,

Plaintiffs,

-against-

RICARDO BROWN, ALEJANDRO, LEON, DCFS TRUST, EZATT AZIZA, FRO SERVICE CORP., LEXUS A DIVISION OF TOYOTA MOTOR SALES U.S.A. INC. AND TOYOTA MOTOR NORTH AMERICA, INC.,

Defendants.

and two other actions

ORDER WITH NOTICE OF ENTRY

CONNORS & CONNORS, P.C.
Attorneys for Defendant, RICARDO BROWN
Office and Post Office Address, Telephone
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700 PHONE
(718) 442-1717 FAX

To

Signature (Rule 130-1.1-a)

LOUIS RASSO

Service of a copy of the within is hereby admitted,

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for settlement to the HON. one of the judges of the within named court, at

on at M

Dated,

Yours, etc.

CONNORS & CONNORS, P.C.
Attorneys for Defendant
Office and Post Office Address
766 CASTLETON AVENUE
STATEN ISLAND, NY 10310

To

At an IAS part 6 of the supreme
Court of the State of New York
Held in and for the county of
Kings, Borough of Brooklyn, City
of New York on the 17 day of Dec 2008

PRESENT: Hon. Starkey JSC

Champagne + OTA
-v-
Brown, Leon, DCFS

JOINT TRIAL ORDER
INDEX # 25273 108

Upon the notice of motion and due deliberation had, it is now

ORDERED, that the motion is granted to the extent that Index #'s 25273/08 1717/08 13778/08 are joined for the purpose of trial and it is further,

ORDERED, that each shall retain its own index number, file a separate RJI, separate notes of issue, and file separate judgments; and it is further,

ORDERED, that the order in which the parties open and close shall be determined by the court, and it is further ,

**ORDERED, that upon service of a copy of this order and payment of the requisite fees, the clerk of _____ county is directed to transfer the file of index # _____ and all papers contained therein to the clerk of Kings County ;and it is further,

**ORDERED, that the plaintiff(s) in index # 13778/08 shall forthwith file an RJI together with a copy of this order with the calendar clerk; and it is further,

ORDERED, that a copy of this order with notice of entry be served upon all parties in the action.

**strike decretal if applicable

ENTER

JSC

EV 1 6/97

TOY-RQ-05E-00003683

P

TODAY'S CAL. # 33 RJI DATE 9/11/08 INTAKE PART

PRELIMINARY CONFERENCE ORDER
PURSUANT TO PART 202 OF THE UNIFORM CIVIL RULES
FOR THE SUPREME COURT KINGS COUNTY

HON. STARKEY DATE 7/29/2009

Index # 17175/08

Azizi, Ezatt Plaintiff(s)

-against-

Brown Ricardo Defendant(s)

Compliance Conference shall be held in IAS Part CCP on 1/14, 2010 at 9:30am

FAILURE OF COUNSEL TO ATTEND THE COMPLIANCE CONFERENCE MAY RESULT IN THE IMPOSITION OF SANCTIONS

PRINT NAME

ATTORNEY FIRM Wingate Russotte by Jason Rubin FOR PLAINTIFF Azizi
ATTORNEY FIRM Connors & Connors by [illegible] FOR DEFENDANT Brown
ATTORNEY FIRM Ahmuty, Demers & McManus by Brian F. Mark FOR DEFENDANTS Leon & DCFS
ATTORNEY FIRM Eckert Seamans by Mark Thabet FOR DEFENDANT TMS + Lewis

THE DISCOVERY END DATE/NOTE OF ISSUE DUE DATE IS 3/10/2010.

IT IS HEREBY ORDERED THAT THIS ACTION IS ASSIGNED TO THE

____ **EXPEDITED** ____ **STANDARD** X **COMPLEX TRACK**
AND DISCLOSURE SHALL PROCEED AS FOLLOWS:

I. WRITE PLAINTIFF'S MOST SEVERE INJURY: fx forms

II. TYPE OF CASE
- X MOTOR VEHICLE
- ___ PREMISES LIABILITY
- ___ PROFESSIONAL MALPRACTICE (MED MAL ETC.)
- X OTHER. BRIEFLY DESCRIBE: Products Liability
- ___ CONTRACT
- ___ LABOR LAW

III. ☐ CPLR 325(D) Eligible upon **further order**
:

IV. INSURANCE COVERAGE (INCLUDING EXCESS AND/OR UMBRELLA COVERAGE)
DEFENDANT_____ DEFENDANT_____
☒ IF NOT FURNISHED, PLAINTIFF TO BE ADVISED IN WRITING BY 8/30/2009

PRELIMINARY CONFERENCE ORDER

Rev. 06/05

PRELIMINARY CONFERENCE ORDER

V. BILL OF PARTICULARS: ☐ 1A. SUBMITTED: SATISFACTORY ☐ 1B. UNSATISFACTORY (INDICATE WHY): _____

☐ 2. AMPLIFIED BILL OF PARTICULARS TO BE SERVED BY _____

☒ 3. DEFENDANT S TO PROVIDE A VERIFIED BILL OF PARTICULARS AS TO AFFIRMATIVE DEFENSES WITHIN 45 DAYS.

VI. MEDICAL AND HOSPITAL AUTHORIZATIONS TO THE EXTENT NOT PREVIOUSLY PROVIDED:

☐ 1. FURNISHED

☒ 2. HIPAA COMPLIANT MEDICAL AUTHORIZATIONS FOR RECORDS AND HOSPITAL AUTHORIZATIONS TO BE SERVED BY 8/29/2009. 7s

to attend not already provided

☒ 3. PLAINTIFF(S) SHALL PROVIDE AUTHORIZATIONS TO OBTAIN COPIES OF THE ACTUAL RECORDS OF ALL TREATING AND EXAMINING HEALTH CARE PROVIDERS, INCLUDING DIAGNOSTIC TESTS, X-RAYS, MRIs, EMGs, CT SCANS, FOR INJURIES SPECIFIED IN THE BILL OF PARTICULARS WITHIN 30 DAYS.

☐ 4. PLAINTIFF(S), WITHIN 60 DAYS AFTER FILING NOTE OF ISSUE, MUST SERVE DEFENDANT(S) WITH FRESH HIPAA COMPLIANT AUTHORIZATIONS FOR ALL KNOWN HEALTH CARE PROVIDERS.

VII. PHYSICAL EXAMINATION:

☐ 1A. HELD ☐ 1B. WAIVED ☒ 1C. EXAM OF the Plaintiff TO BE HELD WITHIN 45 DAYS FOLLOWING THE CONCLUSION OF PLAINTIFF'S EBT.

☐ 2A. PHYSICIANS REPORT FURNISHED

☒ 2B. COPY OF PHYSICIANS' REPORTS TO BE FURNISHED TO PLAINTIFF WITHIN 45 DAYS OF EXAMINATION.

VIII. EXAMINATION BEFORE TRIAL

See additional directives

☐ PLAINTIFF ☐ DEFENDANTS ☐ ALL PARTIES TO BE HELD ON _____/_____/200_____

AT ☐ COURT REPORTER _____

AT ☐ OFFICE OF _____

AT ☐ A LOCATION TO BE AGREED UPON _____

☐ HELD (EXCEPT: _____)

☐ WAIVED

IX. OTHER DISCLOSURE: ☐ 1. NONE

to exchange not already provided

☒ 2. ALL PARTIES TO EXCHANGE NAMES AND ADDRESSES OF ALL WITNESSES, OPPOSING PARTIES STATEMENTS, PHOTOGRAPHS, SURVEILLANCE TAPES AND ACCIDENT REPORTS PREPARED IN THE ORDINARY COURSE OF BUSINESS. IF NONE, AN AFFIRMATION TO THAT EFFECT SHALL BE PROVIDED.

☒ 3. AUTHORIZATION FOR PLAINTIFF(S) FOR YEAR BEFORE, YEAR OF, YEAR AFTER:

☒ EMPLOYMENT ATTENDANCE RECORDS

☐ IRS IF SELF-EMPLOYED OR W-2

☒ 4. PLAINTIFF TO PROVIDE NO-FAULT/ COLLATERAL SOURCE AUTHORIZATIONS.

ABOVE TO BE COMPLETED WITHIN 45 DAYS.

☒ 5. ALL PARTIES SHALL SUPPLY EXPERT WITNESS DISCLOSURE PURSUANT TO THE CPLR.

Pg 3 of 4

PRELIMINARY CONFERENCE ORDER

☑ 6. All parties to respond to outstanding discovery demands w/i 30 days

- Texas vehicle + all parts + components to be preserved. Party in possession of vehicle + components to make it available for inspection on 9/23/09

X. IMPLEADER ACTIONS ☐ 1. NONE

☐ 2. ALREADY COMMENCED

☒ 3. TO BE COMPLETED WITHIN 60 DAYS AFTER COMPLETION OF EBTs

XI. ADDITIONAL DIRECTIVES: SEE ATTACHED PAGE FOR ADDITIONAL DIRECTIVES.

IN THE EVENT OF NON-COMPLIANCE WITH THE TERMS OF THIS ORDER, COSTS OR OTHER SANCTIONS MAY BE IMPOSED.

THE PARTIES HAVING APPEARED FOR A PRELIMINARY CONFERENCE ON THIS DATE HAVE REVIEWED THE TERMS AND/OR CONDITIONS OF THIS ORDER AND HEREBY CONSENT TO SAME.

ATTORNEY: Jason Rubin/WRS FOR PLAINTIFF: Azizi

ATTORNEY: [signature] FOR DEFENDANT: Brown

ATTORNEY: [signature] FOR DEFENDANTS Leon & DCFS

ATTORNEY: Mark Thabet FOR DEFENDANT: TMS + Lexas

COURT ATTORNEY [signature]

THIS CONSTITUTES THE DECISION AND ORDER OF THE COURT.

DATED 7/29/2009 ENTER _____

J.S.C.

I.A.S. JUDGE

ALL DATES CONTAINED HEREIN RELATING TO THE COMPLETION OF ITEMS IN THIS ORDER MUST BE ADHERED TO. COUNSEL MAY NOT ENTER INTO ANY ADJOURNMENTS WITHOUT FURTHER ORDER OF THIS COURT.

PRELIMINARY CONFERENCE ORDER

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PAGE 2 9/15

INDEX# 17175 -- 2008 DATE 7/29/09

PLAINTIFF Azizi vs DEFENDANT Brown

1) All parties to respond to ATMS' Request for Production and ROG's dated 10/13/08 within 30 days

ENTERED/SO ORDERED

JSC

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TOY-RQ-05E-00003687

additional directives

~~PAGE 2~~

INDEX# ~~25273-08~~ 17175/08 DATE 7/29/09

PLAINTIFF ~~Champagne/Ota~~ vs DEFENDANT ~~Brown, et al~~ Aziza v Brown

EBT of Π Champagne and Ota to be held on/by 10/28/09.

EBT of Π/Δ Aziza and Δ Brown to be held on/by 11/4/08.

EBT of Δ Alejandro Leon to be held on/by 11/11/09

EBT of Δ Fro Service Corp. to be held on/by 11/18/09

EBT of Δ Lexus to be held on/by 12/2/09.

ENTERED/SO ORDERED

JSC

PAGE 2

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

VERIFIED ANSWER

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

RECEIVED
OCT 17 2008
LEGAL DEPT.

Defendant TOYOTA MOTOR SALES, U.S.A., INC. ("TMS") by its attorneys, Eckert Seamans Cherin & Mellott, LLC, hereby answers Plaintiff's Amended Verified Complaint (the "complaint") as follows:

AS AND FOR AN ANSWER TO THE FIRST CAUSE OF ACTION

1. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the complaint.
2. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "2" of the complaint.
3. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "3" of the complaint.
4. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "4" of the complaint.
5. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5" of the complaint.

TOY-RQ-05E-00003689

6. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "6" of the complaint.

7. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "7" of the complaint.

8. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "8" of the complaint.

9. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "9" of the complaint.

10. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "10" of the complaint.

11. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "11" of the complaint.

12. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "12" of the complaint.

13. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "13" of the complaint.

14. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "14" of the complaint.

15. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "15" of the complaint.

16. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "16" of the complaint.

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17. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "17" of the complaint.

18. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "18" of the complaint.

19. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "19" of the complaint.

20. TMS refers all questions of law to this Court.

21. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "21" of the complaint.

22. TMS denies the allegations in paragraph "22" of the complaint.

23. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "23" of the complaint.

24. TMS denies the allegations in paragraph "24" of the complaint.

25. Denied as stated. TMS states that it imported and distributed a 2007 Lexus Model ES 350 motor vehicle bearing Vehicle Identification Number JTHBJ46GX72075738 (the "subject vehicle").

26. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "26" of the complaint.

27. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "27" of the complaint.

28. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "28" of the complaint.

29. TMS denies the allegations in paragraph "29" of the complaint.

TOY-RQ-05E-00003691

30. TMS refers all questions of law to this Court.

31. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "31" of the complaint regarding plaintiff's injuries and refers all questions of law to this Court.

32. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph "32" of the complaint regarding plaintiff's injuries and refers all questions of law to this Court.

33. TMS refers all questions of law to this Court.

AS AND FOR AN ANSWER TO THE SECOND CAUSE OF ACTION

34. TMS repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs "1" through "33" with the same force and effect as though fully set forth herein.

35. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "35" of the complaint.

36. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "36" of the complaint.

37. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "37" of the complaint.

38. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "38" of the complaint.

39. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "39" of the complaint.

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40. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "40" of the complaint.

41. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "41" of the complaint.

42. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "42" of the complaint.

43. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "43" of the complaint.

44. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "44" of the complaint.

45. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "45" of the complaint.

46. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "46" of the complaint.

47. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "47" of the complaint.

48. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "48" of the complaint.

49. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "49" of the complaint.

50. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "50" of the complaint.

51. TMS denies the allegations in paragraph "51" of the complaint.

TOY-RQ-05E-00003693

52. TMS denies the allegations in paragraph "52" of the complaint in the form alleged and refers all questions of law to this Court.

53. TMS denies the allegations in paragraph "53" of the complaint.

54. TMS denies the allegations in paragraph "54" of the complaint.

55. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "55" of the complaint regarding the accident and denies the remaining allegations that allege that the floor mat of the subject vehicle was defective.

56. TMS denies the allegations in paragraph "56" of the complaint.

57. TMS refers all questions of law to this Court.

58. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "58" of the complaint regarding plaintiff's injuries and refers all questions of law to this Court.

59. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "59" of the complaint regarding plaintiff's injuries and refers all questions of law to this Court.

60. TMS refers all questions of law to this Court.

61. TMS denies the allegations in paragraph "61" of the complaint.

62. Denied as stated. TMS states that it is a corporation organized under the laws of the State of California and authorized to conduct business in the State of New York.

63. TMS denies the allegations in paragraph "63 " of the complaint.

64. TMS denies the allegations in paragraph "64" of the complaint in the form alleged and refers all questions of law to this Court.

65. TMS denies the allegations in paragraph "65 " of the complaint.

66. Denied as stated. TMS states that it imported and distributed the subject vehicle.

67. Denied as stated. TMS states that it imported and distributed the subject vehicle.

68. Denied as stated. TMS states that it imported and distributed the subject vehicle.

69. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "69" of the complaint.

70. Denied as stated. TMS states that it imported and distributed the subject vehicle.

71. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "71" of the complaint.

72. Denied as stated. TMS states that it imported and distributed the subject vehicle.

73. TMS denies the allegations in paragraph "73 " of the complaint.

74. Denied as stated. TMS states that it imported and distributed the subject vehicle and refers all questions of law to this Court.

75. Denied as stated. TMS states that it imported and distributed the subject vehicle and refers all questions of law to this Court.

76. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "76" of the complaint.

77. TMS denies the allegations in paragraph "77" of the complaint.

78. TMS denies the allegations in paragraph "78" of the complaint in the form alleged and refers all questions of law to this Court.

79. TMS denies the allegations in paragraph "79" of the complaint.

80. TMS denies the allegations in paragraph "80" of the complaint.

81. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "81" of the complaint regarding the accident and denies the remaining allegations that allege that the floor mat of the subject vehicle was defective.

82. TMS denies the allegations in paragraph "82" of the complaint.

83. TMS refers all questions of law to this Court.

84. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "84" of the complaint regarding plaintiff's injuries and refers all questions of law to this Court.

85. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "85" of the complaint regarding plaintiff's injuries and refers all questions of law to this Court.

86. TMS refers all questions of law to this Court.

AS AND FOR AN ANSWER TO THE THIRD CAUSE OF ACTION

87. TMS repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs "1" through "86" with the same force and effect as though fully set forth herein.

88. TMS denies the allegations in paragraph "88" of the complaint.

89. Denied as stated.

90. Denied as stated.

91. Denied as stated.

92. TMS denies the allegations in paragraph "92 " of the complaint.

93. TMS denies the allegations in paragraph "93 " of the complaint.

94. TMS denies the allegations in paragraph "94 " of the complaint and refers all questions of law to this Court.

95. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "95" of the complaint regarding the plaintiff's injuries and refers all questions of law to this Court.

96. Denied as stated.

97. Denied as stated.

98. Denied as stated.

99. Denied as stated.

100. TMS denies the allegations in paragraph "100" of the complaint.

101. Denied as stated and refers all questions of law to this Court.

102. TMS denies the allegations in paragraph "102" of the complaint and refers all questions of law to this Court.

103. TMS refers all questions of law to this Court.

AS AND FOR AN ANSWER TO THE FOURTH CAUSE OF ACTION

104. TMS repeats, reiterates and realleges each and every admission or denial heretofore made in response to paragraphs "1" through "103" with the same force and effect as though fully set forth herein.

105. Denied as stated and refers all questions of law to this Court.

106. TMS denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "106" of the complaint.

107. TMS denies the allegations in paragraph "107 " of the complaint.

108. TMS denies the allegations in paragraph "108 " of the complaint.

109. TMS refers all questions of law to this Court.

FIRST AFFIRMATIVE DEFENSE

110. The complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

111. The incident described in the complaint was caused and/or contributed to by the negligence of plaintiff thereby barring or reducing recovery by plaintiff.

THIRD AFFIRMATIVE DEFENSE

112. Plaintiff's claims may be barred by the applicable Statute of Limitations.

FOURTH AFFIRMATIVE DEFENSE

113. The negligent acts or omissions of other individuals or entities may have constituted an intervening, superseding cause of the injuries and damages alleged to have been sustained by plaintiff.

FIFTH AFFIRMATIVE DEFENSE

114. The alleged injuries and losses sustained by plaintiff were caused entirely by, or contributed to by, the negligent or liability-producing acts or omissions of individuals or entities other than TMS over whom TMS exercises no authority or control.

SIXTH AFFIRMATIVE DEFENSE

115. The injuries or damages alleged to have been sustained by plaintiff were not proximately caused by any acts or omissions on the part of TMS or any of its authorized representatives.

TOY-RQ-05E-00003698

SEVENTH AFFIRMATIVE DEFENSE

116. Although TMS denies the existence of a defect as alleged by plaintiff, if plaintiff had knowledge of the defect and proceeded unreasonably to make use of the product, such use bars recovery by plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

117. The subject vehicle may have been misused, thereby barring any recover by plaintiff.

NINTH AFFIRMATIVE DEFENSE

118. The subject vehicle may have been modified or altered thereby barring any recovery by plaintiff.

TENTH AFFIRMATIVE DEFENSE

119. Some or all of the damages requested in the complaint are not recoverable in this action.

ELEVENTH AFFIRMATIVE DEFENSE

120. TMS hereby pleads as a separate defense any and all releases entered into by plaintiff or to be entered into by plaintiff as a reduction, in whole or in part, of any damages that plaintiff may be entitled to recover from TMS, it being specifically denied that TMS is liable to plaintiff in any respect.

TWELFTH AFFIRMATIVE DEFENSE

121. Plaintiff may have failed to give timely notice of any alleged breach of warranty as required by law.

THIRTEENTH AFFIRMATIVE DEFENSE

122. Plaintiff's sole warranty rights, if any, are governed by the terms, provisions, remedies and limitations set forth in the written New Car Limited Warranty applicable to the subject vehicle.

TOY-RQ-05E-00003699

FOURTEENTH AFFIRMATIVE DEFENSE

123. Although TMS denies the existence of a defect as alleged by plaintiff, any defects, nonconformities or conditions resulted from the abuse, neglect or unauthorized modifications or alterations to the vehicle by the plaintiff.

FIFTEENTH AFFIRMATIVE DEFENSE

124. Plaintiff may have failed to use an available occupant restraint as required by New York Vehicle and Traffic Law § 1229-c and/or failed to use properly or misused an available occupant restraint in the vehicle at the time of the accident described in the amended complaint, as a result of which the alleged injuries were sustained or aggravated.

AS AND FOR A FIRST CROSS-CLAIM AGAINST CO-DEFENDANTS RICARDO BROWN, DCFS TRUST AND LEON ALEJANDRO:

125. That if the plaintiff sustained the injuries and damages in the manner and at the time and place alleged, and if it is found that TMS is liable to plaintiff herein, all of which is specifically denied, then TMS is entitled to common law indemnification from any judgment or verdict rendered against it from the above-named co-defendants.

AS AND FOR A SECOND CROSS-CLAIM AGAINST CO-DEFENDANTS RICARDO BROWN, DCFS TRUST AND LEON ALEJANDRO:

126. That if the plaintiff sustained the injuries and damages in the manner and at the time and place alleged, and if it is found that TMS is liable to plaintiff herein, all of which is specifically denied, then TMS, on the basis of apportionment of responsibility for the alleged occurrence, are entitled to contribution from the above-named co-defendants, to pay for all or part of any verdict or judgment that plaintiff may recover against TMS proportionate to the above-named co-defendants' actual negligence.

WHEREFORE, defendant TMS demands judgment dismissing the complaint, together with costs and disbursements of this action, and for any expenses incurred by it in the defense thereof, and defendant TMS further demands that, in the event that TMS is found liable to plaintiff, then TMS, on the basis of common law indemnity and/or apportionment of responsibility, have judgment over and against co-defendants RICARDO BROWN, DCFS TRUST and LEON ALEJANDRO for all or part of any verdict or action, and for any expenses incurred by it in the defense thereof.

Dated: White Plains, New York
October 13, 2008

Yours, etc.

By: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909
Fax: (914) 949-5424

To: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170
(212) 986-7353

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

TOY-RQ-05E-00003701

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

TOY-RQ-05E-00003702

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

STEVEN R. KRAMER, ESQ., being duly sworn, says:

I am a member of the law firm of Eckert Seamans Cherin & Mellott, LLC, counsel to defendant TOYOTA MOTOR SALES, U.S.A. INC. in the within action. I have read the foregoing answer to the Amended Verified Complaint and know the contents thereof, and the same is true to my own knowledge, except as to the matters therein stated to be upon information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to matters not stated upon information and belief are review of public web-sites and databases and information provided by agents for the defendant herein.

This verification is made pursuant to CPLR 3020(d)(3) as TOYOTA MOTOR SALES, U.S.A. INC. is not located within the county where the office of my law firm is located.

STEVEN R. KRAMER, ESQ.

TOY-RQ-05E-00003703

AFFIDAVIT OF SERVICE

STATE OF NEW YORK :
: ss:
COUNTY OF WESTCHESTER

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On October 13, 2008, deponent served the within VERIFIED ANSWER upon:

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI &
SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

XX By depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York; and

☐ By transmitting the papers by electronic means to the telephone numbers listed above, which number was designated by the attorney for such purpose. I received a signal from the equipment of the attorney served indicating that the transmission was received.

☐ By depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest designated by the overnight delivery service for overnight delivery

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
13th day of October, 2008

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

TOY-RQ-05E-00003704

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

VERIFIED ANSWER

ECKERT SEAMANS CHERIN & MELLOTT, LLC.
Attorneys for Defendant
TOYOTA MOTOR SALES USA., INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

TOY-RQ-05E-00003705

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

COMBINED DEMANDS

RECEIVED
OCT 17 2008
LEGAL DEPT.

Defendant, TOYOTA MOTOR SALES, U.S.A., INC. ("TMS"), through its counsel, issues the following Combined Demands:

NOTICE TO TAKE DEPOSITIONS UPON ORAL EXAMINATION

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules, the testimony, upon oral examination of plaintiff EZATT AZIZI, and all co-defendants, will be taken before a Notary Public, who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at the Supreme Court, Kings County, 360 Adams Street, Brooklyn, New York, on the date chosen pursuant to the Court's scheduling order, at 10:00 o'clock in the forenoon of that day with respect to evidence material and necessary in the prosecution/defense of this proceeding.

That the said person to be examined is required to produce at such examination the following: all papers, documents and other instruments concerning the within action.

TOY-RQ-05E-00003706

DEMAND FOR PRESERVATION OF EVIDENCE

Defendant demands that all parties preserve any and all evidence which involves the subject matter of this litigation, including, but not limited to, a certain 2007 Lexus Model ES 350, bearing Vehicle Identification Number JTHBJ46GX72075738, and any of its component parts.

DEMAND FOR FACT WITNESS INFORMATION

PLEASE TAKE NOTICE that pursuant to Article 31 of the CPLR, demand is hereby made to provide the undersigned with the name(s) and address(es) of any eyewitness(es) and or notice witness(es) of the subject accident or the alleged defective condition complained of.

DEMAND FOR EXPERT WITNESS INFORMATION

PLEASE TAKE NOTICE that pursuant to Article 31 of the CPLR, demand is hereby made upon all parties to serve expert disclosure in compliance with CPLR § 3101(d).

DEMAND FOR STATEMENTS

PLEASE TAKE NOTICE that, pursuant to CPLR § 3101(e), demand is hereby made upon you for a copy of all statements of this answering defendant and the employees and agents of said party. If there are no statements, please advise accordingly.

DEMAND FOR MEDICAL AND HOSPITAL RECORDS AUTHORIZATIONS

PLEASE TAKE NOTICE that, pursuant to Article 31 of the CPLR, demand is hereby made upon plaintiff:

1. Serve upon and deliver to the undersigned attorneys, copies of the medical reports and bills of those physicians who have previously treated or examined plaintiff. These shall include a detailed recital of the injuries and conditions as to which testimony will be offered at

the trial, referring to and identifying those x-rays and technician's reports which will be offered at the trial; and

2. Serve upon and deliver to the undersigned attorneys, duly executed and acknowledged written authorizations, permitting all parties to obtain and make copies of all medical records of hospitals, treating physicians, and/or psychiatrist, psychologist, or other mental health care provider and such other records, including x-rays and technician's reports as referred to and identified in the statements of the plaintiff's physicians.

DEMAND FOR INSURANCE AUTHORIZATIONS

PLEASE TAKE NOTICE that, pursuant to Article 31 of the CPLR, demand is hereby made upon the plaintiff:

1. Serve upon you and deliver to the undersigned attorneys, duly executed and acknowledged written authorizations permitting all parties to obtain and make copies of the No-Fault records for plaintiff.

2. Serve upon you and deliver to the undersigned attorneys, duly executed authorizations permitting all parties to obtain and make copies of the property damage claim file for the subject vehicle.

DEMAND FOR COLLATERAL SOURCE INFORMATION

PLEASE TAKE NOTICE that pursuant to § 4545(a) of the CPLR, the answering defendant demands that within twenty (20) days of the date hereof, plaintiff serve upon the undersigned a verified statement setting forth:

1. Whether plaintiff has been reimbursed or indemnified for economic loss claimed in this action from any collateral source.

(a) If the answer to the foregoing is in the affirmative, state for which of such claims plaintiff has received payment, the amount thereof, and the name and address of the person, firm, entity, or organization which made such payment;

(b) If such payment was made by the insurance company, state the number of the policy under which it was paid.

2. Whether plaintiff has made claim for payment for economic loss which has not as yet been paid:

(a) If the answer is in the affirmative, state the name of the person, firm, entity, or organization to which such claim was presented, the date of presentation, and the amount claimed.

(b) If such claim was presented to an insurance company, state the number of the policy under which the claim was made.

DEMAND FOR SOCIAL SECURITY ADMINISTRATION RECORDS

PLEASE TAKE NOTICE that, pursuant to Article 31 of the CPLR, demand is hereby made upon plaintiff to provide a duly executed and acknowledged written authorization permitting all parties to obtain and make copies of plaintiff's Social Security Administration records, if any, or Social Security Disability Insurance records, if any.

DEMAND FOR EMPLOYMENT RECORDS AUTHORIZATIONS

PLEASE TAKE NOTICE that, pursuant to Article 31 of the CPLR, the answering defendant herein hereby demands that you furnish the undersigned with the required authorization(s) permitting us to obtain the employment records of the plaintiff, if any, for loss of earnings.

DEMAND FOR INCOME TAX RECORDS

If plaintiff is asserting a loss of earnings claim, pursuant to Article 31 of the CPLR, demand is hereby made upon the plaintiff to:

1. Serve upon and deliver to the undersigned attorneys, copies of all plaintiff's tax records for the years 2003 through 2007; and

2. Serve upon and deliver to the undersigned attorneys, duly executed IRS form 4506 for the years 2003 through 2007, permitting all parties to obtain and make copies of the plaintiff's tax records. Please include two (2) pieces of identification to obtain plaintiff's records.

Dated: White Plains, New York
October 13, 2008

Yours, etc.

By: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A. INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909
Fax: (914) 949-5424

To: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170
(212) 986-7353

TOY-RQ-05E-00003710

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

TOY-RQ-05E-00003711

AFFIDAVIT OF SERVICE

STATE OF NEW YORK :
: ss:
COUNTY OF WESTCHESTER

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On October 13, 2008, deponent served the within COMBINED DEMANDS upon:

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI &
SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

RICARDO BROWN
46 Granite Street
Brooklyn, New York 11207

DCFS TRUST
P.O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

XX By depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York; and

☐ By transmitting the papers by electronic means to the telephone numbers listed above, which number was designated by the attorney for such purpose. I received a signal from the equipment of the attorney served indicating that the transmission was received.

☐ By depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest designated by the overnight delivery service for overnight delivery

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
13th day of October, 2008

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

TOY-RQ-05E-00003712

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

COMBINED DEMANDS

ECKERT SEAMANS CHERIN & MELLOTT, LLC.
Attorneys for Defendant
TOYOTA MOTOR SALES USA., INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

TOY-RQ-05E-00003713

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff(s),

-against-

RICARDO BROWN, DCFS TRUST and LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.

Defendant(s).

----------X

SUPPLEMENTAL SUMMONS

Index No.: 17175/08

Plaintiff designates Kings County as the place of trial. The basis of venue is the defendant, RICARDO BROWN 's residence, located at 46 Granite Street, Brooklyn, NY 11207.

To the above-named Defendants:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete, if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
August 25, 2008

Yours, etc.,

Thomas M. Oliva
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
420 Lexington Avenue, Suite 2750
New York, NY 10170
(212) 986-7353

Privilege

TO: RICARDO BROWN
46 Granite Street
Brooklyn, NY 11207

DCFS TRUST
P. O. Box 685
Roanoke, TX

LEON ALEJANDRO
17 Bates Drive
Fairfield, NJ 07004

LEXUS MOTOR CARS, INC.
45 John Street, Suite 711
New York, New York, 10038

TOYOTA MOTOR SALES U.S.A., INC.
C/O CT CORPORATION SYSTEM
111 Eighth Avenue
New York, New York 10011

DGE 238306

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants.

----------X

Index # 17175/08

CERTIFICATION PURSUANT TO PART 130

The accompanying papers are served/filed/submitted pursuant to Section 130-1.1-a:

[ ]	Answer	[ ]	Answer with counter-claim
[X]	Answer with cross-claim	[X]	Demand Pursuant to CPLR §3017(c)
[ ]	Answer to third-party complaint	[X]	Notice for discovery & inspection
[X]	Demand for experts	[X]	Demand for a bill of particulars
[X]	Notice re: medicals	[X]	Demand for insurance
[X]	Demand for collateral source	[X]	Declination of service via facsimile
[X]	Notice to take deposition upon oral examination	[X]	Demand for proof of filing and index number
[ ]	Demand to change venue	[X]	Demand for attorney identification

Dated: Albertson, New York
August 21, 2008

BY: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
ATTORNEYS FOR DEFENDANTS DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. WILLETS ROAD
ALBERTSON, NEW YORK 11507
(516) 294-5433
Our File No.: ENC084408ASK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANRO and LEXUS MOTOR CARS, INC.

Defendants,

----------X

Index No. 17175/08

VERIFIED ANSWER

The defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, by their attorneys, AHMUTY, DEMERS & McMANUS, ESQS., as and for their answer to the plaintiff's complaint, allege upon information and belief:

AS AND FOR AN ANSWER TO A FIRST CAUSE OF ACTION

1: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "1", "2", "3", "4", "5", "6", "19", "20", "21", "22", "23", "24", "25" and "28" of the complaint.

2: Denies each and every allegation contained in paragraphs designated "7" and "31" of the complaint.

3: Denies upon information and belief each and every allegation contained in paragraphs designated "8", "9", "13" and "18" of the complaint.

4: Denies each and every allegation contained in paragraph designated "11" of the complaint except admits that at all times hereinafter mentioned the defendant, DCFS TRUST, was the title owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

5: Denies upon information and belief each and every allegation contained in paragraph designated "12" of the complaint except admits that DCFS TRUST, is the lessor of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

6: Denies upon information and belief each and every allegation contained in paragraphs designated "15", "16", "29" and "30" of the complaint and refers all questions of law to this Honorable Court.

7: Denies upon information and belief each and every allegation contained in paragraph designated "17" of the complaint except admits that at all times hereinafter mentioned the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the implied permission and consent of the defendant, DCFS TRUST.

8: Denies each and every allegation contained in paragraph designated "27" of the complaint as to these answering defendants otherwise denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "27" of the complaint and refer all questions of law to this Honorable Court.

AS AND FOR AN ANSWER TO A SECOND CAUSE OF ACTION

9: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "31" as if more specifically set forth in answer to paragraph designated "32" of the complaint and each and every part thereof.

10: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "33", "34", "35", "36", "37", "38", "39",

"40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54" and "55" of the complaint.

11: Denies upon information and belief each and every allegation contained in paragraphs designated "56" and "57" of the complaint and refers all questions of law to this Honorable Court.

12: Denies each and every allegation contained in paragraph designated "58" of the complaint.

AS AND FOR AN ANSWER TO A THIRD CAUSE OF ACTION

13: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "58" as if more specifically set forth in answer to paragraph designated "59" of the complaint and each and every part thereof.

14: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "60", "61", "62", "63", "64", "65" and "66" of the complaint.

15: Denies each and every allegation contained in paragraph designated "67" of the complaint.

AS AND FOR AN ANSWER TO A FOURTH CAUSE OF ACTION

16: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "67" as if more specifically set forth in answer to paragraph designated "68" of the complaint and each and every part thereof.

17: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "69", "70", "71" and "72" of the complaint.

18: Denies each and every allegation contained in paragraph designated "73" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

19: That the complaint fails to state a valid cause of action as against the defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

20: That the personal injuries and/or damages alleged to have been sustained by the plaintiff were caused entirely or in part through the culpable conduct of the plaintiff, without any negligence on the part of the answering defendants and the answering defendants seek a dismissal or reduction in any recovery that may be had by the plaintiff in the proportion which the culpable conduct, attributable to the plaintiff, bears to the entire measure of responsibility for the occurrence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

21: That plaintiff has failed to comply with C.P.L.R. 3016(g) in that the plaintiff has not sustained a serious injury, as defined in Section 5102(d) of the Insurance Law, or economic loss greater than basic economic loss, as defined in Section 5102(a) of the Insurance Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

22: That the plaintiff assumed the risk related to the activity causing the injuries sustained.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

23: If it be determined that the plaintiff failed to use available seatbelts, the answering defendants plead this fact in mitigation of damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

24: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

25: If any damages are recoverable against said defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26: The answering defendants assert the rights and benefits provided under the General Obligations Law §15-108.

AS AND FOR A EIGTH AFFIRMATIVE DEFENSE

27: The answering defendants were faced with an emergency situation through no-fault of their own and did not cause or contribute to this accident.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

28. Defendant DCFS Trust is not liable for this accident pursuant to 49 U.S.C.A. Section 30106.

AS AND FOR A CROSS COMPLAINT OVER AND AGAINST THE CO-DEFENDANTS, RICARDO BROWN AND LEXUS MOTOR CARS, INC., THESE DEFENDANTS, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, ALLEGE UPON INFORMATION AND BELIEF:

29: That if the plaintiff was caused to sustain personal injuries and resulting damages at the time and place set forth in the plaintiff's complaint and in the manner alleged therein, through any carelessness, recklessness, acts, omissions, negligence and/or breaches of duty and/or warranty and/or contract, other than of the plaintiff, then the said injuries and damages arose out of the several and joint carelessness, recklessness, acts, omissions, negligence and breaches of duty and/or obligation and/or Statute and/or Warranty and/or contract in fact or implied in law, upon the part of the co-defendants, with indemnification and save harmless agreement and/or responsibility by them in fact and/or implied in law and without any breaches or any negligence of the answering defendants contributing thereto; and if the answering defendants are found liable as to the plaintiff for the injuries and damages as set forth in the plaintiff's complaint, then, and in that event, the relative responsibilities of all said defendants in fairness must be apportioned by a separate determination in view of the existing factual disparity, and the said co-defendants herein will be liable over jointly and severally to the answering defendants and bound to fully indemnify and hold the answering defendants harmless for the full amount of any verdict or judgment that the plaintiffs herein may recover against the answering defendants in this action, including all costs of investigation, disbursements, expenses and attorney's fees incurred in the defense of this action and in the conduct of this cross complaint.

WHEREFORE, the defendants, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, demand judgment dismissing the plaintiff's complaint on the merits; and if the plaintiff, EZATT AZIZI, is found to have contributed to the accident or damages, that any damages be reduced in proportion to which the plaintiff may be found to have so contributed to the accident or damages and further demands judgment over and against the co-defendants, RICARDO BROWN and LEXUS MOTOR CARS, INC., on the cross-claim, for the amount of any judgment obtained against the answering defendants by plaintiff or any other party or on the basis of the apportionment of responsibility in such amounts as a jury or Court may direct together with the costs, disbursements and expenses of this action including attorney's fees.

Dated: Albertson, New York
August 21, 2008

By: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
File No.: ENC084408ASK

STATE OF NEW YORK)

: SS.:

COUNTY OF NASSAU)

ANDRIA SIMONE KELLY, being duly sworn, deposes and says:

That she is an associate of the law firm of **AHMUTY, DEMERS & McMANUS, ESQS.**, the attorneys for the defendants, DCFS TRUST AND ALEJANDRO LEON I/S/H/A DCFS TRUST AND LEON ALEJANDRO, in the above entitled action; that she has read and knows the contents of the foregoing, VERIFIED ANSWER WITH DEMANDS, and that same is true to her own knowledge, except as to those matters therein stated to be alleged on information and belief and that as to those matters she believes it to be true.

Deponent further says that the grounds for her belief as to all matters therein stated upon information and belief are statements made to her by the defendants and papers and documents received by deponent from the defendants or her representatives and which are now in her possession.

Deponent further says that the reason why this verification is made by deponent and not by the defendant is that the defendants are not within the County of Nassau, where deponent has her office.

ANDRIA SIMONE KELLY, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR BILL OF PARTICULARS

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that pursuant to C.P.L.R. 3041 to 3044, plaintiff is required to serve upon the undersigned, within 30 days hereof, a Verified Bill of Particulars concerning the following matters:

1. The date, time and location of the occurrence.

2. Detailed description of each injury sustained.

3. Each injury claimed to have resulted in a permanent disability and describe the nature and degree of disability.

4. The periods of

   a) total disability;
   b) partial disability.

5. Length of time confined to:

   a) bed;
   b) home;
   c) hospitals.

6. The name of every hospital, clinic or institution where any treatment or examination was rendered, and dates of admission and discharge.

7. Name and address of each employer; if self employed state nature of self employment and business address.

8. Length of time incapacitated from employment.

9. The position held and/or type of work performed by the plaintiff.

10. Amounts claimed as lost earnings, including detailed statement as to how such lost earnings were computed.

11. If the plaintiff was a student, give the name and address of the school attended and the length of time incapacitated from attending said school.

12. The amounts claimed for:

    a) physicians' services
    b) medications, supplies and x-rays
    c) nurse, therapist and chiropractic services
    d) hospital expenses
    e) any other related expenses, identifying same in detail.

13. The residence address, date of birth and social security number of the plaintiff.

14. If the injuries alleged are claimed to have arisen out of the use or operation of a motor vehicle, state in what respect the plaintiff has sustained a serious injury as defined in Insurance Law Section 5102(d) or economic loss greater than basic economic loss as defined in Insurance Law 5102(a)

15. The street or streets, including reference to intersections, crosswalks, corners or curbs, where necessary to accurately locate the place and the direction in which each vehicle involved was traveling.

16. Describe in detail how it is claimed the accident occurred.

17. All the acts and/or omissions constituting the negligence of the following:
    a) these answering defendants
    b) each co-defendant.

18. Any and all laws, rules, regulations and ordinances that are claimed to be either applicable to the occurrence or to have been violated by each named defendant.

19. The year, make and model of each vehicle involved in this accident.

20. If a claim for property damage is being asserted, accurately state property alleged to have been damaged and its value before and after the occurrence.

21. Itemized list of the property damage claimed, including the cost of repairing each and every item.

22. State whether plaintiff claims to have suffered a dismemberment as a consequence of the occurrence alleged.

23. State whether plaintiff claims to have suffered a fracture as a result of the occurrence alleged.

24. State whether plaintiff claims to have suffered a loss of a fetus as a consequence of the occurrence alleged.

25. State whether plaintiff claims to have suffered a significant disfigurement as a consequence of the occurrence alleged.

26. State whether plaintiff claims as a consequence of the occurrence alleged a permanent loss of use of:

a) a body organ
b) a member
c) a function
d) a system

27. State whether plaintiff claims to have suffered a significant limitation of use of a body function or system as a result of the occurrence alleged.

28. If the answer to "27" is "yes", please set forth in particularity:

a) each and every body function or system the use of which plaintiff claims to have been limited;

b) each and every respect in which plaintiff will claim that the function or system has been limited;

c) each and every respect in which plaintiff will claim that the limitation is significant.

29. State whether plaintiff claims to have suffered a medically determined injury or impairment of a non-permanent nature which will be alleged to have prevented plaintiff from performing substantially all of the material acts which constitute such person`s usual and customary daily activities for not less than ninety days during the one hundred eighty days following the occurrence alleged, as a result of said occurrence.

30. If the answer to "29" is "yes", please state with particularity:

a) each and every such injury or impairment claimed to have been suffered by plaintiff;

b) each and every respect in which the plaintiff will claim that the injury or impairment was medically determined;

c) each and every material act which the plaintiff will claim to have been unable to perform as a consequence of the injuries or impairments alleged;

d) the precise time, including beginning and ending dates, of any such claimed inability to perform each of the acts set forth in answer to c).

31. A. Was the vehicle in which plaintiff was an occupant equipped with:

1) a lap seat belt;

2) a chest or shoulder belt.

B. At the time of the event, was plaintiff wearing the seat belt with which the vehicle was equipped.

32. State whether plaintiff will claim defendant violated any statute, law, rule, regulation or ordinance.

33. If the answer to "32" is "yes", set forth with particularity each such statute, law, rule, regulation or ordinance which plaintiff will claim to have been violated.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC084408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

NOTICE FOR DISCOVERY & INSPECTION

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE that the undersigned hereby demands that the plaintiff and co-defendants produce for discovery and inspection with leave to photocopy, at the office of the undersigned within twenty (20) days the following:

1. The names and addresses of all persons who were eyewitnesses to the occurrence. (Zellman v. Metropolitan Transit Authority 40 AD2d 248)

2. Any written or recorded statement taken of this party or its agents, servants, employees or representatives by any party or any party's representative.

3. All photographs which any party will allege fairly and accurately depict the condition of the vehicles after the happening of the occurrence.

4. All photographs which any party will allege fairly and accurately depict the scene of the accident.

5. Duly executed authorizations to obtain the complete no-fault file of the plaintiff with regard to this occurrence, including name, address and file number of no-fault carrier.

6. Copies of any accident, police, ambulance report and/or MV-104 form in any party's possession.

7. If plaintiff is claiming he/she lost time from work and/or school as a result of the alleged incident, duly executed authorization to obtain plaintiff's employment and/or school records.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust
and Alejandro Leon i/s/h/a DCFS
Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC084408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

NOTICE RE:MEDICALS

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that the plaintiffs are required to serve upon the undersigned within twenty (20) days following receipt of this notice, the following:

1. The names and addresses of all physicians or other health care providers who have treated, examined or consulted with the plaintiff for each of the conditions allegedly caused by, or exacerbated by, the occurrence described in the complaint, including the date of such treatment or examination.

2. Detailed narrative reports of all physicians and health care providers who will testify at the trial of this action regarding their treatment and care of, or consultation with the plaintiff. Said reports must identify any other medical documentation, including x-rays and technicians reports relied upon or intended to be offered as evidence in the plaintiff's behalf.

3. Duly executed and acknowledged HIPAA compliant authorizations of the plaintiff permitting the undersigned to secure the records, charts, bills and other documentation, including x-rays, of:

a) all hospitals, clinics and/or other health care facilities in which the injured plaintiff herein was treated or confined due to the occurrence set forth in the complaint;

and

b) all treating, examining and or consulting physicians and/or other health care providers relating to the injured plaintiff herein (Pizzo v. Bunora, 89 A.D.2d 1013, 454 N.Y.S.2d 455); and

c) all pharmacies from which the injured plaintiff herein purchased prescription medication for a period of one (1) year preceding the underlying occurrence to the present; and d) all hospitals or other facilities, in which the plaintiff was treated or confined and all physicians and/or health care providers who treated, examined or consulted with the injured plaintiff prior to the underlying occurrence for any injury or condition claimed to have been aggravated or exacerbated in the underlying occurrence or for any prior injury or condition affecting the same, related or adjacent body parts claimed to have been injured in the occurrence underlying this action.

The foregoing HIPAA compliant authorizations shall be directed to the appropriate hospital, physician, etc., with complete address of same and indicating any hospital or account number, dates of confinement or treatment and issued and executed in favor of the undersigned not more than thirty (30) days before receipt by the undersigned. The authorizations shall expire upon the completion of the case.

PLEASE TAKE FURTHER NOTICE, that the answering defendants will move to preclude the offer into evidence on behalf of the plaintiffs the testimony of any physician whose report has not been supplied in response hereto and as required by the applicable provisions of the C.P.L.R. and Appellate Division Rules and to preclude the offer into evidence of any demanded medical documentation or materials unless there has been full compliance with this demand.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust
and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

DEMAND FOR COLLATERAL SOURCE INFORMATION

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that you are hereby required to furnish to the undersigned within thirty (30) days hereof pursuant to 3101 and 4545 of the C.P.L.R., all documents, bills, invoices, receipts and/or cancelled checks concerning indemnification, payment and/or reimbursements, in whole or in part, which plaintiff(s) have received from collateral sources, including but not limited to insurance, social security, workers compensation or employee benefit programs for the cost of medical care, custodial care, rehabilitation services, loss of earnings and other economic loss which the plaintiff will claim as special damages in this action.

PLEASE TAKE FURTHER NOTICE, that failure to comply with the above mentioned request will render the plaintiff subject to available provisions provided under the C.P.L.R.

PLEASE TAKE FURTHER NOTICE, that this is a continuing demand and should any of the information requested become available or known in the future, then you are required to furnish same at such time.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust
and Alejandro Leon i/s/h/a DCFS Trust
and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
Tel: (516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR EXPERT WITNESS INFORMATION

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE that it is demanded pursuant to Section 3101(d) of the Civil Practice Law and Rules, that all parties are hereby required to serve upon the undersigned within twenty (20) days of the date of this notice, the following:

1. State whether there is any person you expect to call as an expert witness at the time of the trial of this action.

2. If the answer to the proceeding is in the affirmative, state in detail as to each and every such expert person:

a) Name.

b) Address.

c) Field of expertise.

d) Any sub-specialties of the witness within the field of expertise.

e) Names, dates and publishers of any treatises, books, articles or essays or other writings published or unpublished by the expert relating in any way to the subject matter on which said expert is expected to testify. For each published article and essay, state the title of the book, journal or other work in which it can be found and the name and address of the publisher and date of publication.

3. If the answer to number 1 is in the affirmative, state in reasonable detail:

a) The subject matter on which each and every expert is expected to testify;

b) The substance of the facts and opinions to which each and every expert is expected to testify;

c) The qualifications of each and every expert witness; and

d) A summary of the grounds for each expert's opinion.

PLEASE TAKE FURTHER NOTICE, that upon your failure to respond to this demand within twenty (20) days, a motion will be made pursuant to CPLR 3101(d) for sanctions and/or to compel compliance with same.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust and
Leon Alejandro
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

NOTICE DECLINING SERVICE BY ELECTRONIC MEANS

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

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PLEASE TAKE NOTICE, that this defendant, DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro, hereby declines receipt of service of legal papers of any type whatsoever by facsimile or other electric means.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
(File No.: ENC084408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR PROOF OF FILING & INDEX NUMBER

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, pursuant to the applicable rules of the Civil Practice Law and Rules, Sections 306-a, as amended, and 3120, the defendant hereby demands that the plaintiffs file the Summons, show proof of purchase of an Index Number and proof of service of the Summons and Verified Complaint and produce copies of the following within thirty (30) days from the date thereof:

(1) A copy of the Summons filed with proof of service thereof.

(2) The Index Number assigned to this case.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust and
Leon Alejandro
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

-against-

NOTICE TO TAKE DEPOSITION UPON ORAL EXAMINATION

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, pursuant to Art. 31, CPLR, the deposition upon oral questions of the persons named will be taken as follows:

TO BE EXAMINED	:	Plaintiff and Co-defendants
DATE, TIME & PLACE	:	September 24, 2008 at 10 a.m. Ahmuty, Demers & McManus, Esqs. 200 I.U. Willets Road Albertson, New York 11507

PLEASE TAKE NOTICE that testimony will be taken with respect to all relevant facts & circumstances including negligence, contributory negligence, comparative negligence, liability & damages in connection with the accident which is the subject matter of this lawsuit.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 3111, each plaintiff and any co-defendant is required to produce the following items at the deposition:

1. The accident report prepared by or on behalf of the party or person to be examined, his servants, agents or representatives.

2. All medical bills and any receipts, cancelled checks or estimates relating to special damages.

3. If lost earnings are claimed, Federal and State Income Tax returns covering the year when the incident occurred and for two years prior thereto and one year thereafter.

4. Any contracts, leases or documents which will be relied upon with respect to any claim of any party to this action.

5. Any statement given by or on behalf of the party serving this notice.

6. Any and all exhibits, papers and/or documents relative to this lawsuit and the underlying claim.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and
Alejandro Leon i/s/h/a DCFS Trust and
Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
Tel: (516) 294-5433
(File No.: ENC088408ASK

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York, New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND PURSUANT TO CPLR §3017(c)

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that demand is hereby made that you serve upon the undersigned within fifteen (15) days hereof, a supplemental allegation stating the total damages to which the plaintiffs deem themselves entitled in this action pursuant to CPLR §3017(c).

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon
i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

Index No. 17175/08

DEMAND FOR ATTORNEY IDENTIFICATION

PLEASE TAKE NOTICE, that the undersigned hereby demands that the plaintiff provide the names and addresses of all the parties appearing in this action or the names and addresses of their respective attorneys together with copies of all pleadings heretofore served by those parties upon the plaintiff's attorney, pursuant to Sec. 2103(e) of the C.P.L.R.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon
i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR INSURANCE

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that demand is hereby made upon you, pursuant to CPLR 3101 (f) to produce and permit the undersigned attorney to inspect and copy the contents of (a) each and every primary, contributing and excess insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment, and (b) each and every insurance agreement in which the insurer is obligated to defend this action.

PLEASE TAKE FURTHER NOTICE, that said insurance agreements are to be produced within thirty (30) days hereof at 2:00 p.m. at the office of AHMUTY, DEMERS & McMANUS, ESQS., 200 I. U. Willets Road, Albertson, New York at which time they will be physically inspected, copied or mechanically reproduced and returned.

Dated: Albertson, New York
August 21, 2008

AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant, DCFS Trust and Alejandro Leon
i/s/h/a DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
(File No.: ENC088408ASK)

TO:
Wingate, Russotti & Shapiro, LLP
Attorney for Plaintiff
420 Lexington Avenue, Suite 2750
New York,New York 10170

STATE OF NEW YORK)

:SS.:

COUNTY OF NASSAU)

MICHAELA IANNUCCI, being duly sworn, deposes and says that deponent is not a party to this action, is over 18 years of age and resides in Westbury, New York.

That on the 14th day of August, 2008, deponent served a VERIFIED ANSWER WITH DEMANDS, upon:

Wingate, Russotti & Shapiro, LLP
420 Lexington Avenue, Suite 2750
New York, New York 10170

the attorneys for the respective parties, hereto at the address designated by them for that purpose, by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

MICHAELA IANNUCCI

Sworn to Before me this
18th day of August, 2008.

ANDRIA SIMONE KELLY
Notary Public, State of New York
No. 02KE5035083
Qualified in Nassau County
Commission Expires June 10, 2011

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No. 17175/08

Plaintiff,

DEMAND FOR BILL OF PARTICULARS

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendant.

----------X

PLEASE TAKE NOTICE, that pursuant to C.P.L.R. 3041 to 3044, plaintiff is required to serve upon the undersigned, within 30 days hereof, a Verified Bill of Particulars concerning the following matters:

1. The date, time and location of the occurrence.

2. Detailed description of each injury sustained.

3. Each injury claimed to have resulted in a permanent disability and describe the nature and degree of disability.

4. The periods of

   a) total disability;
   b) partial disability.

5. Length of time confined to:

   a) bed;
   b) home;
   c) hospitals.

6. The name of every hospital, clinic or institution where any treatment or examination was rendered, and dates of admission and discharge.

7. Name and address of each employer; if self employed state nature of self employment and business address.

STATE OF NEW YORK)

: SS.:

COUNTY OF NASSAU)

ANDRIA SIMONE KELLY, being duly sworn, deposes and says:

That she is an associate of the law firm of **AHMUTY, DEMERS & McMANUS, ESQS.**, the attorneys for the defendants, DCFS TRUST AND ALEJANDRO LEON I/S/H/A DCFS TRUST AND LEON ALEJANDRO, in the above entitled action; that she has read and knows the contents of the foregoing, VERIFIED ANSWER WITH DEMANDS, and that same is true to her own knowledge, except as to those matters therein stated to be alleged on information and belief and that as to those matters she believes it to be true.

Deponent further says that the grounds for her belief as to all matters therein stated upon information and belief are statements made to her by the defendants and papers and documents received by deponent from the defendants or her representatives and which are now in her possession.

Deponent further says that the reason why this verification is made by deponent and not by the defendant is that the defendants are not within the County of Nassau, where deponent has her office.

ANDRIA SIMONE KELLY, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

Index # 17175/08

CERTIFICATION PURSUANT TO PART 130

The accompanying papers are served/filed/submitted pursuant to Section 130-1.1-a:

[ ]	Answer	[ ]	Answer with counter-claim
[X]	Verified Answer to Amended Verified Complaint	[ ]	Demand Pursuant to CPLR §3017(c)
[ ]	Answer to third-party complaint	[ ]	Notice for discovery & inspection
[ ]	Demand for experts	[ ]	Demand for a bill of particulars
[ ]	Notice re: medicals	[ ]	Demand for insurance
[ ]	Demand for collateral source	[ ]	Declination of service via facsimile
[ ]	Notice to take deposition upon oral examination	[ ]	Demand for proof of filing and index number
[ ]	Demand to change venue	[ ]	Demand for attorney identification

Dated: Albertson, New York
September 24, 2008

BY: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
ATTORNEYS FOR DEFENDANTS DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. WILLETS ROAD
ALBERTSON, NEW YORK 11507
(516) 294-5433
Our File No.: ENC084408ASK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.

Defendants,

----------X

Index No. 17175/08

VERIFIED ANSWER TO AMENDED VERIFIED COMPLAINT

The defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, by their attorneys, AHMUTY, DEMERS & McMANUS, ESQS., as and for their answer to the plaintiff's complaint, allege upon information and belief:

AS AND FOR AN ANSWER TO A FIRST CAUSE OF ACTION

1: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "1", "2", "3", "4", "5", "6", "19", "20", "21", "22", "23", "24", "25", "26", "27" and "30" of the complaint.

2: Denies each and every allegation contained in paragraphs designated "7" and "33" of the complaint.

3: Denies upon information and belief each and every allegation contained in paragraphs designated "8", "9", "13" and "18" of the complaint.

4: Denies each and every allegation contained in paragraph designated "11" of the complaint except admits that at all times hereinafter mentioned, the defendant, DCFS TRUST, was the title owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

5: Denies upon information and belief each and every allegation contained in paragraph designated "12" of the complaint except admits that the defendant DCFS TRUST was the lessor of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

6: Denies upon information and belief each and every allegation contained in paragraphs designated "15", "16", "31" and "32" of the complaint and refers all questions of law to this Honorable Court.

7: Denies upon information and belief each and every allegation contained in paragraphs designated "17" of the complaint except admits that at all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the implied permission and consent of the defendant, DCFS TRUST.

8: Denies each and every allegation contained in paragraph designated "29" of the complaint as to this answering defendant otherwise denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "29" of the complaint and refers all questions of law to this Honorable Court.

AS AND FOR AN ANSWER TO A SECOND CAUSE OF ACTION

9: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "33" as if more specifically set forth in answer to paragraph designated "34" of the complaint and each and every part thereof.

10: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55", "56", "57", "61", "62", "63", "64", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "78", "79", "80", "81", "82" and "83" of the complaint.

11: Denies upon information and belief each and every allegation contained in paragraphs designated "58", "59", "84" and "85" of the complaint and refers all questions of law to this Honorable Court.

12: Denies each and every allegation contained in paragraphs designated "60" and "86" of the complaint.

AS AND FOR AN ANSWER TO A THIRD CAUSE OF ACTION

13: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "86" as if more specifically set forth in answer to paragraph designated "87" of the complaint and each and every part thereof.

14: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "88", "89", "90", "91", "92", "93", "94", "96", "97", "98", "99", "100", "101" and "102" of the complaint.

15: Denies each and every allegation contained in paragraphs designated "95" and "103" of the complaint.

AS AND FOR AN ANSWER TO A FOURTH CAUSE OF ACTION

16: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "103" as if more specifically set forth in answer to paragraph designated "104" of the complaint and each and every part thereof.

17: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "105", "106", "107" and "108" of the complaint.

18: Denies each and every allegation contained in paragraph designated "109" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

19: That the complaint fails to state a valid cause of action as against the defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

20: That the personal injuries and/or damages alleged to have been sustained by the plaintiff were caused entirely or in part through the culpable conduct of the plaintiff, without any negligence on the part of the answering defendants and the answering defendants seek a dismissal or reduction in any recovery that may be had by the plaintiff in the proportion which the culpable conduct, attributable to the plaintiff, bears to the entire measure of responsibility for the occurrence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

21: That plaintiff has failed to comply with C.P.L.R. 3016(g) in that the plaintiff has not sustained a serious injury, as defined in Section 5102(d) of the Insurance Law, or economic loss greater than basic economic loss, as defined in Section 5102(a) of the Insurance Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

22: That the plaintiff assumed the risk related to the activity causing the injuries sustained.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

23: If it be determined that the plaintiff failed to use available seatbelts, the answering defendants plead this fact in mitigation of damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

24: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

25: If any damages are recoverable against said defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26: The answering defendants assert the rights and benefits provided under the General Obligations Law §15-108.

AS AND FOR A EIGTH AFFIRMATIVE DEFENSE

27: The answering defendants were faced with an emergency situation through no-fault of their own and did not cause or contribute to this accident.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

28. Defendant DCFS Trust is not liable for this accident pursuant to 49 U.S.C.A. Section 30106.

AS AND FOR A CROSS COMPLAINT OVER AND AGAINST THE CO-DEFENDANTS, RICARDO BROWN, LEXUS MOTOR CARS, INC., TOYOTA MOTOR SALES U.S.A., INC. THESE DEFENDANTS, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, ALLEGE UPON INFORMATION AND BELIEF:

29: That if the plaintiff was caused to sustain personal injuries and resulting damages at the time and place set forth in the plaintiff's complaint and in the manner alleged therein, through any carelessness, recklessness, acts, omissions, negligence and/or breaches of duty and/or warranty and/or contract, other than of the plaintiff, then the said injuries and damages arose out of the several and joint carelessness, recklessness, acts, omissions, negligence and breaches of duty and/or obligation and/or Statute and/or Warranty and/or contract in fact or implied in law, upon the part of the co-defendants, with indemnification and save harmless agreement and/or responsibility by them in fact and/or implied in law and without any breaches or any negligence of the answering defendants contributing thereto; and if the answering defendants are found liable as to the plaintiff for the injuries and damages as set forth in the plaintiff's complaint, then, and in that event, the relative responsibilities of all said defendants in fairness must be apportioned by a separate determination in view of the

existing factual disparity, and the said co-defendants herein will be liable over jointly and severally to the answering defendants and bound to fully indemnify and hold the answering defendants harmless for the full amount of any verdict or judgment that the plaintiffs herein may recover against the answering defendants in this action, including all costs of investigation, disbursements, expenses and attorney's fees incurred in the defense of this action and in the conduct of this cross complaint.

WHEREFORE, the defendants, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, demand judgment dismissing the plaintiff's complaint on the merits; and if the plaintiff, EZATT AZIZI, is found to have contributed to the accident or damages, that any damages be reduced in proportion to which the plaintiff may be found to have so contributed to the accident or damages and further demands judgment over and against the co-defendants, RICARDO BROWN, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC., on the cross-claim, for the amount of any judgment obtained against the answering defendants by plaintiff or any other party or on the basis of the apportionment of responsibility in such amounts as a jury or Court may direct together with the costs, disbursements and expenses of this action including attorney's fees.

Dated: Albertson, New York
September 28, 2008

By: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
File No.: ENC084408ASK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index # 17175/08

Plaintiff,

CERTIFICATION
PURSUANT TO PART 130

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

The accompanying papers are served/filed/submitted pursuant to Section 130-1.1-a:

☐	Answer	☐	Answer with counter-claim
☒	Verified Answer to Amended Verified Complaint	☐	Demand Pursuant to CPLR §3017(c)
☐	Answer to third-party complaint	☐	Notice for discovery & inspection
☐	Demand for experts	☐	Demand for a bill of particulars
☐	Notice re: medicals	☐	Demand for insurance
☐	Demand for collateral source	☐	Declination of service via facsimile
☐	Notice to take deposition upon oral examination	☐	Demand for proof of filing and index number
☐	Demand to change venue	☐	Demand for attorney identification

Dated: Albertson, New York
September 24, 2008

BY: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
ATTORNEYS FOR DEFENDANTS DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST AND LEON ALEJANDRO
200 I.U. WILLETS ROAD
ALBERTSON, NEW YORK 11507
(516) 294-5433
Our File No.: ENC084408ASK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANRO and LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.

Defendants,

----------X

Index No. 17175/08

VERIFIED ANSWER TO AMENDED VERIFIED COMPLAINT

The defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, by their attorneys, AHMUTY, DEMERS & McMANUS, ESQS., as and for their answer to the plaintiff's complaint, allege upon information and belief:

AS AND FOR AN ANSWER TO A FIRST CAUSE OF ACTION

1: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "1", "2", "3", "4", "5", "6", "19", "20", "21", "22", "23", "24", "25", "26", "27" and "30" of the complaint.

2: Denies each and every allegation contained in paragraphs designated "7" and "33" of the complaint.

3: Denies upon information and belief each and every allegation contained in paragraphs designated "8", "9", "13" and "18" of the complaint.

4: Denies each and every allegation contained in paragraph designated "11" of the complaint except admits that at all times hereinafter mentioned, the defendant, DCFS TRUST, was the title owner of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

5: Denies upon information and belief each and every allegation contained in paragraph designated "12" of the complaint except admits that the defendant DCFS TRUST was the lessor of a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008.

6: Denies upon information and belief each and every allegation contained in paragraphs designated "15", "16", "31" and "32" of the complaint and refers all questions of law to this Honorable Court.

7: Denies upon information and belief each and every allegation contained in paragraphs designated "17" of the complaint except admits that at all times hereinafter mentioned, the defendant, LEON ALEJANDRO, operated a certain motor vehicle bearing New Jersey State license plate number VXK26R for the year 2008, with the implied permission and consent of the defendant, DCFS TRUST.

8: Denies each and every allegation contained in paragraph designated "29" of the complaint as to this answering defendant otherwise denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "29" of the complaint and refers all questions of law to this Honorable Court.

AS AND FOR AN ANSWER TO A SECOND CAUSE OF ACTION

9: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "33" as if more specifically set forth in answer to paragraph designated "34" of the complaint and each and every part thereof.

10: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55", "56", "57", "61", "62", "63", "64", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "78", "79", "80", "81", "82" and "83" of the complaint.

11: Denies upon information and belief each and every allegation contained in paragraphs designated "58", "59", "84" and "85" of the complaint and refers all questions of law to this Honorable Court.

12: Denies each and every allegation contained in paragraphs designated "60" and "86" of the complaint.

AS AND FOR AN ANSWER TO A THIRD CAUSE OF ACTION

13: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "86" as if more specifically set forth in answer to paragraph designated "87" of the complaint and each and every part thereof.

14: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "88", "89", "90", "91", "92", "93", "94", "96", "97", "98", "99", "100", "101" and "102" of the complaint.

15: Denies each and every allegation contained in paragraphs designated "95" and "103" of the complaint.

AS AND FOR AN ANSWER TO A FOURTH CAUSE OF ACTION

16: Defendants, DCFS TRUST and ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, repeat, reiterate and reallege each and every denial in answer to the paragraphs designated "1" through "103" as if more specifically set forth in answer to paragraph designated "104" of the complaint and each and every part thereof.

17: Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs designated "105", "106", "107" and "108" of the complaint.

18: Denies each and every allegation contained in paragraph designated "109" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

19: That the complaint fails to state a valid cause of action as against the defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

20: That the personal injuries and/or damages alleged to have been sustained by the plaintiff were caused entirely or in part through the culpable conduct of the plaintiff, without any negligence on the part of the answering defendants and the answering defendants seek a dismissal or reduction in any recovery that may be had by the plaintiff in the proportion which the culpable conduct, attributable to the plaintiff, bears to the entire measure of responsibility for the occurrence.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

21: That plaintiff has failed to comply with C.P.L.R. 3016(g) in that the plaintiff has not sustained a serious injury, as defined in Section 5102(d) of the Insurance Law, or economic loss greater than basic economic loss, as defined in Section 5102(a) of the Insurance Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

22: That the plaintiff assumed the risk related to the activity causing the injuries sustained.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

23: If it be determined that the plaintiff failed to use available seatbelts, the answering defendants plead this fact in mitigation of damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

24: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

25: If any damages are recoverable against said defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26: The answering defendants assert the rights and benefits provided under the General Obligations Law §15-108.

AS AND FOR A EIGTH AFFIRMATIVE DEFENSE

27: The answering defendants were faced with an emergency situation through no-fault of their own and did not cause or contribute to this accident.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

28. Defendant DCFS Trust is not liable for this accident pursuant to 49 U.S.C.A. Section 30106.

AS AND FOR A CROSS COMPLAINT OVER AND AGAINST THE CO-DEFENDANTS, RICARDO BROWN, LEXUS MOTOR CARS, INC., TOYOTA MOTOR SALES U.S.A., INC. THESE DEFENDANTS, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, ALLEGE UPON INFORMATION AND BELIEF:

29: That if the plaintiff was caused to sustain personal injuries and resulting damages at the time and place set forth in the plaintiff's complaint and in the manner alleged therein, through any carelessness, recklessness, acts, omissions, negligence and/or breaches of duty and/or warranty and/or contract, other than of the plaintiff, then the said injuries and damages arose out of the several and joint carelessness, recklessness, acts, omissions, negligence and breaches of duty and/or obligation and/or Statute and/or Warranty and/or contract in fact or implied in law, upon the part of the co-defendants, with indemnification and save harmless agreement and/or responsibility by them in fact and/or implied in law and without any breaches or any negligence of the answering defendants contributing thereto; and if the answering defendants are found liable as to the plaintiff for the injuries and damages as set forth in the plaintiff's complaint, then, and in that event, the relative responsibilities of all said defendants in fairness must be apportioned by a separate determination in view of the

existing factual disparity, and the said co-defendants herein will be liable over jointly and severally to the answering defendants and bound to fully indemnify and hold the answering defendants harmless for the full amount of any verdict or judgment that the plaintiffs herein may recover against the answering defendants in this action, including all costs of investigation, disbursements, expenses and attorney's fees incurred in the defense of this action and in the conduct of this cross complaint.

WHEREFORE, the defendants, DCFS TRUST AND ALEJANDRO LEON i/s/h/a DCFS TRUST and LEON ALEJANDRO, demand judgment dismissing the plaintiff's complaint on the merits; and if the plaintiff, EZATT AZIZI, is found to have contributed to the accident or damages, that any damages be reduced in proportion to which the plaintiff may be found to have so contributed to the accident or damages and further demands judgment over and against the co-defendants, RICARDO BROWN, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC., on the cross-claim, for the amount of any judgment obtained against the answering defendants by plaintiff or any other party or on the basis of the apportionment of responsibility in such amounts as a jury or Court may direct together with the costs, disbursements and expenses of this action including attorney's fees.

Dated: Albertson, New York
September 28, 2008

By: _____

ANDRIA SIMONE KELLY, ESQ.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendant DCFS Trust and Alejandro Leon i/s/h/a as DCFS Trust and Leon Alejandro
200 I.U. Willets Road
Albertson, New York 11507
(516) 294-5433
File No.: ENC084408ASK

Index 17115/08 Year RJI No. Hon.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO and LEXUS MOTOR CARS, INC.,

Defendants, and

third party action

NOTICE OF MOTION TO CONSOLIDATE
AFFIRMATION

CONNORS & CONNORS, P.C.
Attorneys for - Defendants, RICARDO BROWN
Office and Post Office Address, Telephone
766 Castleton Avenue
Staten Island, New York 10310
(718) 442-1700 PHONE
(718) 442-1717 FAX

To

Signature (Rule 130-1.1-a)

DAVID S. HELLER

Attorney(s) for

Service of a copy of the within is hereby admitted,

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges
of the within named court, at
on at M

Dated,

Yours, etc.
CONNORS & CONNORS, P.C.
Attorneys for

To

Office and Post Office Address
766 CASTLETON AVENUE
Attorney(s) for STATEN ISLAND, NEW YORK 10310

RECEIVED
JUL 0 6 2009
LEGAL DEPT.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

Index No. 17175/08

Toyota Motor Sales, U.S.A., Inc.'s Response To Plaintiff's Combined Demands

Defendant Toyota Motor Sales, U.S.A., Inc. ("TMS"), by its attorneys, Eckert Seamans Cherin & Mellott, LLC, makes the following response to plaintiff's combined demands:

PREFATORY STATEMENT AND OBJECTIONS

Defendant TMS hereby makes the following response to plaintiff's combined demands. These responses are made specifically subject to the General Objections and any specific objection contained within an individual response.

So far as TMS is aware, according to the information available to TMS at the present time, these responses are complete and correct. TMS reserves the right to object to future discovery on the same or related matters and does not waive any objection by providing the information reflected in these responses. TMS further reserves the right to object to the admissibility of any of these responses or the documents produced or related matters, in whole or in part, at trial in this action, on any grounds, including, but not limited to, materiality, relevance, and privilege.

PREFATORY STATEMENT

TMS is the authorized importer and a distributor, in certain geographic areas, of Toyota motor vehicles in the continental United States. TMS does not manufacture, design or assemble Toyota motor vehicles in the ordinary course of its business and, therefore, was not the designer, manufacturer or assembler of the subject Lexus ES350. TMS does not service Toyota motor vehicles in the ordinary course of its business for the general public. Accordingly, TMS does not have sufficient information or documentation to completely and accurately respond to many of these discovery requests.

GENERAL OBJECTIONS

To the extent applicable, the following are incorporated in the response to each individual request:

(a) TMS objects generally to these discovery requests to the extent they seek information which is not within TMS' possession, custody or control. These responses are made on behalf of TMS only. TMS objects to this discovery to the extent it seeks information from any other entity.

(b) TMS objects generally to these discovery requests to the extent they seek information directed towards vehicles, topics and issues beyond the components of the subject 2007 Lexus ES350 about which plaintiff makes allegations in the Complaint on the grounds that such discovery requests are overly broad, unduly burdensome, and seek information which is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

(c) TMS objects generally to these discovery requests to the extent they seek information which is unrelated to the defect allegations raised by plaintiff in this action on the

grounds that such discovery requests are overly broad, unduly burdensome, and seek information that is not reasonably calculated to lead to the discovery of admissible evidence.

(d) TMS objects generally to these discovery requests to the extent they may seek information protected by the attorney-client privilege or the work product doctrine.

(e) TMS objects generally to these discovery requests to the extent they may seek competitively sensitive or trade secret materials.

(f) TMS objects generally to these discovery requests to the extent that plaintiff has refused to produce documentation requested by TMS.

(g) TMS objects generally that its investigation and discovery are ongoing and not complete. Therefore, these responses are limited to the information presently available and TMS reserves its right to conduct further investigation and discovery. TMS specifically reserves the right to present subsequently discovered facts or evidence at trial.

DISCOVERY RESPONSES

a) ALL CONTRACTS OF INSURANCE coverage in effect at the time of the accident and/or incident which took place on the date aforementioned that would afford primary insurance coverage or excess insurance coverage for the owner and/or the lessee of the vehicle and/or premises and/or land which is the subject of this action.

RESPONSE: TMS is self-insured for the first $12 million per occurrence, and has insurance coverage for sums in excess of said amount sufficiently to satisfy any reasonable adverse judgment that might be rendered against it in this case, as follows:

Toyota Motor Insurance Corporation of Vermont
Marsh Inc.
7 Burlingame Square, 6th Floor
P.O. Box 530
Burlington, VT 05402-0530
Policy No. XLU-100207

The custodian of the insurance policy is the Enterprise Risk Management Department of Toyota Motor Sales, U.S.A., Inc., 19001 S. Western Avenue, Torrance, California 90501.

b) ALL LIABILITY POLICIES of insurance held by the family and/or employer and/or leasing company, which would afford primary coverage for the owner and/or driver and/or lessee of the defendant(s)'s vehicle, premises, property or land. ALSO include name of any LEASING COMPANY and/or FINANCING COMPANY that also holds title or receives loan payments to any vehicle involved in the accident or other household vehicle.

RESPONSE: TMS incorporates its response to Request No. a, above.

c) Any other EXCESS OR UMBRELLA INSURANCE contract which would afford primary or excess coverage.

RESPONSE: TMS incorporates its response to Request No. a, above.

d) PLAINTIFFS STATEMENTS - Any and all statements, abstracts of recordings and/or writings taken by the defendant(s) individually or by the defendant(s)'s attorneys and/or agents, from the plaintiff(s) with reference to the within litigation which are presently within the possession of the defendant(s), agents or attorneys, C.P.L.R. 3101(c).

RESPONSE: TMS is not in possession of statements taken from plaintiff Ezatt Azizi concerning the accident.

e) WRITTEN ACCIDENT REPORTS - A copy of the written report of the subject accident prepared in the course of business or operations or practices of the defendant(s) and/or their servants, agents and/or employees. (C.P.L.R. Section 3101(g), Laws of 1980, chapter 283).

RESPONSE: TMS objects to this discovery request as it is vague, ambiguous, overly broad, burdensome, potentially seeks material protected from disclosure by the attorney-client and/or work product privilege, and seeks information not relevant to this lawsuit. Without waiving those objections, TMS states it is not in possession of any accident report relating to the subject accident other than the Police Accident Report produced herewith as Exhibit "A."

f) NAMES OF WITNESSES - The names and addresses of any witnesses to the within accident or any conditions that may have caused said accident obtained by the defendant(s), agents, servants and/or employees. Zellman v. Metropolitan Transportation, 40 A.D. 2d. 298. Additionally, plaintiff demands the names of any witness, individual, or other person who any party expects to call at the time of trial. Further, plaintiff demands that any witness employed by the defendants and/or within their control that they expect to call as a witness at the time of trial *must* be disclosed and produced for a deposition, or plaintiff will object to said witness at the time of trial.

RESPONSE: TMS objects to this request because its scope exceeds Article 31 of the C.P.L.R. Without waiving that objection, TMS is not aware of any witnesses to the accident other than the individuals identified in the Police Accident Report. TMS also states it will produce for deposition a witness knowledgeable about the factual nature of plaintiff's defect claims upon receipt of a notice from plaintiff specifying the factual subject matters of the deposition.

g) PHOTOS OF SCENE - All photographs under the control of the defendant(s) and/or their attorneys and/or representatives depicting the scene/location of the accident and immediate area where the accident occurred. Additionally, plaintiff demands copies of any photographs, instruments, diagrams, models and/or any similar piece of evidence that any party expects to use at the time of trial.

RESPONSE: TMS objects to this request because its scope exceeds Article 31 of the C.P.L.R. Without waiving that objection, TMS states it is not in possession of photographs of the accident scene.

h) ALL PHOTOGRAPHS, VIDEO TAPES AND/OR OTHER VISUAL REPRODUCTIONS of the Plaintiff(s) taken by the Defendant(s). See: Matte v. W.O. Hickock Mfg. Co., (App. Div. First Dept., N.Y.L.J., March 19, 1990, P.1, Col. 3).

RESPONSE: TMS is not in possession of photographs of plaintiff Ezatt Azizi.

i) OTHER LAWSUITS - Any and all lawsuits arising from the within accident, if any, including the names of all parties, the names and addresses of the attorneys representing all parties, who have appeared in those actions, the court where the actions are pending, and the index numbers assigned to those actions.

RESPONSE: TMS is not aware of any lawsuits arising out of the subject accident other than those suits commenced by Jean David Champagne, Kumi Ota, Ezatt Azizi and Fro Service Corp.

j) CRIMINAL RECORDS — Any criminal records pertaining to a *criminal conviction,* to include but not limited to any certificates of conviction for any defendant and/or principals, officers, executives or other employees of said corporation

RESPONSE: TMS objects to this request because its scope exceeds Article 31 of C.P.L.R. TMS also objects to this request because it is overly broad, burdensome and seeks information not relevant to this lawsuit.

k) DEMAND FOR DOCUMENTS - Any and all documents, reports, memos or other writings that defendant(s) will seek to offer into evidence at the time of trial of this action.

RESPONSE: TMS objects to this request because its scope exceeds Article 31 of C.P.L.R. Without waiving that objection, TMS will respond to document requests served in this case.

PLEASE TAKE FURTHER NOTICE, that in the event the subject accident was one involving motor vehicles, produce the following items:

l) COPIES OF MEDICAL REPORTS - Copies of any medical statements, medical bills and/or no-fault applications obtained from the plaintiff(s) or from any other source other than counsel for the plaintiff(s) relating to the accident, physical condition of this plaintiff.

RESPONSE: TMS objects to this request because it is vague and ambiguous. Without waiving that objection, TMS is not in possession of medical records of plaintiff Ezatt Azizi other than those produced by plaintiff's counsel.

m) PHOTOS OF DEFENDANT(S) VEHICLE - Photographs taken of the vehicle of the defendant(s) showing the extent of damage, if any, to defendant(s)'s vehicle following the accident herein. Moore v. Kaminsky, NYLJ 12/2/75; Wolen v. E,W, Howell Co., 41 A.D. 2d. 45.

RESPONSE: TMS is not in possession of photographs of the vehicles involved in the subject accident.

n) PHOTOS OF PLAINTIFF(S) VEHICLE - Photographs taken of the he vehicle of the plaintiff(s) showing the extent of damage, if any, to plaintiff(s)'s vehicle following the accident herein.

RESPONSE: TMS is not in possession of photographs of the vehicles involved in the subject accident.

o) AFFIDAVITS OF NO-EXCESS INSURANCE POLICY In the event that there is no excess coverage we demand an affidavit from the defendant confirming that there is no excess insurance. Said affidavit must also include a statement that the vehicle is not leased, financed, and that no other family or household member owns a vehicle under another insurance policy.

RESPONSE: TMS incorporates its response to Request No. A, above.

p) NAMES OF OTHER INSURANCE POLICES Plaintiff demands the names of any other insurance companies that provide insurance coverage for any other vehicles owned by any party or any household member of any party, as well as any homeowner insurance policies of any party or a household member of any party that may provide excess insurance coverage.

RESPONSE: TMS incorporates its response to Request No. A, above.

q) CELLULAR TELEPHONE BILLS - Plaintiff demands a copy of the cellular telephone bill for the defendant and/or any other household member for the date of the accident.

RESPONSE: TMS objects to this request because it is overly broad, burdensome and seeks information not relevant to this lawsuit. Without waiving those objections, TMS did not operate any of the vehicles involved in the subject accident.

r) REPAIR BILLS - Plaintiff demands copies of any repair bills for work performed on the defendants vehicle within six (6) months prior to the date of the accident.

RESPONSE: TMS objects to this request because it is overly broad as it seeks information not relevant to this lawsuit. Without waiving that objection, TMS produces herewith as Exhibit "B" the following documents it has in its possession concerning the sale, distribution, repair and maintenance of the 2007 Lexus ES350, bearing Vehicle Identification Number JTHBJ46GX72075738:

1. Main Vehicle Inquiry printout
2. Retail Sale Inquiry printout
3. Warranty Claim History printout
4. Memorandum Invoice
5. Batch Tape Vehicle Inquiry printout
6. Customer Contact Printout.

PLEASE TAKE FURTHER NOTICE, that in the event it is the intention of any party to offer expert testimony upon the trial of this action, that such party produce at the offices of the undersigned as soon as such information becomes available and no later than thirty (30) days prior to trial and pursuant to C.P.L.R. 3101(d):

s) The names of all such experts.

t) The qualifications of each expert in the field in which he or she will be offered as an expert witness.

u) The subject matter on which each expert will testify.

v) The substance of the facts and opinions on which each expert will testify.

w) The grounds forming the basis for each expert's opinion.

x) The dates of all reports provided by the expert to the attorney.

y) The office records and/or notes taken by any expert during the course of his examination of the plaintiff or any other party.

RESPONSE: TMS objects to this request because it exceeds the scope of C.P.L.R. § 3101(d). Without waiving that objection, TMS will serve expert disclosure in compliance with the Court's scheduling order.

PLEASE TAKE FURTHER NOTICE, that demand is hereby made for defendant(s) to produce all documents that their witness(es) testified were in existence at their deposition and/or any and all documents requested by any attorney during the course of any deposition of a witness produced by the defendant(s) pursuant to Order, Notice, or Subpoena.

RESPONSE: TMS objects to this request because its scope exceeds Article 31 of C.P.L.R. Without waiving that objection, TMS will respond to document requests served in this case.

PLEASE TAKE FURTHER NOTICE, that demand is hereby made pursuant to CPLR 306-a, that defendant/third party plaintiff purchase and provide to the plaintiff the index numbers assigned to all current and subsequent third-party actions, please be advised that this is a continuing demand.

RESPONSE: This demand is not applicable as TMS did not commence a third-party action in this case.

Dated: White Plains, New York
June 24, 2009

Yours, etc.

By: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A., INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909

Exhibit A

Page 1 of 2 Pages

025 166 606 010/015

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT (NYC)

MV-104AN (5/04)

Precinct 014 | Accident No 909 | Complaint Number

☐ AMENDED REPORT

Accident Date (Month / Day / Year)	Day of Week	Military Time	No of Vehicles	No Injured	No Killed	Not Investigated at Scene ☒ / Reconstructed ☐	Left Scene ☐	Police Photos ☐ Yes ☒ No
4 / 13 / 2008	Sun	1725	3	5				

VEHICLE 1

VEHICLE 1 - Driver License ID Number: 330242453 | State of Lic: NY

Driver Name - exactly as printed on license: Brown, Ricardo

Address (Include Number & Street): 46 Granite St | Apt No:

City or Town: Brooklyn | State: NY | Zip Code: 11207

Date of Birth (Month / Day / Year): 2 / 15 / 71 | Sex: M | Unlicensed: ☐ | No of Occupants: 2 | Public Property Damaged: ☐

Name—exactly as printed on registration: Brown, Ricardo | Sex | Date of Birth (Month / Day / Year)

Address (Include Number & Street): 46 Granite St | Apt No | Haz Mat Code | Released: ☐

City or Town: Brooklyn | State: NY | Zip Code: 11207

Plate Number: DWV6808 | State of Reg: NY | Vehicle Year & Make: 2007 Lexus | Vehicle Type: 4dr Sdn | Ins Code: 639

Ticket/Arrest Number(s):

Violation Section(s):

Check if involved vehicle is: ☐ more than 95 inches wide, ☐ more than 34 feet long, ☐ operated with an overweight permit, ☐ operated with an overdimension permit

VEHICLE 1 DAMAGE CODES

Box 1 - Point of Impact: 2 | Box 2 - Most Damage: 3

Enter up to three more Damage Codes: 3: 1 | 4: 12 | 5: 4

Vehicle Towed By: Metro Auto Body, 96-14 Nothern Blvd, To: Corona, New York

VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 2 - Driver License ID Number | State of Lic

Driver Name - exactly as printed on license: Aziza, Ezatt

Address (Include Number & Street): 146-33 35 Ave | Apt No

City or Town: Flushing | State: NY | Zip Code: 11354

Date of Birth (Month / Day / Year): 10 / 7 / 82 | Sex: M | Unlicensed: ☐ | No of Occupants: 3 | Public Property Damaged: ☐

Name—exactly as printed on registration: FRO Service Corp | Sex | Date of Birth (Month / Day / Year)

Address (Include Number & Street): 134-02 33rd Ave | Apt No | Haz. Mat. Code | Released: ☐

City or Town: Flushing | State: NY | Zip Code: 11354

Plate Number: 48LeOB | State of Reg: NY | Vehicle Year & Make: 2007 Ford | Vehicle Type: 4d Sd | Ins. Code: 1665

Ticket/Arrest Number(s):

Violation Section(s):

Check if involved vehicle is: ☐ more than 95 inches wide, ☐ more than 34 feet long, ☐ operated with an overweight permit, ☐ operated with an overdimension permit

VEHICLE 2 DAMAGE CODES

Box 1 - Point of Impact: 1 | Box 2 - Most Damage: 2

Enter up to three more Damage Codes: 3: 3 | 4: 4 | 5: 5

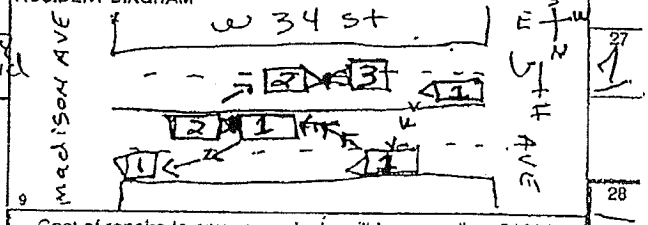
Vehicle Towed By: Metro Auto Body, 96-14 Nothern Blvd, To: Corona, NY

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

Rear End (1) | Left Turn (3) | Right Angle | Right Turn (5) | Head On (7)

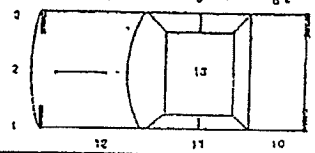
Sideswipe (same direction) (2) | Left Turn (0) | Right Turn (6) | Sideswipe (opposite direction) (8)

ACCIDENT DIAGRAM



VEHICLE DAMAGE CODING

1-13 SEE DIAGRAM ON RIGHT
14 UNDERCARRIAGE
15 TRAILER
16 OVERTURNED
17 DEMOLISHED
18 NO DAMAGE
19 OTHER



Cost of repairs to any one vehicle will be more than $1000. ☐ Unknown/Unable to Determine ☒ Yes ☐ No

Reference Marker | Coordinates (if available): Latitude/Northing | Longitude/Easting

Place Where Accident Occurred: ☐ BRONX ☐ KINGS ☒ NEW YORK ☐ QUEENS ☐ RICHMOND

Road on which accident occurred: West 34 Street (Route Number or Street Name)

at 1) intersecting street: Madison / 5 Ave (Route Number or Street Name)

or 2) 50 Feet ____ Miles ☐N ☐S ☐E ☐W of Madison (Milepost, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's Notes: AT T.P.O. Driver veh # 1 states while Driving E/Bonw. 34 st His Brakes Failed Causing Him to LOSE Control of Vehicle And Colliding with oncoming Traffic HE Also States HE made Every Attempt to AVOID Hitting other Vehicles. / DRIVE veh # 2 states that veh # 1 was moving At A High RATE of SPEED, Came into His lANE And Caused Head on collission →

USE COVER SHEET

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO	18	Names of all involved	Date of Death Only
A	1	1	—	1	37	m	3/5	12	5	9 MS	7202		Brown, Ricardo	
B	2	1	—	1	35	m	11/7	12	4		7234		Aziza, Ezatt	
C	1	3	—	1	16	F	2/1	12	3		7202		Brown, Shakiyla	
D	2	4	—	2	21	F	2/9	12	5		7234		Kumei, Ota	
E	2	4	—	1	21	m	9/11	12	3		7202		Champagne, Jean	
F														

Officer's Rank and Signature	Print Name in Full	Tax ID No	NCIC No	Precinct	Post/Sector	Reviewing Officer	Date/Time Reviewed
	Williams Derrick	929301	03030	014	4		

PERSONS KILLED OR INJURED IN ACCIDENT (Letter designation of persons killed or injured must correspond with letter designation on front).

A Last Name: Brown, First: Shakiyla M.I. Address: 525 Bradford St Bklyn NY Date of Birth: Month 10 Day 22 Year 91 Telephone (Area Code): ( )	D Last Name: Aziza First: Ezatt M.I. Address: 146-33 35 Ave Flushing NY Date of Birth: Month 10 Day 7 Year 72 Telephone (Area Code): ( )
B Last Name: Brown, First: Ricardo M.I. Address: 46 Granite St Bklyn, NY Date of Birth: Month 2 Day 15 Year 71 Telephone (Area Code): ( )	E Last Name: Champagne First: Jean M.I. Address: 100 Mary Mount Ave, Tarry Town NY Date of Birth: Month Day Year Telephone (Area Code): ( )
C Last Name: Ota First: Kumei M.I. Address: 100 Mary Mount Ave Tarry Town NY 10591 ~~10591~~ Date of Birth: Month 11 Day 2 Year 86 Telephone (Area Code): ( )	Highway Dist at Scene? ☐ Yes ☐ No Name Shield No

ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.

Vehicle No. 1 _____ Vehicle No.2 _____

Expiration Date Geico Insurance Expiration Date _____

VIN JTHBJ46GX72075738 VIN 2FAFP70WX7X158561

WITNESS (Attach separate sheet, if necessary)

Name: Wall, Conor Address: 208 E 95 St 10128 Phone: (917) 416-6566

Bandazzid, Giovanna 125 Carlyle Green St NY (347) 861-1543

DUPLICATE COPY REQUIRED FOR:

- ☐ Dept. of Motor Vehicles (if anyone is killed/injured)
- ☐ Motor Transport Division (P.D. vehicle involved)
- ☐ NYC Taxi & Limousine Comm. (if a Licensed taxi or limousine involved)
- ☐ Other City Agency (Specify)
- ☐ Office of Comptroller (if a City vehicle involved)
- ☐ Personnel Safety Unit (if a P.D. vehicle involved)
- ☐ Highway Unit _____

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified. If aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)

PROPERTY DAMAGED (other than vehicles)	OWNER OF PROPERTY (include city agency, where applicable)

IF NYPD VEHICLE IS INVOLVED:

Police Vehicle Operator's First Name	Last Name	Rank	Shield No	Tax ID No	Command

Make of Vehicle	Year	Type of Vehicle	Plate No.	Dept Vehicle No	Assigned To What Command

Equipment in Use At Time of Accident

☐ Siren ☐ Horn ☐ Turret Light ☐ 4-Way Flasher ☐ High-Level Warning Lights ☐ Traffic Cones ☐ Headlights

ACTIONS OF POLICE VEHICLE

- ☐ Responding to Code Signal _____
- ☐ Pursuing Violator
- ☐ Other (Describe) _____
- ☐ Complying with Station House Directive
- ☐ Routine Patrol

MV-104AN (5/04)

Page 2 of 2 Pages

New York State Department of Motor Vehicles

POLICE ACCIDENT REPORT (NYC)

MV-104AN (5/04)

Precinct: 014 | Accident No: 909 | Complaint Number: | ☐ AMENDED REPORT

Accident Date (Month / Day / Year)	Day of Week	Military Time	No of Vehicles	No Injured	No Killed	Not Investigated at Scene ☒ / Reconstructed ☐	Left Scene ☐	Police Photos ☐ Yes ☒ No
4 / 13 / 08	Sun	1725	3	5				

VEHICLE 1

VEHICLE 1 - Driver License ID Number	L26501300007742
State of Lic	
Driver Name - exactly as printed on license	ALEJANDRO LEON
Address (Include Number & Street)	17 BATES drive
Apt No	
City or Town	Fairfield
State	NJ
Zip Code	07004
Date of Birth (Month / Day / Year)	9 / 27 / 84
Sex	M
Unlicensed	☐
No of Occupants	1
Public Property Damaged	☐
Name—exactly as printed on registration	DCF3 Trust
Sex	
Date of Birth (Month / Day / Year)	
Address (Include Number & Street)	P.O. BOX 685
Apt No	
Haz Mat Code	
Released	☐
City or Town	ROANOKE
State	TX
Zip Code	
Plate Number	VXK269
State of Reg	NJ
Vehicle Year & Make	07 Mebz
Vehicle Type	4Dr Sdn
Ins Code	315
Ticket/Arrest Number(s)	
Violation Section(s)	

Check if involved vehicle is:
☐ more than 95 inches wide,
☐ more than 34 feet long,
☐ operated with an overweight permit,
☐ operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES

Box 1 - Point of Impact / Box 2 - Most Damage		1	2	12
Enter up to three more Damage Codes	3	4	5	
	2			

Vehicle Towed By: Metro Auto Body, 96-14 Northern Blvd, Corona, NY

VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN

VEHICLE 2 - Driver License ID Number	
State of Lic	
Driver Name - exactly as printed on license	
Address (Include Number & Street)	
Apt No	
City or Town	
State	
Zip Code	
Date of Birth (Month / Day / Year)	
Sex	
Unlicensed	☐
No of Occupants	
Public Property Damaged	☐
Name—exactly as printed on registration	
Sex	
Date of Birth (Month / Day / Year)	
Address (Include Number & Street)	
Apt. No.	
Haz Mat. Code	
Released	☐
City or Town	
State	
Zip Code	
Plate Number	
State of Reg.	
Vehicle Year & Make	
Vehicle Type	
Ins Code	
Ticket/Arrest Number(s)	
Violation Section(s)	

Check if involved vehicle is:
☐ more than 95 inches wide,
☐ more than 34 feet long,
☐ operated with an overweight permit,
☐ operated with an overdimension permit.

VEHICLE 2 DAMAGE CODES

Box 1 - Point of Impact / Box 2 - Most Damage		1	2	
Enter up to three more Damage Codes	3	4	5	

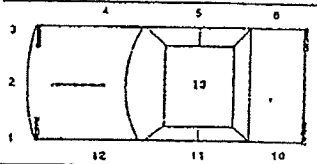
Vehicle Towed By: To:

Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.

Rear End 1	Left Turn 3	Right Angle 4	Right Turn 5	Head On 7
Sideswipe (same direction) 2	Left Turn 0		Right Turn 6	Sideswipe (opposite direction) 8

VEHICLE DAMAGE CODING

1-13 SEE DIAGRAM ON RIGHT
14 UNDERCARRIAGE
15 TRAILER
16 OVERTURNED
17 DEMOLISHED
18 NO DAMAGE
19. OTHER



ACCIDENT DIAGRAM

See PAGE ONE

Cost of repairs to any one vehicle will be more than $1000
☐ Unknown/Unable to Determine ☒ Yes ☐ No

Reference Marker	Coordinates (if available)
	Latitude/Northing:
	Longitude/Easting:

Place Where Accident Occurred: ☐ BRONX ☐ KINGS ☒ NEW YORK ☐ QUEENS ☐ RICHMOND

Road on which accident occurred: West 34 Street (Route Number or Street Name)

at 1) intersecting street: Madison / 5 Ave (Route Number or Street Name)

or 2) 50 Feet ___ Miles ☐N ☐S ☐E ☒W of Madison (Milepost, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's Notes: AT T/P/O driver of Vehicle #3 States while driving E/B on W 34 st Veh #2 collided Head on with his vehicle, Veh #2 was travelling W/B on W 34st. Driver of Veh #3 Does not remember How the Accident Happened./ Witnesses state they observed Veh #1 MOVING At A High rate of Speed. LOSE Control AND CAUSED Collission.

USE COVER SHEET: 0

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	—	1	33	M	—	—	—	—	—	LEON, ALEJANDRO	
B													
C													
D													
E													
F													

Officer's Rank and Signature	Print Name in Full	Tax ID No	NCIC No	Precinct	Post/Sector	Reviewing Officer	Date/Time Reviewed
	Williams Derrick	929361	03030	014	A		

TOY-RQ-05E-00003779

PERSONS KILLED OR INJURED IN ACCIDENT (Letter designation of persons killed or injured must correspond with letter designation on front).

A Last Name / First / MI	D Last Name / First / MI
Address	Address
Date of Birth (Month / Day / Year) / Telephone (Area Code) ( )	Date of Birth (Month / Day / Year) / Telephone (Area Code) ( )
B Last Name / First / MI	E Last Name / First / MI
Address	Address
Date of Birth (Month / Day / Year) / Telephone (Area Code) ( )	Date of Birth (Month / Day / Year) / Telephone (Area Code) ( )
C Last Name / First / MI	Highway Dist at Scene? ☐ Yes ☐ No Name.
Address	
Date of Birth (Month / Day / Year) / Telephone (Area Code) ( )	Shield No.

ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.

Vehicle No. 236988239 — Vehicle No.2 _____

Expiration Date 7-27-08 — Expiration Date _____

VIN WDBUF87XX7B169602 — VIN _____

WITNESS (Attach separate sheet, if necessary)

Name	Address	Phone
Wick, William	2049 Pearson St Bklyn NY 11234	(631) 278-3
AWAN, FAYYAZ	347 5 Ave NYC, NY	(212) 679-926

DUPLICATE COPY REQUIRED FOR:

- ☐ Dept. of Motor Vehicles (if anyone is killed/injured)
- ☐ Motor Transport Division (P.D. vehicle involved)
- ☐ NYC Taxi & Limousine Comm. (if a Licensed taxi or limousine involved)
- ☐ Other City Agency (Specify) _____
- ☐ Office of Comptroller (if a City vehicle involved)
- ☐ Personnel Safety Unit (if a P.D. vehicle involved)
- ☐ Highway Unit _____

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified. If aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)

PROPERTY DAMAGED (other than vehicles)	OWNER OF PROPERTY (include city agency, where applicable)

IF NYPD VEHICLE IS INVOLVED:

Police Vehicle–Operator's First Name / Last Name	Rank	Shield No	Tax ID No	Command

Make of Vehicle	Year	Type of Vehicle	Plate No	Dept. Vehicle No.	Assigned To What Command

Equipment in Use At Time of Accident

☐ Siren ☐ Horn ☐ Turret Light ☐ 4-Way Flasher ☐ High-Level Warning Lights ☐ Traffic Cones ☐ Headlights

ACTIONS OF POLICE VEHICLE

- ☐ Responding to Code Signal _____
- ☐ Pursuing Violator
- ☐ Other (Describe) _____
- ☐ Complying with Station House Directive
- ☐ Routine Patrol

MV-104AN (5/04)

Exhibit B

T0424Y0 1283 JTHB[illegible]GX72075738 DATE: 10-01-08

MAIN VEHICLE INQUIRY

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:01 URN:

** RETAILED AND TENDERED AT NY PORT ON 12/26/06

Model No...: 9000A	Inventory Catg....: H (6)
Serial No..: 72075738	Allocation No.....: 121
Check Code.: 3 URN: J16N045068	Current Dealer....: 330-63102
VDS.....: BJ46G	Wholesale Dealer..: 330-63102
VIN.....: JTHBJ46GX72075738	Previous Dealer...: 00330
Model Year.: 2007	Label Group No....: 354B45
Color Ext..: 01G1 - TUNGN	Dlr Invoice Date..: 12/26/06
Int..: LB25 - LB25	Retail Date.....: 02/15/07
Vessel No..: 216	Date of First Use.:
Fleet Ind..: NON-FLEET	Curr&Orig Pt/Plant: NY / NY
Engine No..: 2GR-A120690 (J)	Damage Indicator..: NO DAMAGE
Order No...: 3944369	No. of Retail Rev.:
Order Info.: 6 11 46 EAS P	Port Mod Ind.....:

Ed No.: 244449 Comp Car Type/Stat:

Accy: PA UL VN WF+Z1+

T0424Y0 1283 JTHB GX72075738 DATE: 10-01-08

MAIN VEHICLE INQUIRY

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:01 URN:

ETA Dealer Delivery Window: -

Vessel Name.....:	HEIJIN V055	ETA Date.....:	12/23/06
Japan Invoice No.:	1Y60630	ETD Date.....:	11/26/06
Dist Invoice No..:		Last Dist Debit Invoice Date.:	
Dlr Invoice No...:	6808529	Last Dist Credit Invoice Date:	
Port Veh Loc.....:	84X263	Last Dist Release Date.....:	12/20/06
Pending Reversal.:		Last Label Date.....:	12/20/06
Prev Dist Credit.:	NO	Last Actual Wholesale Date...:	12/26/06
No. of Dlr Credit:		Last Dealer Credit Date.....:	
Truckload Shipmt.:	ARRIVED	RDR Submitted Date.....:	02/15/07
Port Inst Std Opt:	INSTALLED	Last Reversal Date.....:	
Port PDS Complete:	NO	Last Actual Retail Date.....:	02/15/07
Locked in Spread.:	AUTHORIZED	Receipted Into System.....:	12/27/06
Cal/High Ind.....:		Last Trade Wholesale Date....:	12/26/06
Whsl at Tender...:		Fleet Discount Type..:	NOT CALCULATED
Case No..:	3223VDC Railhead:	TMS Fleet Discount.....:	0.00
Pre-Sell Ind.....:		TMD Fleet Discount.....:	0.00
Key Number.....:	40059	Hold Status.....:	

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:02 URN:

Current Category.....: H

Current Pool.....: 63102

Previous Pool.....: 00330

Current Allocation No.: 121

Previous Allocation No: 121

Comments.....:

Activity-Date.....: 12/05/06

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:03 URN:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:03 URN:

T0424Y0 1283 JTHB GX72075738 DATE: 10-01-08
DEALER INVOICE INQUIRY

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:04 URN:

Invoice No: 6808529 Invoice Date: 12/26/06 Dealer: 330-63102
Bank Code: 90 Draft No: Y360020 Comments: Inv Amt: 38844.00

T0424Y0 1283 JTHB[illegible]GX72075738 DATE: 10-01-08
MONRONEY LABEL GROUP
PAGE: 7

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:05 URN:

Group No: 354B45 Dealer Sold: 330-63102 Dealer Ship: 330-63102
Carrier: 010369676 Deviation No: Load No: B008 Port Pickup: NO

Comments : ARE NOT AVAILABLE
Group Est. Date: 12/20/06 QA Date....: 12/26/06
In-process Date: 12/20/06 Arrive Date: 12/27/06
Tendered Date..: 12/26/06 Paid Date..: 00/00/00
Shipped Date...: 12/27/06

T0424Y0 1283 JTHB[illegible]X72075738 DATE: 10-01-08
RETAIL SALE INQUIRY

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:06 URN:

RDR Submitted Date:	02/15/07	Type of Sale:	NEW
Retail Date:	02/15/07	Demo Extension:	NO
Dealer Sold By	330-63102	Flt Ind at Sale:	NON-FLEET
Salesperson Name:	SCHOLDER	Sales Mile:	00025
Salesperson:	240006825		
Lease Company Name:		Fleet Acct Id:	00000
Customer Name:	BROWN$RICARDO	Customer Prefix:	1-MR.
Customer Address:	46 GRANITE STREET		
Customer City:	BROOKLYN	Number of Retails:	1
State/Zip Code:	NY 11207-		
Customer Phone No:	718 810-3055	USA Check Code:	3
Type Sale Code:	01 RETAIL - INDIVIDUAL		
Factura Number:			

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:07 URN:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:08 URN:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:09 URN:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:10 URN:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:11 URN:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:12 URN:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:13 URN:

Tran Type	Activity Date	Last Update	Detail
37	12/05/06	14:08:19	Assigned dlr: 63102 Sugg dlr: 63102 Alloc no: 121 Turndown dlr: Dlr preference: GMP ind.:
65	11/19/06	21:18:18	ORIG FACTORY OPTIONS: PA UL VN
66	11/19/06	21:18:18	ORIG ORDER PORT: NY ORIG COLORS: EXT: 01G1 INT: LB25
67	11/19/06	21:18:18	FIRST ETA PROCESSED
71	11/19/06	21:18:18	PROCON - UNIQUE REF NUMBER: J16N045068 APPROVAL DATE: 10/23/06
72	11/19/06	21:18:18	PROCON - EST LINE-OFF DATE: 11/17/06

T0424Y0 1283 JTHBJ[illegible]72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DISTRIBUTOR PAGE: 16
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:14 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK

Distributor Base Price:	$ 28085.00
INTUITIVE PARKING ASSIST	400.00
ULTRA LUXURY PACKAGE	4378.00
MARK LEVINSON/NAVIGATION	3350.00
ALL WEATHER MATS	28.10
PREFERRED ACCESSORY PACKAGE: ...	50.47
Inland Freight & Handling:	
Total:	$ 36291.57

T0424Y0 1283 JTHBJ. . 72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DISTRIBUTOR PAGE: 17
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:14 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Distributor Base Price: $ 28085.00

PERFORMANCE FEATURES
* 3.5 Liter 272HP Four Cam 24-Valve V6 Engine
All-Aluminum Engine Construction & Dual VVTi
* 6-Speed Automatic Transmission w/Sequential Shi
* Front Wheel Drive
* Dual Exhaust with Seamless Chrome Tips
* 4-Wheel Independent MacPherson Strut-Type
Suspension with Gas Pressurized Shock Absorbers
Front and Rear Stabilizer Bar
* 4-Wheel Power Assisted Ventilated Front/Solid
Rear Disc Brakes
* 17" Aluminum Alloy 7-Spoke Wheels

T0424Y0 1283 JTHBJ X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DISTRIBUTOR PAGE: 18
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:14 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Distributor Base Price: $ 28085.00

* 215/55R17 All-Season Tires
\# SAFETY FEATURES
* Dual Front Airbags, Dual Front Knee Airbags, Fr Seat-Mounted Side Impact Airbags, Fr & Rr Side Curtain Airbags, Supplemental Restraint Sys (SR
3-Point Safety Belts for All Seating Positions
* Fr & Rr Outboard Seat Belt Pretensioners with Force Limiters
* Vehicle Stability Control (VSC) with TRAC
* 4-Wheel Anti-Lock Braking System (ABS) with Electronic Brakeforce Distribution (EBD)
* Energy Managing Crumple Zones, Side Door Beams

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:14 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Distributor Base Price: $ 28085.00

* Theft-Deterrent System w/ Engine Immobilizer
* Projector-Bulb Headlamps w/ Integrated Foglamps
  Daytime Running Lights (DRL)
* Variable Intermittent Wipers with Mist Control
* Tire Pressure Monitor System
* Tool Kit and First Aid Kit
# LUXURY AND CONVENIENCE FEATURES
* SmartAccess with Push Button Start/Stop
* 10-Way Power Adjustable Driver & Passenger Seat
  includes 2-way Power Lumbar
* Electrochromic Auto-Dimming Interior Mirror
* Heated Outside Mirrors

T0424Y0 1283 JTHBJ[illegible]72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DISTRIBUTOR PAGE: 20
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:14 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Distributor Base Price: $ 28085.00

* One-Touch Open/Close Pwr Tilt-and-Slide Moonroo
* Automatic Dual Zone Climate Control
* Automatic On/Off Headlamps
* Lexus Premium Audio System w/In-Dash 6-Disc CD Player Automatic Sound Levelizer (ASL) & MP3 Player Connectivity (miniplug) & 8-Speakers
* Power Front and Rear Windows with Auto One-Touch Up/Down and Pinch Protection
* Power Door Locks with Anti-Lock Out
* Power Tilt/Telescoping Steering Wheel w/Audio & Display Functions & Column-Mounted Cruise Contr
* Key FOB-Integrated Multi-Function Remote Entry

T0424Y0 1283 JTHBJ4[illegible]X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DISTRIBUTOR PAGE: 21
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:14 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Distributor Base Price: $ 28085.00

* Rear Glass Imprinted Antenna w/FM Diversity Sys
* Front Cup Holders with Adjustable Holder Ring
* Rear Arm Rest with Cup Holders
* Heavy-Duty Rear Window Defogger with Timer
* Scheduled Maintenance Indicator Light
* Lexus Personalized Settings
* LED Interior Lighting
* Carpeted Floor Mats

T0424Y0 1283 JTHB[illegible]X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DEALER PAGE: 22
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:15 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK

Dealer Base Price:	$ 28416.00
INTUITIVE PARKING ASSIST	400.00
ULTRA LUXURY PACKAGE	4378.00
MARK LEVINSON/NAVIGATION	3350.00
ALL WEATHER MATS	59.00
PREFERRED ACCESSORY PACKAGE: ...	117.00
Inland Freight & Handling:	715.00
Advertising:	415.00
Holdback:	663.00
Whsl. Financial Reserve:	331.00
Total:	$ 38844.00

T0424Y0 1283 JTHB[illegible]X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DEALER PAGE: 23
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:15 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Dealer Base Price: $ 28416.00

PERFORMANCE FEATURES
* 3.5 Liter 272HP Four Cam 24-Valve V6 Engine
All-Aluminum Engine Construction & Dual VVTi
* 6-Speed Automatic Transmission w/Sequential Shi
* Front Wheel Drive
* Dual Exhaust with Seamless Chrome Tips
* 4-Wheel Independent MacPherson Strut-Type
Suspension with Gas Pressurized Shock Absorbers
Front and Rear Stabilizer Bar
* 4-Wheel Power Assisted Ventilated Front/Solid
Rear Disc Brakes
* 17" Aluminum Alloy 7-Spoke Wheels

T0424Y0 1283 JTHBJ[illegible]X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DEALER PAGE: 24
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:15 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Dealer Base Price: $ 28416.00

* 215/55R17 All-Season Tires
# SAFETY FEATURES
* Dual Front Airbags, Dual Front Knee Airbags, Fr Seat-Mounted Side Impact Airbags, Fr & Rr Side Curtain Airbags, Supplemental Restraint Sys (SR
3-Point Safety Belts for All Seating Positions
* Fr & Rr Outboard Seat Belt Pretensioners with Force Limiters
* Vehicle Stability Control (VSC) with TRAC
* 4-Wheel Anti-Lock Braking System (ABS) with Electronic Brakeforce Distribution (EBD)
* Energy Managing Crumple Zones, Side Door Beams

T0424Y0 1283 JTHBJ X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DEALER PAGE: 25
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:15 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Dealer Base Price: $ 28416.00

* Theft-Deterrent System w/ Engine Immobilizer
* Projector-Bulb Headlamps w/ Integrated Foglamps
Daytime Running Lights (DRL)
* Variable Intermittent Wipers with Mist Control
* Tire Pressure Monitor System
* Tool Kit and First Aid Kit
# LUXURY AND CONVENIENCE FEATURES
* SmartAccess with Push Button Start/Stop
* 10-Way Power Adjustable Driver & Passenger Seat
includes 2-way Power Lumbar
* Electrochromic Auto-Dimming Interior Mirror
* Heated Outside Mirrors

T0424Y0 1283 JTHBJ ...X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DEALER PAGE: 26
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:15 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Dealer Base Price: $ 28416.00

* One-Touch Open/Close Pwr Tilt-and-Slide Moonroo
* Automatic Dual Zone Climate Control
* Automatic On/Off Headlamps
* Lexus Premium Audio System w/In-Dash 6-Disc CD Player Automatic Sound Levelizer (ASL) & MP3 Player Connectivity (miniplug) & 8-Speakers
* Power Front and Rear Windows with Auto One-Touch Up/Down and Pinch Protection
* Power Door Locks with Anti-Lock Out
* Power Tilt/Telescoping Steering Wheel w/Audio & Display Functions & Column-Mounted Cruise Contr
* Key FOB-Integrated Multi-Function Remote Entry

T0424Y0 1283 JTHBJ46GX72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
DEALER PAGE: 27
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:15 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Dealer Base Price: $ 28416.00

* Rear Glass Imprinted Antenna w/FM Diversity Sys
* Front Cup Holders with Adjustable Holder Ring
* Rear Arm Rest with Cup Holders
* Heavy-Duty Rear Window Defogger with Timer
* Scheduled Maintenance Indicator Light
* Lexus Personalized Settings
* LED Interior Lighting
* Carpeted Floor Mats

T0424Y0 1283 JTHB[illegible]X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
RETAIL PAGE: 28
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:16 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK

Retail Base Price: $	33170.00
INTUITIVE PARKING ASSIST	500.00
ULTRA LUXURY PACKAGE	5380.00
MARK LEVINSON/NAVIGATION	4050.00
ALL WEATHER MATS	99.00
PREFERRED ACCESSORY PACKAGE: ...	197.00
Inland Freight & Handling:	715.00
Total: $	44111.00

T0424Y0 1283 JTHBJ LX72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
RETAIL PAGE: 29
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:16 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Retail Base Price: $ 33170.00

PERFORMANCE FEATURES
* 3.5 Liter 272HP Four Cam 24-Valve V6 Engine
All-Aluminum Engine Construction & Dual VVTi
* 6-Speed Automatic Transmission w/Sequential Shi
* Front Wheel Drive
* Dual Exhaust with Seamless Chrome Tips
* 4-Wheel Independent MacPherson Strut-Type
Suspension with Gas Pressurized Shock Absorbers
Front and Rear Stabilizer Bar
* 4-Wheel Power Assisted Ventilated Front/Solid
Rear Disc Brakes
* 17" Aluminum Alloy 7-Spoke Wheels

T0424Y0 1283 JTHBJ46GX72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
RETAIL PAGE: 30
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:16 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Retail Base Price: $ 33170.00

* 215/55R17 All-Season Tires
# SAFETY FEATURES
* Dual Front Airbags, Dual Front Knee Airbags, Fr Seat-Mounted Side Impact Airbags, Fr & Rr Side Curtain Airbags, Supplemental Restraint Sys (SR
3-Point Safety Belts for All Seating Positions
* Fr & Rr Outboard Seat Belt Pretensioners with Force Limiters
* Vehicle Stability Control (VSC) with TRAC
* 4-Wheel Anti-Lock Braking System (ABS) with Electronic Brakeforce Distribution (EBD)
* Energy Managing Crumple Zones, Side Door Beams

T0424Y0 1283 JTHBJ[illegible]X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
RETAIL PAGE: 31
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:16 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Retail Base Price: $ 33170.00

* Theft-Deterrent System w/ Engine Immobilizer
* Projector-Bulb Headlamps w/ Integrated Foglamps
Daytime Running Lights (DRL)
* Variable Intermittent Wipers with Mist Control
* Tire Pressure Monitor System
* Tool Kit and First Aid Kit
# LUXURY AND CONVENIENCE FEATURES
* SmartAccess with Push Button Start/Stop
* 10-Way Power Adjustable Driver & Passenger Seat
includes 2-way Power Lumbar
* Electrochromic Auto-Dimming Interior Mirror
* Heated Outside Mirrors

T0424Y0 1283 JTHBJ X72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
RETAIL PAGE: 32
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:16 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Retail Base Price: $ 33170.00

* One-Touch Open/Close Pwr Tilt-and-Slide Moonroo
* Automatic Dual Zone Climate Control
* Automatic On/Off Headlamps
* Lexus Premium Audio System w/In-Dash 6-Disc CD Player Automatic Sound Levelizer (ASL) & MP3 Player Connectivity (miniplug) & 8-Speakers
* Power Front and Rear Windows with Auto One-Touch Up/Down and Pinch Protection
* Power Door Locks with Anti-Lock Out
* Power Tilt/Telescoping Steering Wheel w/Audio & Display Functions & Column-Mounted Cruise Contr
* Key FOB-Integrated Multi-Function Remote Entry

T0424Y0 1283 JTHBJ46GX72075738 DATE: 10-01-08
SIMULATED MONRONEY LABEL
RETAIL PAGE: 33
MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:16 URN:

Model No: 9000A Description: ES350 4-DR SEDAN Model Year: 2007
Engine No: 2GR-A120690 Color: TUNGN|LB25 Port of Entry: NEWARK
Retail Base Price: $ 33170.00

* Rear Glass Imprinted Antenna w/FM Diversity Sys
* Front Cup Holders with Adjustable Holder Ring
* Rear Arm Rest with Cup Holders
* Heavy-Duty Rear Window Defogger with Timer
* Scheduled Maintenance Indicator Light
* Lexus Personalized Settings
* LED Interior Lighting
* Carpeted Floor Mats

T0424Y0 1283 JTHBJ[illegible]GX72075738 DATE: 10-01-08

PORT VEHICLE INQUIRY

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:18 URN:

** RETAILED AND TENDERED AT NY PORT ON 12/26/06

Model Number..: 9000A	Inventory Category.: H (6)
Check Code....: 3	Vin Number.....: JTHBJ46GX72075738
Color Exterior: 01G1 - TUNGN	Curr Port/Orig Port: NY / NY
Port Location.: 84X263	Dealer Sold.....: 330-63102
Vessel Number.: 216	Dealer Ship.....: 330-63102
Case Number...: 3223	Previous Group.....:
Current Group.: 354B45	Railcar Position...:
Ret. To Pt Dte:	Railcar Number.....: TTGX-
Group Est Date: 12/20/06	Carrier Number.....: 010369676
In-Proc Date..: 12/20/06	Key Number.....: 40059
QA Date.....: 12/26/06	Pre-Wholesale.....:
Tender Date...: 12/26/06	Bill of Lading.....:
Ship Date.....: 12/27/06	Damage Indicator...: NO DAMAGE
Railed Date...:	Port Mod Indicator.:
Rail Rec Date.:	Hold Indicator.....:

ACCE: PA UL VN WF+Z1+

PF-1: Next Serial Number

T0424Y0 1283 JTHBJ X72075738 DATE: 10-01-08
PROCESSING SCHEDULE INQUIRY
PAGE: 35

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:21 URN:
Sold to Dealer : 63102 Ship to Dealer: 63102

ACTIVITY DATE	ACTIVITY TIME	DATE SCHED.	SIMUL NUMBER	SIMULATION STATUS	TENDER TARGET	HOT/ PREF	TOYOTA LOAD #	MODEL TYPE	CURR PORT	SIMP
12/21/06	03:21:33	12/26/06	431	ROUTED	15:30				NY	
12/20/06	12:15:59	12/26/06	431	ROUTED	15:30				NY	
12/20/06	12:09:08	12/26/06	431	FROZEN		H		E	NY	
12/20/06	03:45:19	12/26/06	431	SCHEDULED		H			NY	1

T0424Y0 1283 JTHBJ46GX72075738 DATE: 10-01-08
NVS VEHICLE DLR ETA INQUIRY
PAGE: 36

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:22 URN:

ETA DEALER DELIVERY WINDOW:

VIN.....:
Reason Comment ..:
Original VDC.....:
Dealer sold.....:330-63102
Dealer ship.....:330-63102

Original DLR ETA date :
Revised DLR ETA date..:
Rail Car No .....:TTGX-156749
Railed Date.....:02/17/2006

CURRENT EVENT....:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:83 URN:
** RETAILED AND TENDERED AT NY PORT ON 12/26/06

Model No...:	9000A CURRENT	Inventory Catg....:	H (6)
Serial No..:	72075738	Allocation No.....:	121
Check Code.:	3 URN: J16N045068	Current Dealer....:	330-63102
VDS.....:	BJ46G	Wholesale Dealer..:	330-63102
VIN.....:	JTHBJ46GX72075738	Previous Dealer...:	00330
Model Year.:	2007	Label Group No....:	354B45
Color Ext..:	01G1 - TUNGN	Dlr Invoice Date..:	12/26/06
Int..:	LB25 - LB25	Retail Date.....:	02/15/07
Vessel No..:	216	Date of First Use.:	
Fleet Ind..:	NON-FLEET	Curr&Orig Pt/Plant:	NY / NY
Engine No..:	2GR-A120690 (J)	Damage Indicator..:	NO DAMAGE
Order No...:	3944369	No. of Retail Rev.:	
Order Info.:	6 11 46 EAS P	Port Mod Ind.....:	

Ed No.: 244449 Comp Car Type/Stat:

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:83 URN:

Vessel Name.....:	HEIJIN V055	ETA Date.....:	12/23/06
Japan Invoice No.:	1Y60630	ETD Date.....:	11/26/06
TMS Invoice No..:		Pedimento Pay Date.....:	
TMMBC Ref No.....:	0000000	Clear Custom Date.....:	
TMEX Ref. No.....:	6808529	Invoice/Ship Date.....:	
Port Veh Loc.....:	84X263	Dealer Draft Date.....:	
No. of Dlr Credit:		Last Dealer Credit Date.....:	
Truckload Shipmt.:	ARRIVED	RDR Submitted Date.....:	02/15/07
Port Inst Std Opt:	INSTALLED	Last Reversal Date.....:	
Port PDS Complete:	NO	Last Actual Retail Date.....:	02/15/07
Locked in Spread.:	AUTHORIZED		
Whsl at Tender...:			
Key Number.....:	40059	Hold Status.....:	
Pedimento No.....:		Pool Assignment.....:	
Hologram.....:			

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:83 URN:

DLR Peso.....:	0.00		
Retail Peso.....:	0.00		
DLR FAC Peso.....:	0.00	DLR PPO Peso....:	0.00
Retail FAC Peso..:	0.00	Retail PPO Peso.:	0.00
Gas.....:	0.00	Advertising.....:	415.00
DP&H.....:	715.00	Dlr Association.:	0.00
T&I.....:	00.00		

MOD/SER: / VIN:JTHBJ46GX72075738 INQ TYPE:8A URN:

DLR Peso.....:	0.00		
Retail Peso.....:	0.00		
DLR FAC Peso.....:	0.00	DLR PPO Peso....:	0.00
Retail FAC Peso..:	0.00	Retail PPO Peso.:	0.00
Gas.....:	0.00	Advertising.....:	415.00
DP&H.....:	715.00	Dlr Association.:	0.00
T&I.....:	00.00		

VIN SERIAL : JTHBJ46GX72075738

MODEL :9000 RETL DEALER :63102 LEXUS OF MASSAPEQUA
RETL DATE :. MILEAGE :. TRANS:6
PROD DATE:611 SHIPMENT DTE:.
ENGINE:2GRA120690 A/C:1
DEMO:0 FLEET:0

----------WARRANTY REPAIR HISTORY----------

*DATE OF REPAIR : 12/31/06 SERVICING DLR : 63102 LEXUS OF MASSAPEQUA
CLAIM # :912647 RO# : TOTAL: $251.48
DFU : . REPAIR MILES : 0
OFP :N/A OPCODE : PRE-DE
SPECIAL SERVICE CAMPAIGN INFO :.

CONDITION/CAUSE/REMEDY CCRJ FROM T-CODES-

ENGINE AREA INSPECT DONE

---

*DATE OF REPAIR : 02/09/07 SERVICING DLR : 63102 LEXUS OF MASSAPEQUA
CLAIM # :915184 RO# :124317 TOTAL: $42.40
DFU :02/15/07 REPAIR MILES : 20
OFP :N/A OPCODE : 001030
SPECIAL SERVICE CAMPAIGN INFO :.

CONDITION/CAUSE/REMEDY CCRJ FROM T-CODES-

ENGINE AREA

---

*DATE OF REPAIR : 07/17/07 SERVICING DLR : 63102 LEXUS OF MASSAPEQUA
CLAIM # :922941 RO# :135741 TOTAL: $74.46
DFU :02/15/07 REPAIR MILES : 2,342
OFP :N/A OPCODE : 001050
SPECIAL SERVICE CAMPAIGN INFO :.

CONDITION/CAUSE/REMEDY CCRJ FROM T-CODES-

ENGINE AREA

---

*DATE OF REPAIR : 08/03/07 SERVICING DLR : 63102 LEXUS OF MASSAPEQUA

CLAIM # :924401 RO# :137488 TOTAL: $16.56
DFU :02/15/07 REPAIR MILES : 2,344
OFP :6921833010 OPCODE : 672991
SPECIAL SERVICE CAMPAIGN INFO :.

CONDITION/CAUSE/REMEDY CCRJ FROM T-CODES-

TRANSM/CLUTCH AREA LOSS TENSION/RESILIENCE R&R PART(S)

---

*DATE OF REPAIR : 11/21/07 SERVICING DLR : 63102 LEXUS OF MASSAPEQUA
CLAIM # :929114 RO# :145955 TOTAL: $17.43
DFU :02/15/07 REPAIR MILES : 3,318
OFP :6921833010 OPCODE : 751991
SPECIAL SERVICE CAMPAIGN INFO :.

CONDITION/CAUSE/REMEDY CCRJ FROM T-CODES-

TRANSM/CLUTCH AREA LOSS TENSION/RESILIENCE R&R PART(S)

```
WS02010/WAA912          SERVICE SERIAL MASTER INQUIRY  09/24/08    TCP21519
SERIAL NUMBER :    JTHBJ46GX - 72075738                09:38:29    PAGE    1
DEALER SELL      63102    RETAIL DATE    02/15/07 RETAIL MILES      0
INVOICE DATE     12/26/06 DATE FIRST USE 02/15/07 MODEL         9000A
EXT WARRANTY              DEMO                    DAMAGE        NO
WARRANTY STATUS  V        AIR COND       FAC      TRANS TYPE    6SPD-SEQ
P.O.E.           33       COLOR          01G1     ENGINE        2GR-A120690
PRODUCTION DATE  611      BED MFG                 BED SERIAL
SURVEY SENT               SHIPMENT DATE  11/23/06 FOREIGN SOLD  NO
ACCESSORIES
  PA     UL     VN     WF  +  Z1  +  AC


                            *      CLAIM COMPLETE        *      (VEH)
CLAIM NO         912647   REFERENCE NO            TYPE CLASS    63
SERVICING DEALER 63102    REPAIR DATE    12/31/06 REPAIR MILES       0
DATE FIRST USE   00/00/00 RECEIPT DATE   12/31/06 R/O NUMBER
EDITS BYPASSED            OPERATION CODE 001013   COMB CODES
AUTH NUMBER               SSC NUMBER              SUBLET AMT       39.48
T1 CODE                   FAILED PART
T2-T3 CODES       -
REQUESTED AMT     251.48 PAID DATE       12/31/06 PAID AMOUNT     251.48

PF2:ACSY PF4:RPH PF5:CLMHST PF6:PREV PG PF8:NEXT PG PF10:PREV MENU PF11:LOGOFF
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```
WS0201O/WAA912          SERVICE SERIAL MASTER INQUIRY  09/24/08    TCP21519
SERIAL NUMBER :    JTHBJ46GX - 72075738                09:38:36    PAGE    3
DEALER SELL      63102    RETAIL DATE    02/15/07 RETAIL MILES     0
INVOICE DATE     12/26/06 DATE FIRST USE 02/15/07 MODEL        9000A
EXT WARRANTY              DEMO                    DAMAGE       NO
WARRANTY STATUS  V        AIR COND       FAC      TRANS TYPE   6SPD-SEQ
P.O.E.           33       COLOR          01G1     ENGINE       2GR-A120690
PRODUCTION DATE  611      BED MFG                 BED SERIAL
SURVEY SENT               SHIPMENT DATE  11/23/06 FOREIGN SOLD NO
ACCESSORIES
  PA     UL     VN     WF  +  Z1  +  AC


                            *      CLAIM COMPLETE        *     (VEH)
CLAIM NO         922941   REFERENCE NO            TYPE CLASS   64
SERVICING DEALER 63102    REPAIR DATE    07/17/07 REPAIR MILES   2342
DATE FIRST USE   02/15/07 RECEIPT DATE   07/17/07 R/O NUMBER   135741
EDITS BYPASSED            OPERATION CODE 001050   COMB CODES
AUTH NUMBER               SSC NUMBER              SUBLET AMT        .00
T1 CODE                   FAILED PART
T2-T3 CODES        -
REQUESTED AMT       74.46 PAID DATE      07/17/07 PAID AMOUNT      74.46

PF2:ACSY PF4:RPH PF5:CLMHST PF6:PREV PG PF8:NEXT PG PF10:PREV MENU PF11:LOGOFF
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WS0201O/WAA912          SERVICE SERIAL MASTER INQUIRY  09/24/08    TCP21519
SERIAL NUMBER :    JTHBJ46GX - 72075738                09:38:38    PAGE    4
DEALER SELL       63102    RETAIL DATE     02/15/07 RETAIL MILES     0
INVOICE DATE      12/26/06 DATE FIRST USE  02/15/07 MODEL         9000A
EXT WARRANTY               DEMO                     DAMAGE        NO
WARRANTY STATUS   V        AIR COND        FAC      TRANS TYPE   6SPD-SEQ
P.O.E.            33       COLOR           01G1     ENGINE       2GR-A120690
PRODUCTION DATE   611      BED MFG                  BED SERIAL
SURVEY SENT                SHIPMENT DATE   11/23/06 FOREIGN SOLD NO
ACCESSORIES
  PA     UL     VN     WF  +  Z1  +  AC


                           *      CLAIM COMPLETE        *      (VEH)
CLAIM NO          924401   REFERENCE NO             TYPE CLASS   11
SERVICING DEALER  63102    REPAIR DATE     08/03/07 REPAIR MILES   2344
DATE FIRST USE    02/15/07 RECEIPT DATE    08/17/07 R/O NUMBER   137488
EDITS BYPASSED             OPERATION CODE  672991   COMB CODES
AUTH NUMBER                SSC NUMBER               SUBLET AMT         .00
T1 CODE           62       FAILED PART     69218-33010
T2-T3 CODES       14-
REQUESTED AMT        16.56 PAID DATE       08/17/07 PAID AMOUNT      16.56

PF2:ACSY PF4:RPH PF5:CLMHST PF6:PREV PG PF8:NEXT PG PF10:PREV MENU PF11:LOGOFF
```

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WS02010/WAA912          SERVICE SERIAL MASTER INQUIRY  09/24/08    TCP21519
SERIAL NUMBER :     JTHBJ46GX - 72075738               09:38:39    PAGE    5
DEALER SELL       63102    RETAIL DATE     02/15/07 RETAIL MILES     0
INVOICE DATE      12/26/06 DATE FIRST USE  02/15/07 MODEL         9000A
EXT WARRANTY               DEMO                     DAMAGE        NO
WARRANTY STATUS   V        AIR COND        FAC      TRANS TYPE   6SPD-SEQ
P.O.E.            33       COLOR           01G1     ENGINE       2GR-A120690
PRODUCTION DATE   611      BED MFG                  BED SERIAL
SURVEY SENT                SHIPMENT DATE   11/23/06 FOREIGN SOLD NO
ACCESSORIES
  PA     UL     VN     WF  +  Z1  +  AC


                             *      CLAIM COMPLETE        *      (VEH)
CLAIM NO          929114   REFERENCE NO              TYPE CLASS   11
SERVICING DEALER  63102    REPAIR DATE     11/21/07 REPAIR MILES   3318
DATE FIRST USE    02/15/07 RECEIPT DATE    12/01/07 R/O NUMBER   145955
EDITS BYPASSED             OPERATION CODE  751991   COMB CODES
AUTH NUMBER                SSC NUMBER               SUBLET AMT          .00
T1 CODE           62       FAILED PART     69218-33010
T2-T3 CODES       14-
REQUESTED AMT        17.43 PAID DATE       12/01/07 PAID AMOUNT       17.43

PF2:ACSY PF4:RPH PF5:CLMHST PF6:PREV PG PF8:NEXT PG PF10:PREV MENU PF11:LOGOFF
```

WS0215/WAA915 SERVICE SERIAL MASTER INQUIRY 09/24/08 TCP21519
REPLACEMENT PART HISTORY

SERIAL NUMBER : JTHBJ46GX - 72075738

DLR	CLAIM	--REPAIR ORDER-- NUMBER	DATE	PAID DATE	PART NUMBER	DESCRIPTION
63102	929114	145955	11/21/07	12/01/07	69218-33010	COVER, FR DOOR OUTSI
63102	924401	137488	08/03/07	08/17/07	69218-33010	COVER, FR DOOR OUTSI
63102	922941	135741	07/17/07	07/17/07	04152-YZZA1	REPLACEABLE ELEMENT
63102	922941	135741	07/17/07	07/17/07	00279-1QT30-01	OIL, MOTOR 10-30 QT

BOTTOM OF LIST - NO MORE REPLACEMENT PART HISTORY
PF6: PREV PAGE PF8: NEXT PAGE PF10: PREV MENU PF11: LOGOFF

WS0210/WAA914 SERVICE SERIAL MASTER INQUIRY 09/24/08 TCP21519
CLAIM HISTORY

SERIAL NUMBER : JTHBJ46GX - 72075738

DEALER CLAIM	REPAIR ORDER NUMBER	DATE	MILES	OFP	OPCODE	AMOUNT	DB
63102 912647		12/31/2006	000000		001013	251.48	V
63102 915184	124317	02/09/2007	000020		001030	42.40	V
63102 922941	135741	07/17/2007	002342		001050	74.46	V
63102 924401	137488	08/03/2007	002344	69218-33010	672991	16.56	V
63102 929114	145955	11/21/2007	003318	69218-33010	751991	17.43	V

BOTTOM OF LIST NO MORE CLAIMS
PF6: PREV PAGE PF8: NEXT PAGE PF10: PREV MENU PF11: LOGOFF

LEXUS, A DIVISION OF
TOYOTA MOTORS SALES USA
19001 S. WESTERN AVE.
TORRANCE CALIF. USA

MEMORANDUM INVOICE

INVOICE NO: 6808529
INVOICE DATE: 12/26/06
PORT/PLANT: NEWARK
DEALER CODE: 63102

40059

PAID FOR BY:
LFS
19001 S. WESTERN AVE.
TORRANCE, CA 90509

SOLD TO:
MASSAPEQUA IMPORTS, LTD.
DBA LEXUS OF MASSAPEQUA
4950 SUNRISE HIGHWAY
MASSAPEQUA PARK, NY 11762

MODEL	DESCRIPTION	YEAR	SERIAL NO.	C/C	ENGINE NO.	MSRP	DEALER INVOICE
9000A	ES350 4-DR SEDAN	2007	JTHBJ46GX72075738	3	2GRA120690		
COLOR EXT/INT 1G1 TUNGSTEN PEARL / LB25 BLACK					**BASE VEHICLE PRICE >**	33,170.00	29,410.00

FACTORY INSTALLED EQUIPMENT

PA	- INTUITIVE PARKING ASSIST	500.00	400.00
UL	- ULTRA LUXURY PACKAGE	5,380.00	4,378.00
VN	- MARK LEVINSON/NAVIGATION	4,050.00	3,350.00
WF	- ALL WEATHER MATS	99.00	59.00
Z1	- PREFERRED ACCESSORY PACKAGE:	197.00	117.00

* DUE TO THE EXTENSIVE LIST OF STANDARD EQUIPMENT FOR THIS SERIES, PLEASE REFER TO THE LEXUS PRODUCT STANDARD EQUIPMENT ADDENDUM FOR THIS SERIES.
* THIS INVOICE DOES NOT REFLECT THE DEALER'S ULTIMATE VEHICLE COST IN VIEW OF $ 663.00RESERVE AND $ 331.00 WHOLESALE FINANCE RESERVE WHICH ARE RETURNED TO DEALER AND ANY REBATE, ALLOWANCE AND INCENTIVE, WHICH ARE PAID TO THE DEALER.

TOTAL F.I.E. >	10,226.00	8,304.00
TOTAL MODEL AND F.I.E. >	43,396.00	37,714.00
OTHER CHARGES >		
DELIVERY, PROCESSING AND HANDLING FEE >	715.00	715.00
SUB TOTAL >	44,111.00	38,429.00
LDA >		415.00
TOTAL INVOICE >	44,111.00	38,844.00

TITLE AND OWNERSHIP PASSES TO DEALER UPON PAYMENT OF SAID GOODS AND ALL RISK OF LOSS OR DAMAGE PASSES TO DEALER UPON DELIVERY OF GOODS TO DEALER

ORIGINAL

00-15589 BATCH TAPE VEHICLE INQUIRY DATE: 09/23/08

VEHICLE	CUSTOMER
VIN: JTHBJ46GX72075738 MODEL YR.:2007	NAME: BROWN$RICARDO
MODEL/SERIAL: 9000A-72075738	ADDRESS: 46 GRANITE STREET
ENGINE: 2GRA120690 BED SERIAL: 000000	CITY/STATE/ZIP: BROOKLYN, NY. 11207
COLOR: 01G1/LB25 ORDER NO: 3944369	
AREA REC. 0 CURR. 333	PHONE: (718) 810-3055
DEALER REC. 63102 CURR. 63102	RETAILED: RETAIL DATE: 02/15/07
DLR INV: Y360020 DATE 00/00/00	
PORT REC: 33 SHIP: NY	
SHIP NAME: HEIJIN V055 SHIP NO. 216	
E.T.A.: 00/00/00 A.T.A.: 00/00/00	
ED. NO. DISTR NO. 6808529	
1ST USE: 00/00/00 INV. DATE: 00/00/00	
ACCESSORIES: PA A UL A VN A WF C Z1 C	

MATCH TO REQUEST: 001

TOY-RQ-05E-00003832

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On the 24th day of June, 2009, deponent served the within **TOYOTA MOTOR SALES, U.S.A., INC.'S RESPONSE TO PLAINTIFF'S COMBINED DEMANDS** upon:

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Defendant
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, New York 10170

David S. Heller, Esq.
CONNORS & CONNORS
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507

Sean Coonerty Esq.
GELLER, SIEGEL & COONERTY, LLP
Attorneys for Plaintiffs
419 Park Avenue South, Suite 700
New York, New York 10016

GERBER & GERBER, PLLC
Attorneys for Defendant
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
24th day of June, 2009

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

TOYOTA MOTOR SALES, U.S.A., INC.'S RESPONSE TO PLAINTIFF'S COMBINED DEMANDS

ECKERT SEAMANS CHERIN & MELLOTT, LLC.
Attorneys for Defendant
TOYOTA MOTOR SALES USA., INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

-against-

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

Index No. 17175/08

Toyota Motor Sales, U.S.A., Inc.'s Bill of Particulars Regarding Affirmative Defenses

RECEIVED
JUL 06 2009
LEGAL DEPT.

Defendant Toyota Motor Sales, U.S.A., Inc. ("TMS"), by its attorneys, Eckert Seamans Cherin & Mellott, LLC, makes the following bill of particulars regarding its affirmative defenses:

PREFATORY STATEMENT AND OBJECTIONS

Defendant TMS hereby makes the following bill of particulars regarding its affirmative defenses. These responses are made specifically subject to the General Objections and any specific objection contained within an individual response.

So far as TMS is aware, according to the information available to TMS at the present time, these responses are complete and correct. TMS reserves the right to object to future discovery on the same or related matters and does not waive any objection by providing the information reflected in these responses. TMS further reserves the right to object to the admissibility of any of these responses or the documents produced or related matters, in whole or in part, at trial in this action, on any grounds, including, but not limited to, materiality, relevance, and privilege.

TOY-RQ-05E-00003835

PREFATORY STATEMENT

TMS is the authorized importer and a distributor, in certain geographic areas, of Toyota motor vehicles in the continental United States. TMS does not manufacture, design or assemble Toyota motor vehicles in the ordinary course of its business and, therefore, was not the designer, manufacturer or assembler of the subject Lexus ES350. TMS does not service Toyota motor vehicles in the ordinary course of its business for the general public. Accordingly, TMS does not have sufficient information or documentation to completely and accurately respond to many of these discovery requests.

GENERAL OBJECTIONS

To the extent applicable, the following are incorporated in the response to each individual request:

(a) TMS objects generally to these discovery requests to the extent they seek information which is not within TMS' possession, custody or control. These responses are made on behalf of TMS only. TMS objects to this discovery to the extent it seeks information from any other entity.

(b) TMS objects generally to these discovery requests to the extent they seek information directed towards vehicles, topics and issues beyond the components of the subject 2007 Lexus ES350 about which plaintiff makes allegations in the Complaint on the grounds that such discovery requests are overly broad, unduly burdensome, and seek information which is not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery of admissible evidence.

(c) TMS objects generally to these discovery requests to the extent they seek information which is unrelated to the defect allegations raised by plaintiff in this action on the

grounds that such discovery requests are overly broad, unduly burdensome, and seek information that is not reasonably calculated to lead to the discovery of admissible evidence.

(d) TMS objects generally to these discovery requests to the extent they may seek information protected by the attorney-client privilege or the work product doctrine.

(e) TMS objects generally to these discovery requests to the extent they may seek competitively sensitive or trade secret materials.

(f) TMS objects generally to these discovery requests to the extent that plaintiff has refused to produce documentation requested by TMS.

(g) TMS objects generally that its investigation and discovery are ongoing and not complete. Therefore, these responses are limited to the information presently available and TMS reserves its right to conduct further investigation and discovery. TMS specifically reserves the right to present subsequently discovered facts or evidence at trial.

DISCOVERY RESPONSES

DEMAND WITH RESPECT TO AFFIRMATIVE DEFENSE OF LACK OF JURISDICTION

1. Set forth how it is alleged that service upon the defendants was improper.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense of lack of jurisdiction.

2. Set forth the full name and title of all individuals designated to accept service on behalf of the defendants.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense of lack of jurisdiction.

3. Set forth who it is alleged was served on behalf of the defendant in this action, and further state their job title and current employment status.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense of lack of jurisdiction.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF CULPABLE CONDUCT

4. Set forth how it is alleged that plaintiffs conduct contributed to this occurrence.

RESPONSE: TMS states, at this early stage of the litigation, it cannot state in detail how "[p]laintiff's conduct contributed to this occurrence." TMS will supplement this response as depositions, discovery and investigation progress.

5. Set forth a precise statement of all acts or omissions constituting the negligence claimed of the plaintiff.

RESPONSE: TMS states, at this early stage of the litigation, it cannot state in detail how "[a]ll acts or omissions constituting the negligence claimed of the plaintiff." TMS will supplement this response as depositions, discovery and investigation progress.

6. Set forth the dates, times of day of the alleged acts, culpable conduct and/or negligence which will be alleged and claimed against the plaintiff herein.

RESPONSE: TMS incorporates Response Nos. 4 and 5, above.

7. Set forth:

(a) the locations of the occurrence of each of the alleged acts of culpable conduct and/or negligence which will be alleged and claimed against the plaintiff herein;

RESPONSE: TMS incorporates Response Nos. 4 and 5, above.

(b) indicate the name and/or identity of each party present as to each of the above.

RESPONSE: TMS incorporates Response Nos. 4 and 5, above.

8. Set forth with particularity each and every act and/or omission which the defendants will claim as the basis of the alleged culpable conduct and/or negligence of the plaintiff herein.

RESPONSE: TMS incorporates Response Nos. 4 and 5, above.

9. If defendant will attempt to advance any claim of vicarious liability with respect to acts and/or omissions of culpable conduct and/or negligence as to the plaintiff herein, set forth the names and addresses of each and every individual who performed each act or failed to perform any act of alleged culpable conduct and/or negligence on behalf of the plaintiff with the date of each such act or omission. If the names are not known, describe each individual by physical appearance or otherwise with sufficient clarity to make possible and ready identification.

RESPONSE: TMS objects to this request because it exceeds the scope of a bill of particulars. Without waiving that objection, this demand is not applicable as TMS did not assert an affirmative defense of vicarious liability.

10. Set forth each and every injury and/or damage to the plaintiff which were caused in whole or in part by the alleged culpable conduct and/or negligence of the plaintiff and the manner in which damages must be reduced.

RESPONSE: TMS objects to this request to the extent it seeks an expert's opinion. Without waiving that objection, TMS states, at this early stage of the litigation, it cannot identify the injuries caused "[i]n whole or in part by the alleged culpable conduct." TMS will serve expert disclosure in compliance with the Court's scheduling order.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE THAT PLAINTIFF'S CLAIM IS BARRED BY THE WORKERS COMPENSATION LAW

11. Set forth the dates of plaintiffs employment by the defendant.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense of workers compensation.

12. Set forth the nature of the alleged employer-employee relationship between defendant and plaintiff.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense of workers compensation.

13. Set forth the basis of the defense that plaintiffs claim is barred by the Workers Compensation Law.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense of workers compensation.

DEMAND WITH RESPECT TO AFFIRMATIVE DEFENSE OF ASSUMPTION OF THE RISK

14. Set forth precisely how it is alleged that plaintiff was engaged in an inherently dangerous activity.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense that "[p]laintiff was engaged in an inherently dangerous activity."

15. Set forth a precise statement of all dangers and risks which are alleged to have been known or assumed by the plaintiff.

RESPONSE: TMS states, at this early stage of the litigation, it cannot state in detail the "[d]angers and risks which are alleged to have been known or assumed by the plaintiff. TMS will supplement this response as depositions, discovery and investigation progress.

16. Set forth the length of time it is alleged that the risks and dangers stated above are claimed to have existed prior to the occurrence.

RESPONSE: TMS incorporates its response to Request No. 15, above.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF FAILURE TO MITIGATE DAMAGES

17. Set forth precisely what damages it is alleged plaintiff failed to mitigate.

RESPONSE: TMS objects to this request to the extent it seeks an expert's opinion. Without waiving that objection, TMS states, at this early stage of the litigation, it cannot identify the injuries "[p]laintiff failed to mitigate." TMS will serve expert disclosure in compliance with the Court's scheduling order.

18. Set forth precisely how it is alleged the plaintiff could have mitigated his damages.

RESPONSE: TMS incorporates its response and objections to Request No. 17, above.

DEMAND WITH RESPECT TO AFFIRMATIVE DEFENSE OF ARTICLE 16

19. Set forth how it is alleged Article 16 is applicable.

RESPONSE: TMS states that Article 16 is applicable by operation of law.

20. Set forth how it is alleged Article 10 of the Labor Law is not applicable.

RESPONSE: This demand is not applicable as TMS did not assert an affirmative defense "Article 10 of the Labor Law is not applicable."

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF FAILURE TO STATE A CAUSE OF ACTION

21. Set forth in what respect plaintiffs complaint fails to state a cause of action against this defendant.

RESPONSE: TMS objects to this request as its scope seeks questions of law. Without waiving that objection, TMS states plaintiff's complaint may be barred by potential spoliation of evidence and/or lack of expert proof.

DEMANDS WITH RESPECT TO AFFIRMATIVE DEFENSE OF FAILURE TO USE AVAILABLE SEAT BELTS

22. State with particularity which injuries are alleged to have been sustained or worsened by the plaintiffs alleged failure to utilize a seat belt.

RESPONSE: TMS objects to this request to the extent it seeks an expert's opinion. Without waiving that objection, TMS states, at this early stage of the litigation, it cannot identify the injuries "[w]orsened by the plaintiffs alleged failure to utilize a seat belt." TMS will serve expert disclosure in compliance with the Court's scheduling order.

23. State whether it is alleged plaintiffs vehicle was equipped with a seat belt.

RESPONSE: TMS objects to this request because it exceeds the scope of a bill of particulars. Without waiving that objection, TMS cannot answer this request because it has not had the opportunity to inspect any of the vehicles involved in the subject accident.

Dated: White Plains, New York
June 24, 2009

Yours, etc.

By: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
TOYOTA MOTOR SALES, U.S.A., INC.
10 Bank Street, Suite 1061
White Plains, NY 10606
(914) 949-2909

TO: Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Plaintiff
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, New York 10170
(212) 986-7353

David S. Heller, Esq.
CONNORS & CONNORS
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310
(718) 442-1700
File No.: DGE23830C

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants
DCFS TRUST and LEON ALEJANDRO
200 I.U. Willets Road
Albertson, NY 11507
(516) 294-5433
File No.: ENC0884408ASK

Sean Coonerty Esq.
GELLER, SIEGEL & COONERTY, LLP
Attorneys for Plaintiffs
JEAN DAVID CHAMPAGNE and KUMI OTA
419 Park Avenue South, Suite 700
New York, New York 10016
(212) 532-0532
File No.: 08-6484

GERBER & GERBER, PLLC
Attorneys for Defendant
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242
(718) 834-4850

TO: Thomas M. Oliva, Esq.
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Attorneys for Plaintiff EZATT AZIZI
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(718) 442-1700
File No.: DGE23830C

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
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File No.: ENC0884408ASK

Sean Coonerty Esq.
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419 Park Avenue South, Suite 700
New York, New York 10016
(212) 532-0532
File No.: 08-6484

GERBER & GERBER, PLLC
Attorneys for Defendant
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242
(718) 834-4850

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

PATRICIA MORGAN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Dutchess County, New York.

On the 24th day of June, 2009, deponent served the within **TOYOTA MOTOR SALES, U.S.A., INC.'S BILL OF PARTICULARS REGARDING AFFIRMATIVE DEFENSES** upon:

Thomas M. Oliva, Esq.
WINGATE, RUSSOTTI & SHAPIRO, LLP
Attorneys for Defendant
EZATT AZIZI
420 Lexington Avenue, Suite 2750
New York, New York 10170

David S. Heller, Esq.
CONNORS & CONNORS
Attorneys for Defendant
RICARDO BROWN
766 Castleton Avenue
Staten Island, NY 10310

Andria Simone Kelly, Esq.
AHMUTY, DEMERS & McMANUS, ESQS.
Attorneys for Defendants
ALEJANDRO LEON and DCFS TRUST
200 I.U. Willets Road
Albertson, NY 11507

Sean Coonerty Esq.
GELLER, SIEGEL & COONERTY, LLP
Attorneys for Plaintiffs
419 Park Avenue South, Suite 700
New York, New York 10016

GERBER & GERBER, PLLC
Attorneys for Defendant
FRO SERVICE CORP.
26 Court Street, Suite 1405
Brooklyn, New York 11242

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the care and custody of the United States Postal Service within the State of New York.

Patricia Morgan
PATRICIA MORGAN

Sworn to before me this
24th day of June, 2009

Steven Kramer
NOTARY PUBLIC, State of New York
No. 02KR6150796
Qualified in Westchester County
Commission Expires 8/7/2010

{V0011867.1}

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

TOYOTA MOTOR SALES, U.S.A., INC.'S BILL OF PARTICULARS REGARDING AFFIRMATIVE DEFENSES

ECKERT SEAMANS CHERIN & MELLOTT, LLC.
Attorneys for Defendant
TOYOTA MOTOR SALES USA., INC.
10 Bank Street, Suite 1061
White Plains, New York 10606
(914) 949-2909
Fax (914) 949-5424

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

RECEIVED
DEC 19 2008
LEGAL DEPT.

----------X

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

Index No.: 17175/08

TOYOTA MOTOR SALES, U.S.A., INC.'S RESPONSE TO RICARDO BROWN'S NOTICES FOR DISCOVERY AND INSPECTION

Defendant, TOYOTA MOTOR SALES, U.S.A., INC. ("TMS"), by its attorneys, ECKERT SEAMANS CHERIN & MELLOTT, LLC, makes the following response to Ricardo Brown's notices for discovery and inspection:

DEMAND FOR COLLATERAL SOURCE INFORMATION

1. If plaintiff is self-employed or obtained income from sources other than employment, submit copies of plaintiff's income tax returns for a three year period preceding the date of the accident to the present.

2. A duly executed and acknowledged written authorization directed to plaintiffs employers for a three year period preceding the date the accident to the present:

3. Duly executed and acknowledged written authorizations directed to the Internal Revenue Service for a three year period preceding the date of the accident to the present. Said authorization must include a photocopy of two forms of photo identification.

4. A duly executed and acknowledged written authorization directed to plaintiffs No-Fault carrier to permit the defendant to obtain the records maintained by the No-Fault carrier with regard to the accident alleged in plaintiff's complaint.

5. If a claim has or will be made pursuant to the terms of Article XVIII of the Insurance Law of the State of New York, with respect to each and every application:

   a) Set forth the name, address, policy number of each company to which a claim has been or will be made.

   b) Set forth duly executed and acknowledged written authorizations enabling the undersigned to obtain the records relating to the plaintiff from each company identified in response to paragraph 5(a).

6. If a claim has or will be made pursuant to the terms of the worker's compensation law, with respect to each and every application:

   a) Set forth the name, address, policy number and claim number of each company to which a claim has been or will be made, together with the worker's compensation board file number.

b) Set forth duly executed and acknowledged written authorizations enabling the undersigned to obtain the records relating to the plaintiff from each company identified in response to paragraph 6(a).

7. If a disability claim has or will be made pursuant to the terms of the social security laws, with respect to each and every application:

a) Set forth the claim office, the address, and the claim number assigned.

b) Set forth a duly executed and acknowledge written authorization enabling the undersigned to obtain the records relating to the plaintiff.

8. Pursuant to CPLR Section 4545(c), produce and permit the defendants to inspect and copy the contents of:

a) each and every collateral source of payment, including but not limited to insurance agreements, social security, worker's compensation or employee benefit programs and any other collateral source of payment for past or future costs or expenses alleged to have been incurred by the plaintiffs or for which recovery is sought in the instant action; and

b) A written statement setting forth any such collateral sources and their amounts; and

c) Duly executed original authorizations permitting the defendants to obtain and make copies of all records relating to collateral source information as set forth herein.

9. Duly executed and acknowledge original authorizations permitting this defendant to obtain and copy:

a) Employment records for three years prior to the date of the accident to the present;

b) Union records for three years prior to the date of the accident to the present.

RESPONSE: TMS objects to this request to the extent it seeks information from TMS. This demand is more appropriate to plaintiff.

DEMAND FOR NAMES AND ADDRESSES OF ALL WITNESSES

1. The names and addresses of each person known or claimed by you or any party you represent in this action to be a witness to:

(a) The occurrence alleged in the complaint in this action; or,

(b) Any acts, omissions, or conditions which allegedly caused the occurrence alleged in the complaint; or,

(c) Any actual notice allegedly given to the defendants or any employee of defendant of any condition which allegedly caused the occurrence alleged in the complaint; or,

(d) The nature and duration of any alleged condition which allegedly caused the occurrence alleged in the complaint.

RESPONSE: TMS states that it is not aware of any witnesses to the accident other than the individuals identified in the police report.

NOTICE TO PRODUCE PURSUANT TO CPLR 3101(e)

1. Any signed statements, unsigned statement or copy of any recorded statement or document made by or taken from any party represented by the undersigned in this action, or from any agent, servant or employee of any defendant represented by this office; or,

(b) Any signed statement, undersigned statement, or copy of any recorded statement or document made by or taken from any co-defendant or agent, servant or employee of any co-defendant at the office of CONNORS & CONNORS, P.C., 766 Castleton Avenue, Staten Island, New York, 10310, on December 8, 2008, at 2:00 in the afternoon.

RESPONSE: TMS states that it is not in possession of any statements from Ricardo Brown relating to the accident.

NOTICE TO PRODUCE (GENERAL)

1. All photographs depicting the scene of the accident;
2. All photographs depicting the vehicles involved in the incident, both before and after, if applicable.
3. All photographs depicting the condition of the place of the accident as it existed at the time of the accident.
4. All photographs depicting any bodily injuries alleged to have been suffered by the plaintiff.
5. All photographs depicting any property damage alleged to have been suffered by the plaintiff.
6. All photographs depicting the instrumentality which caused the damages, if applicable.
7. All repair bills and estimates for damages claimed to have been sustained by the plaintiff.
8. All accident reports prepared or signed by any party, including MV-I04 reports, relating to the alleged documents.

RESPONSE: TMS states that it is not in possession of any photographs of the vehicles involved in the accident, the scene of the accident or any of the occupants of the vehicles involved in the accident. TMS states that it is not in possession of any police report other than that produced by plaintiff.

DEMAND OF NAMES OF EXPERT WITNESSES

1. The full identity of each and every person whom the party expects to call as an expert witness at trial, including the name and address of said person;
2. The subject matter on which each expert is expected to testify;
3. The substance of the facts and opinions on which each expert is expected to testify;

4. The qualifications of each expert witness;

5. A summary of the grounds for each expert's opinion.

6. State when this expert was retained by plaintiffs counsel.

7. State the names of each person with whom the expert has consulted in reaching his/her opinions and conclusions with regard to this matter and provide his/her last known business address.

8. State whether this expert has had occasion to visit the scene of the accident. If so, state the dates on which said expert visited the scene of the occurrence.

9. Attach a complete copy of each expert's report, including photographs, exhibits, diagrams, charts, and any other material prepared by this expert in connection with plaintiffs claim.

10. State whether the named experts previously have testified on behalf of your law office in other litigation. If so, provide the name and index number of said cases.

RESPONSE: TMS objects to this request because it exceeds the scope of CPLR § 3101(d). Without waiving that objection, TMS states that it will serve expert disclosure in compliance with the order of the court

DEMAND FOR MEDICAL INFORMATION

1. The names and addresses of all physicians or other health care providers of every description, who have consulted, examined or treated the plaintiffs for each of the conditions allegedly caused by, or exacerbated by, the occurrence described in the complaint including the date of such treatment or examination.

2. Duly executed and acknowledged written authorizations directed to any hospital, clinic or other health care facility in which the injured plaintiff(s) herein is or was treated or confined due to the occurrence set forth in the complaint so as to permit the securing of a copy of the entire hospital record or records including x-rays and technicians' reports.

3. Duly executed and acknowledged written authorizations to allow the defendant to obtain the complete office medical records relating to plaintiffs of each health care provider identified in (1) above.

4. Copies of all medical reports received from health care providers identified in (1) above. These shall include a detailed recital of the injuries and conditions as to which testimony will be offered at the trial, referring to and identifying those x-rays and technicians' reports which will be offered at the trial.

5. Duly executed and acknowledged written authorizations to allow defendants to obtain complete pharmacy or drug store records with respect to any drugs prescribed for plaintiffs from one (1) year prior to the occurrence described in the complaint to the present date.

RESPONSE: TMS objects to this request to the extent it seeks information from TMS. This demand is more appropriate to plaintiff.

DEMAND PURSUANT TO CPLR 3101(f) FOR INSURANCE

1. With respect to any and all insurance in effect at the time of the occurrence complained of under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;

(a) All primary insurance agreements and policies of liability insurance and,

(b) All excess and umbrella insurance agreements and policies of liability Insurance.

RESPONSE: TMS is self-insured for the first $12,000,000 per occurrence and has insurance coverage for sums in excess of said amount sufficient to cover any reasonable adverse judgment which might be entered in this case.

DEMAND FOR LIST OF ATTORNEYS APPEARING IN ACTION

PLEASE TAKE NOTICE that pursuant to CPLR Section 3102(a) and CPLR Rule 2103(e), you are hereby required to provide the undersigned with a list of those attorneys who have appeared in this action together with their addresses and the name of the party for whom such attorney has appeared.

RESPONSE: TMS refers to the service rider of this discovery response.

Dated: White Plains, New York
December 12, 2008

Yours, etc.

BY: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Defendant
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F: (718) 442-1717

TOY-RQ-05E-00003852

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Index No.: 17175/08

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. AND TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

TOYOTA MOTOR SALES, U.S.A., INC.'S RESPONSE TO RICARDO BROWN'S NOTICES FOR DISCOVERY AND INSPECTION

ECKERT SEAMANS CHERIN & MELLOTT, LLC.
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TOY-RQ-05E-00003853

Final

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----------X

EZATT AZIZI,

Plaintiff,

- against -

RICARDO BROWN, DCFS TRUST, LEON ALEJANDRO, LEXUS MOTOR CARS, INC. and TOYOTA MOTOR SALES U.S.A., INC.,

Defendants.

----------X

Index No.: 17175/08

TOYOTA MOTOR SALES, U.S.A., INC.'S RESPONSE TO RICARDO BROWN'S NOTICES FOR DISCOVERY AND INSPECTION

Defendant, TOYOTA MOTOR SALES, U.S.A., INC. ("TMS"), by its attorneys, ECKERT SEAMANS CHERIN & MELLOTT, LLC, makes the following response to Ricardo Brown's notices for discovery and inspection:

DEMAND FOR COLLATERAL SOURCE INFORMATION

1. If plaintiff is self-employed or obtained income from sources other than employment, submit copies of plaintiff's income tax returns for a three year period preceding the date of the accident to the present.

2. A duly executed and acknowledged written authorization directed to plaintiffs employers for a three year period preceding the date the accident to the present:

3. Duly executed and acknowledged written authorizations directed to the Internal Revenue Service for a three year period preceding the date of the accident to the present. Said authorization must include a photocopy of two forms of photo identification.

4. A duly executed and acknowledged written authorization directed to plaintiffs No-Fault carrier to permit the defendant to obtain the records maintained by the No-Fault carrier with regard to the accident alleged in plaintiff's complaint.

5. If a claim has or will be made pursuant to the terms of Article XVIII of the Insurance Law of the State of New York, with respect to each and every application:

   a) Set forth the name, address, policy number of each company to which a claim has been or will be made.

   b) Set forth duly executed and acknowledged written authorizations enabling the undersigned to obtain the records relating to the plaintiff from each company identified in response to paragraph 5(a).

6. If a claim has or will be made pursuant to the terms of the worker's compensation law, with respect to each and every application:

   a) Set forth the name, address, policy number and claim number of each company to which a claim has been or will be made, together with the worker's compensation board file number.

b) Set forth duly executed and acknowledged written authorizations enabling the undersigned to obtain the records relating to the plaintiff from each company identified in response to paragraph 6(a).

7. If a disability claim has or will be made pursuant to the terms of the social security laws, with respect to each and every application:

a) Set forth the claim office, the address, and the claim number assigned.

b) Set forth a duly executed and acknowledge written authorization enabling the undersigned to obtain the records relating to the plaintiff.

8. Pursuant to CPLR Section 4545(c), produce and permit the defendants to inspect and copy the contents of:

a) each and every collateral source of payment, including but not limited to insurance agreements, social security, worker's compensation or employee benefit programs and any other collateral source of payment for past or future costs or expenses alleged to have been incurred by the plaintiffs or for which recovery is sought in the instant action; and

b) A written statement setting forth any such collateral sources and their amounts; and

c) Duly executed original authorizations permitting the defendants to obtain and make copies of all records relating to collateral source information as set forth herein.

9. Duly executed and acknowledge original authorizations permitting this defendant to obtain and copy:

a) Employment records for three years prior to the date of the accident to the present;

b) Union records for three years prior to the date of the accident to the present.

RESPONSE: TMS objects to this request to the extent it seeks information from TMS. This demand is more appropriate to plaintiff.

DEMAND FOR NAMES AND ADDRESSES OF ALL WITNESSES

1. The names and addresses of each person known or claimed by you or any party you represent in this action to be a witness to:

(a) The occurrence alleged in the complaint in this action; or,

(b) Any acts, omissions, or conditions which allegedly caused the occurrence alleged in the complaint; or,

(c) Any actual notice allegedly given to the defendants or any employee of defendant of any condition which allegedly caused the occurrence alleged in the complaint; or,

(d) The nature and duration of any alleged condition which allegedly caused the occurrence alleged in the complaint.

RESPONSE: TMS states that it is not aware of any witnesses to the accident other than the individuals identified in the police report.

TOY-RQ-05E-00003855

NOTICE TO PRODUCE PURSUANT TO CPLR 3101(e)

1. Any signed statements, unsigned statement or copy of any recorded statement or document made by or taken from any party represented by the undersigned in this action, or from any agent, servant or employee of any defendant represented by this office; or,

(b) Any signed statement, undersigned statement, or copy of any recorded statement or document made by or taken from any co-defendant or agent, servant or employee of any co-defendant at the office of CONNORS & CONNORS, P.C., 766 Castleton Avenue, Staten Island, New York, 10310, on December 8, 2008, at 2:00 in the afternoon.

RESPONSE: TMS states that it is not in possession of any statements from Ricardo Brown relating to the accident.

NOTICE TO PRODUCE (GENERAL)

1. All photographs depicting the scene of the accident;
2. All photographs depicting the vehicles involved in the incident, both before and after, if applicable.
3. All photographs depicting the condition of the place of the accident as it existed at the time of the accident.
4. All photographs depicting any bodily injuries alleged to have been suffered by the plaintiff.
5. All photographs depicting any property damage alleged to have been suffered by the plaintiff.
6. All photographs depicting the instrumentality which caused the damages, if applicable.
7. All repair bills and estimates for damages claimed to have been sustained by the plaintiff.
8. All accident reports prepared or signed by any party, including MV-I04 reports, relating to the alleged documents.

RESPONSE: TMS states that it is not in possession of any photographs of the vehicles involved in the accident, the scene of the accident or any of the occupants of the vehicles involved in the accident. TMS states that it is not in possession of any police report other than that produced by plaintiff.

DEMAND OF NAMES OF EXPERT WITNESSES

1. The full identity of each and every person whom the party expects to call as an expert witness at trial, including the name and address of said person;
2. The subject matter on which each expert is expected to testify;
3. The substance of the facts and opinions on which each expert is expected to testify;

4. The qualifications of each expert witness;

5. A summary of the grounds for each expert's opinion.

6. State when this expert was retained by plaintiffs counsel.

7. State the names of each person with whom the expert has consulted in reaching his/her opinions and conclusions with regard to this matter and provide his/her last known business address.

8. State whether this expert has had occasion to visit the scene of the accident. If so, state the dates on which said expert visited the scene of the occurrence.

9. Attach a complete copy of each expert's report, including photographs, exhibits, diagrams, charts, and any other material prepared by this expert in connection with plaintiffs claim.

10. State whether the named experts previously have testified on behalf of your law office in other litigation. If so, provide the name and index number of said cases.

RESPONSE: TMS objects to this request because it exceeds the scope of CPLR § 3101(d). Without waiving that objection, TMS states that it will serve expert disclosure in compliance with the order of the court

DEMAND FOR MEDICAL INFORMATION

1. The names and addresses of all physicians or other health care providers of every description, who have consulted, examined or treated the plaintiffs for each of the conditions allegedly caused by, or exacerbated by, the occurrence described in the complaint including the date of such treatment or examination.

2. Duly executed and acknowledged written authorizations directed to any hospital, clinic or other health care facility in which the injured plaintiff(s) herein is or was treated or confined due to the occurrence set forth in the complaint so as to permit the securing of a copy of the entire hospital record or records including x-rays and technicians' reports.

3. Duly executed and acknowledged written authorizations to allow the defendant to obtain the complete office medical records relating to plaintiffs of each health care provider identified in (1) above.

4. Copies of all medical reports received from health care providers identified in (1) above. These shall include a detailed recital of the injuries and conditions as to which testimony will be offered at the trial, referring to and identifying those x-rays and technicians' reports which will be offered at the trial.

5. Duly executed and acknowledged written authorizations to allow defendants to obtain complete pharmacy or drug store records with respect to any drugs prescribed for plaintiffs from one (1) year prior to the occurrence described in the complaint to the present date.

RESPONSE: TMS objects to this request to the extent it seeks information from TMS. This demand is more appropriate to plaintiff.

DEMAND PURSUANT TO CPLR 3101(f) FOR INSURANCE

1. With respect to any and all insurance in effect at the time of the occurrence complained of under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;

(a) All primary insurance agreements and policies of liability insurance and,

(b) All excess and umbrella insurance agreements and policies of liability Insurance.

RESPONSE: TMS is self-insured for the first $12,000,000 per occurrence and has insurance coverage for sums in excess of said amount sufficient to cover any reasonable adverse judgment which might be entered in this case.

DEMAND FOR LIST OF ATTORNEYS APPEARING IN ACTION

PLEASE TAKE NOTICE that pursuant to CPLR Section 3102(a) and CPLR Rule 2103(e), you are hereby required to provide the undersigned with a list of those attorneys who have appeared in this action together with their addresses and the name of the party for whom such attorney has appeared.

RESPONSE: TMS refers to the service rider of this discovery response.

Dated: White Plains, New York
December 12, 2008

Yours, etc.

BY: STEVEN R. KRAMER, ESQ.
EDWARD A. GRAY, ESQ.
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F: (718) 442-1717

TOY-RQ-05E-00003859

DOS-1248 (1/08)

DEPARTMENT OF STATE
UNIFORM COMMERCIAL CODE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

CERTIFIED MAIL

Sender:

USA/CERTIFIED
mailer patent

*Patents 5,573,277 *
5,697,648
5,848,809
3-UP Laser Form /USA CMF-07 05/08*

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02 1A
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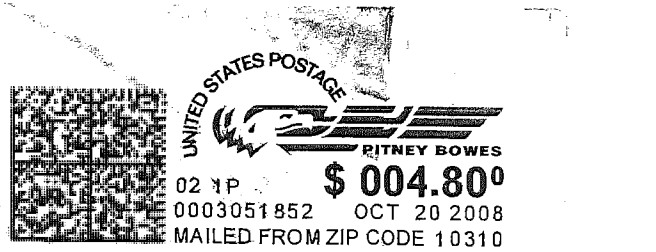
SEP 17 2008
MAILED FROM ZIP CODE 12231



First Class Mail

THE LAW FIRM OF
CONNORS & CONNORS
PC

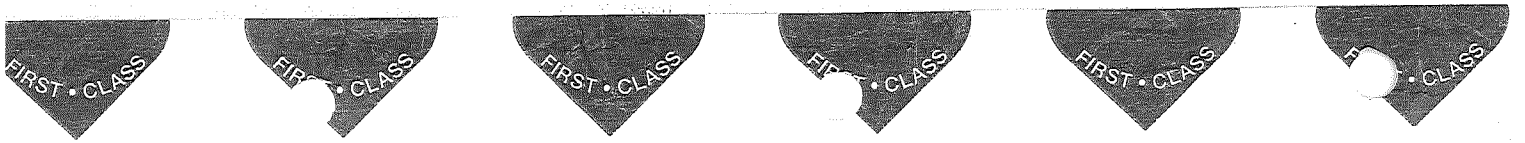
766 CASTLETON AVENUE
STATEN ISLAND, NEW YORK 10310-9003

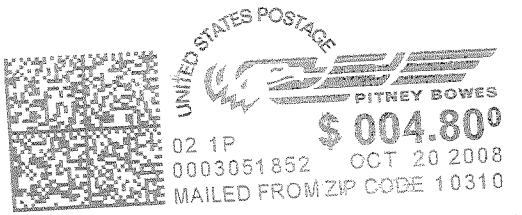
TO:

TOYOTA MOTOR SALES USA
19001 South Western Avenue
Torrance, CA 90501

HQ11

TOY-RQ-05E-00003861





First Class Mail

THE LAW FIRM OF
CONNORS & CONNORS
PC
766 CASTLETON AVENUE
STATEN ISLAND, NEW YORK 10310-9003

TO:

TOYOTA MOTOR SALES USA
111 Eighth Avenue
New York, New York 10011

CT?

TOY-RQ-05E-00003862

[redacted]

AZIZI, EZATT PLEADINGS

TOY-RQ-05E-00003863

[redacted]

AZIZI, EZATT

DSC TO TOYOTA

TOY-RQ-05E-00003864

[redacted] [redacted]

AZIZI, EZATT DSC TO OTHERS

TOY-RQ-05E-00003865

[redacted]

AZIZI, EZATT EXPERT DEPOS

TOY-RQ-05E-00003866

[redacted]

AZIZI, EZATT OTHER DEPOS

TOY-RQ-05E-00003867

[redacted]

AZIZI, EZATT MEDICAL RECORDS [redacted]