

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Nov 02 2021 07:03 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JUDITH SALTER, INDIVIDUALLY;
JOSHUA KANER, INDIVIDUALLY;
AND JOSHUA KANER AS
GUARDIAN AND NATURAL
PARENT OF SYDNEY KANER, A
MINOR,

Appellants,

vs.

EDWARD RODRIGUEZ MOYA, AN
INDIVIDUAL; AND BERENICE
DOMENZAIN-RODRIGUEZ, AN
INDIVIDUAL,

Respondents.

District Court Case No.:
A-20-827003-C

**APPELLANT'S APPENDIX,
VOLUME 2 (Nos. 251–500)**

Price Beckstrom, PLLC

Daniel R. Price, Esq.

Nevada Bar No. 13564

Christopher Beckstrom, Esq.

Nevada Bar No. 14031

1404 South Jones Boulevard

Las Vegas, NV 89146

Attorneys for Appellants

INDEX TO PETITIONER'S APPENDIX

DOCUMENT DESCRIPTION	LOCATION
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Opposition to Defendants' Motion to Enforce Settlement Agreement	Vol. 1, 113–37
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EXHIBIT F

EXHIBIT F

Attn: Region IV Claims, PO Box 509119
San Diego, CA 92150-9914

11/12/2020

Price Beckstom Pllc

7312 WCHEYENNE AVE STE 5
Las Vegas, NV 89129-7425

Company Name: GEICO Advantage Insurance Company
Claim Number: 027998674 0101 014
Loss Date: Saturday, July 25, 2020
Policyholder: Berenice Domenzain-rodriguez
Driver: Edward Rodriguez moya
Clients: Judith Salter, Joshua Kaner and Sydney Kaner

Dear Price Beckstom Pllc,

Please be advised that there were a total of three (3) injured parties that were involved in the above referenced loss.

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/ \$50,000.00 per occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

Please take this matter under consideration to come up with a distribution of our remaining policy limits (with no one person receiving more than the \$25,000.00 single policy limit and all parties limited to \$50,000.00 combined.) Please notify me when you have come to a conclusion regarding the disbursement of the remaining limits.

Please note that all parties must agree to settlement before we can issue payments. We will coordinate with all parties to assist in the agreement and anticipated resolution to include the utilization of a mediator if necessary.

Please note given the nature of the case we will request court approval for any minors involved.

0252

Sincerely,

Whitney Atterberry
520-546-5254
Claims Department

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EXHIBIT G

EXHIBIT G



December 1, 2020

Whitney Atterberry
GEICO
PO Box 509119
San Diego, CA 92150
Via Document Upload

Re: Your insured : Berenice Domenzain-Rodriguez &
 Edward J Rodriguez Moya
 Date of Loss : 7/25/2020
 Claim Number: 0279986740101014
 My Clients : Judith Salter, Joshua Kaner and Sydney Kaner

Dear Ms. Atterberry:

My clients were surprised that you did not accept their settlement offer dated October 22, 2020. We did receive your counteroffer dated November 12, 2020, which my clients reject.

Sincerely,

Daniel Price

Daniel R. Price, Esq.
PRICE BECKSTROM, PLLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****March 15, 2021**

A-20-827003-C Judith Salter, Plaintiff(s)
 vs.
 Edward Rodriguez Moya, Defendant(s)

March 15, 2021 3:00 AM Minute Order

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having considered Defendants Motion to Enforce Settlement Agreement, Plaintiffs Opposition, and Defendants Reply, the motion is hereby DENIED. Plaintiffs Judith Salter, Joshua Kamer, and minor Sydney Kamer allege that they were involved in a motor-vehicle collision involving the defendants which occurred on or about July 25, 2020. Plaintiffs allege they were rear-ended by Defendants and sustained injuries as a result. On October 22, 2020, Plaintiffs sent a Time-Limited Settlement Offer to Defendants. The offer required acceptance by performance and included the following language:

My clients make this one-time offer to settle all of my clients claims arising from this loss against your insured in exchange for the formal limits of your insureds policy limits of \$50,000 as a global tender. This offer expires on November 23, 2020 at 1:00 p.m., Pacific Time. This offer can only be accepted by the following performance, accomplished prior to the expiration of this offer:

1) Receipt of \$50,000 (the global policy limits of this policy) in my office, payable to Price Beckstrom, PLLC, Judith Salter, Joshua Kaner, and Sydney Kaner.

(Plaintiffs 10/22/20 Settlement Offer) (emphasis added). GEICO responded to Plaintiffs settlement offer with a letter dated November 12, 2020, stating:

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/\$50,000.00 per

PRINT DATE: 03/16/2021

Page 1 of 2

Minutes Date: March 15, 2021

0256

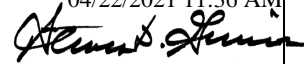
occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

Please take this matter under consideration to come up with a distribution of our remaining policy limits (with no one person receiving more than the \$25,000.00 single policy limit and all parties limited to \$50,000.00 combined.) Please notify me when you have come to a conclusion regarding the disbursement of the remaining limits.

GEICO's 11/12/20 Letter. Defendants now argue that the November 12, 2020 letter sent to Plaintiffs constituted valid acceptance of the settlement offer and request that this Court enforce the agreement.

Acceptance of an offer is a manifestation of assent to the terms thereof made by the offeree in a manner invited or required by the offer. *Eagle Materials, Inc. v. Stiren*, 127 Nev. 1131, 373 P.3d 911 (2011); (citing Restatement (Second) of Contracts 50 (1981)). Where an offer invites an offeree to accept by rendering a performance ... [a] contract is created when the offeree tenders or begins the invited performance. *Id.* (citing Restatement (Second) of Contracts 45 (1981)). Where the offer requires acceptance by performance and does not invite a return promise . . . a contract can be created only by the offeree's performance. Restatement (Second) of Contracts 50 (1981). A mere promise to perform, without actual performance, does not constitute valid acceptance in such a situation. *Id.* Plaintiff's October 22, 2020 Settlement Offer clearly states that the offer can only be accepted by performance accomplished prior to the expiration of the offer. It is undisputed that Defendants did not provide payment in the manner specified prior to the deadline. Accordingly, the essential element of acceptance is not present to form an enforceable contract and Defendants' motion is DENIED. Plaintiffs' counsel shall promptly submit a proposed order.

CLERK'S NOTE: The above minute order has been distributed via e-mail to: Attorneys Daniel R. Price & Darrell D. Dennis. kar 3/16/21


CLERK OF THE COURT

ORDR

Daniel R. Price (NV Bar No. 13564)
Christopher Beckstrom (NV Bar No. 14031)
PRICE BECKSTROM, PLLC
1404 S. Jones Blvd.
Las Vegas, Nevada 89146
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Fax: (702) 832-4026
info@pbnv.law
Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JUDITH SALTER, individually; JOSHUA
KANER, individually; and JOSHUA KANER as
guardian and natural parent of SYDNEY
KANER, a minor;

Plaintiffs,

v.

EDWARD RODRIGUEZ MOYA, an individual;
BERENICE DOMENZAIN-RODRIGUEZ, an
individual; DOE OWNERS I-V; DOE
DRIVERS I-V; ROE EMPLOYERS I-V and
ROE COMPANIES I-V;

Defendants.

Case No.: A-20-827003-C

Dept. No.: 6

**ORDER DENYING DEFENDANTS' MOTION
TO ENFORCE SETTLEMENT AGREEMENT**

THIS COURT, upon review of the papers and pleadings on file in this Matter, hereby
DENIES Defendants' Motion to Enforce Settlement Agreement and finds and orders as follows:

This Court FINDS this matter arises from a motor vehicle collision which occurred on July
25, 2020. This Court further finds Defendants' auto insurance carrier, GEICO Advantage Insurance
Company ("GEICO") was authorized to act on Defendants' behalf to negotiate a settlement under the
insuring agreement.

This Court further FINDS counsel for Plaintiffs served an unambiguous pre-litigation settlement offer to GEICO on October 22, 2020, requiring acceptance by performance and including the following language:

My clients make this one-time offer to settle all of my clients' claims arising from this loss against your insured in exchange for the formal limits of your insureds' policy limits of \$50,000 as a global tender.

This offer expires on November 23, 2020 at 1:00 p.m., Pacific Time. This offer can only be accepted by the following performance, accomplished prior to the expiration of this offer:

- 1) Receipt of \$50,000 (the global policy limits of this policy) in my office, payable to "Price Beckstrom, PLLC, Judith Salter, Joshua Kaner, and Sydney Kaner."

GEICO responded to Plaintiffs' settlement offer with a letter dated November 12, 2020, stating:

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/\$50,000.00 per occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

Please take this matter under consideration to come up with a distribution of our remaining policy limits (with no one person receiving more than the \$25,000.00 single policy limit and all parties limited to \$50,000.00 combined.) Please notify me when you have come to a conclusion regarding the disbursement of the remaining limits.

Defendants argue that the November 12, 2020, letter sent to Plaintiffs' counsel constituted valid acceptance of the settlement offer and request that this Court enforce the agreement.

This Court disagrees. Acceptance of an offer is a manifestation of assent to the terms thereof made by the offeree in a manner invited or required by the offer. *Eagle Materials, Inc. v. Stiren*, 127 Nev. 1131, 373 P.3d 911 (2011) (citing RESTATEMENT 2D OF CONTRACTS § 50 (1981)). Where an offer invites an offeree to accept by rendering a performance . . . [a] contract is created when the offeree tenders or begins the invited performance. *Id.* (citing RESTATEMENT 2D OF CONTRACTS § 45 (1981)). Where the offer requires acceptance by performance and does not invite a return promise . . . a contract can be created only by the offeree's performance. RESTATEMENT 2D OF CONTRACTS § 45 (1981). A mere promise to perform, without actual performance, does not constitute valid acceptance in such a situation. *Id.*

1 Plaintiffs' October 22, 2020, settlement offer clearly states that the offer can only be accepted
2 by performance accomplished prior to the expiration of the offer. It is undisputed that Defendants did
3 not provide payment in the manner specified prior to the deadline. Accordingly, the essential element
4 of acceptance is not present to form an enforceable contract, and Defendants' motion is DENIED.

5 IT IS SO ORDERED.

Dated this 22nd day of April, 2021

6 

7 DISTRICT JUDGE

8 69A 561 0F1D C529

9 Respectfully submitted by: Reviewed as to form and content by:
Jacqueline M. Bluth
District Court Judge

10 /s/ Christopher Beckstrom

11 DID NOT SIGN

12 Daniel R. Price, Esq. (NV Bar No. 13564)
13 Christopher Beckstrom, Esq. (NV Bar No. 14031)
14 PRICE BECKSTROM, PLLC
15 1404 S. Jones Blvd.
16 Las Vegas, Nevada 89146
17 Attorneys for Plaintiffs

18 Darrell D. Dennis, Esq. (NV Bar No. 006618)
19 Michael R. Smith, Esq. (NV Bar No. 12641)
20 LEWIS BRISBOIS BISGAARD & SMITH LLP
21 6385 S. Rainbow Blvd., Ste 600
22 Las Vegas, NV 89118
23 Attorneys for Defendants
24

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Judith Salter, Plaintiff(s)

CASE NO: A-20-827003-C

7 vs.

DEPT. NO. Department 6

8 Edward Rodriguez Moya,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order Denying Motion was served via the court's electronic eFile
14 system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 4/22/2021

15 Darrell Dennis

darrell.dennis@lewisbrisbois.com

16 Carrie Dunham

carrie.dunham@lewisbrisbois.com

17 Abigail Prince

abigail.prince@lewisbrisbois.com

18 Michael Smith

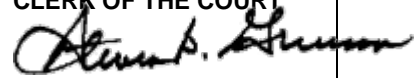
michael.r.smith@lewisbrisbois.com

19 Gabriela Mercado

gabriela.mercado@lewisbrisbois.com

20 Price Beckstrom, PLLC Eservice

info@pbnv.law



1 **NEO**

2 Daniel R. Price (NV Bar No. 13564)
3 Christopher Beckstrom (NV Bar No. 14031)
4 PRICE BECKSTROM, PLLC
5 1404 S. Jones Blvd.
6 Las Vegas, Nevada 89146
7 Phone: (702) 941-0503
8 Fax: (702) 832-4026
9 info@pbnv.law
10 *Attorneys for Plaintiffs*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 JUDITH SALTER, individually; JOSHUA
14 KANER, individually; and JOSHUA KANER as
15 guardian and natural parent of SYDNEY
16 KANER, a minor;

17 Plaintiffs,

18 v.

19 EDWARD RODRIGUEZ MOYA, an individual;
20 BERENICE DOMENZAIN-RODRIGUEZ, an
21 individual; DOE OWNERS I-V; DOE
22 DRIVERS I-V; ROE EMPLOYERS I-V and
23 ROE COMPANIES I-V;

24 Defendants.

Case No.: A-20-827003-C

Dept. No.: 6

25 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANTS' MOTION**
26 **TO ENFORCE SETTLEMENT AGREEMENT**

27 TO: ALL INTERESTED PARTIES

28 PLEASE TAKE NOTICE that on the 22nd day of April, 2021, the Court entered an
29 order denying Defendants' motion to enforce settlement agreement, attached as **Exhibit 1**.

30 Dated this 22nd day of April, 2021.

31 /s/ Christopher Beckstrom

32 Daniel R. Price (NV Bar No. 13564)
33 Christopher Beckstrom (NV Bar No. 14031)
34 PRICE BECKSTROM, PLLC
1404 S. Jones Blvd.
Las Vegas, Nevada 89146

CERTIFICATE OF SERVICE

Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that on the date indicated below I served the foregoing *Notice of Entry of Order Denying Defendants' Motion to Enforce Settlement Agreement* upon the following via electronic service:

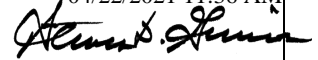
Darrell D. Dennis, Esq. (NV Bar No. 006618)
Michael R. Smith, Esq. (NV Bar No. 12641)
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118
Attorneys for Defendants

Dated this 22nd day of April, 2021.

/s/ Stephanie Amundsen
An employee of PRICE BECKSTROM, PLLC

EXHIBIT 1

EXHIBIT 1


CLERK OF THE COURT

ORDR

Daniel R. Price (NV Bar No. 13564)
Christopher Beckstrom (NV Bar No. 14031)
PRICE BECKSTROM, PLLC
1404 S. Jones Blvd.
Las Vegas, Nevada 89146
Phone: (702) 941-0503
Fax: (702) 832-4026
info@pbnv.law
Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JUDITH SALTER, individually; JOSHUA
KANER, individually; and JOSHUA KANER as
guardian and natural parent of SYDNEY
KANER, a minor;

Plaintiffs,

v.

EDWARD RODRIGUEZ MOYA, an individual;
BERENICE DOMENZAIN-RODRIGUEZ, an
individual; DOE OWNERS I-V; DOE
DRIVERS I-V; ROE EMPLOYERS I-V and
ROE COMPANIES I-V;

Defendants.

Case No.: A-20-827003-C

Dept. No.: 6

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25, 2020. This Court further finds Defendants' auto insurance carrier, GEICO Advantage Insurance
Company ("GEICO") was authorized to act on Defendants' behalf to negotiate a settlement under the
insuring agreement.

This Court further FINDS counsel for Plaintiffs served an unambiguous pre-litigation settlement offer to GEICO on October 22, 2020, requiring acceptance by performance and including the following language:

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1 Plaintiffs' October 22, 2020, settlement offer clearly states that the offer can only be accepted
2 by performance accomplished prior to the expiration of the offer. It is undisputed that Defendants did
3 not provide payment in the manner specified prior to the deadline. Accordingly, the essential element
4 of acceptance is not present to form an enforceable contract, and Defendants' motion is DENIED.

5 IT IS SO ORDERED.

Dated this 22nd day of April, 2021

6 

7 DISTRICT JUDGE

8 69A 561 0F1D C529

9 Respectfully submitted by: Reviewed as to form and content by:
Jacqueline M. Bluth
District Court Judge

10 /s/ Christopher Beckstrom

11 DID NOT SIGN

12 Daniel R. Price, Esq. (NV Bar No. 13564)
13 Christopher Beckstrom, Esq. (NV Bar No. 14031)
14 PRICE BECKSTROM, PLLC
15 1404 S. Jones Blvd.
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19 Michael R. Smith, Esq. (NV Bar No. 12641)
20 LEWIS BRISBOIS BISGAARD & SMITH LLP
21 6385 S. Rainbow Blvd., Ste 600
22 Las Vegas, NV 89118
23 Attorneys for Defendants
24

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Judith Salter, Plaintiff(s)

CASE NO: A-20-827003-C

7 vs.

DEPT. NO. Department 6

8 Edward Rodriguez Moya,
9 Defendant(s)

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Service Date: 4/22/2021

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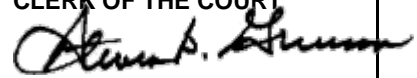
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19 Gabriela Mercado

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20 Price Beckstrom, PLLC Eservice

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1 **MRCN**
2 **DARRELL D. DENNIS**
3 Nevada Bar No. 006618
4 **MICHAEL R. SMITH**
5 Nevada Bar No. 12641
6 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
7 6385 S. Rainbow Boulevard, Suite 600
8 Las Vegas, Nevada 89118
9 Telephone: 702.893.3383
10 Facsimile: 702.893.3789
11 E-Mail: Darrell.Dennis@lewisbrisbois.com
12 E-Mail: Michael.R.Smith@lewisbrisbois.com
13 *Attorneys for Defendants*

10
11 **EIGHTH JUDICIAL DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 JUDITH SALTER, individually; JOSHUA
14 KANER, individually; and JOSHUA KANER
15 as guardian and natural parent of SYDNEY
16 KANER, a minor;

17 Plaintiffs,

18 vs.

19 EDWARD RODRIGUEZ MOYA, an
20 individual; BERENICE DOMENZIAN-
21 RODRIGUEZ, an individual; DOE OWNERS
22 I-V; DOE DRIVERS I-V; and ROE
23 COMPANIES I-V;

24 Defendants.

Case No. A-20-827003-C

Dept. No.: VI

(HEARING REQUESTED)

**MOTION FOR RECONSIDERATION OF
COURT'S MARCH 15, 2021 MINUTE
ORDER DENYING DEFENDANTS'
MOTION TO ENFORCE SETTLEMENT
AGREEMENT**

25 COME NOW, Defendants EDWARD RODRIGUEZ MOYA and BERENICE
26 DOMENZIAN-RODRIGUEZ (hereinafter referred to collectively as "Defendants"), by and through
27 their counsel of record, the law office of LEWIS BRISBOIS BISGAARD & SMITH, LLP, and
28 hereby files the instant Motion for Reconsideration of the Court's March 15, 2021, Minute Order
denying Defendants' Motion to Enforce Settlement Agreement.

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///

1 This Motion is made and based on the attached Memorandum of Points and Authorities,
2 including exhibits, the papers and pleadings on file with the Court, and any oral argument the Court
3 may entertain at time of Hearing.

4
5 DATED this 19th day of March, 2021.

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

7 By: */s/ Michael R. Smith*

8 DARRELL D. DENNIS

9 Nevada Bar No. 006618

10 MICHAEL R. SMITH

11 Nevada Bar No. 12641

12 6385 S. Rainbow Boulevard, Suite 600

13 Las Vegas, Nevada 89118

14 *Attorneys for Defendants*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **FACTS AND PROCEDURAL HISTORY**

4 **A. Underlying Facts**

5 The subject lawsuit is the result of an alleged two-vehicle collision stated to have occurred
6 on July 25, 2020. According to plaintiffs JUDITH SALTER, JOSHUA KAMER, and minor
7 SYDNEY KAMER (hereinafter referred to collectively as “Plaintiffs”), they were “rear-ended” by
8 a vehicle operated by Defendant EDWARD RODRIGUEZ MOYA, and owned jointly by Defendant
9 EDWARD RODRIGUEZ MOYA and his wife, Defendant BERENICE DOMINZIAN-
10 RODRIGUEZ.

11 No police were summoned to the scene. (*See*, NRS § 484E.070(2) which provides no police
12 report is necessary if the apparent damage is less than \$750.00.)

13 Neither vehicle sustained visibly discernable damage. (*See*, photographs of Plaintiffs’
14 vehicle, attached hereto as Exhibit “A.” *See also*, Photographs of Defendants’ vehicle, attached
15 hereto as Exhibit “B.”)

16 Prior to filing the instant lawsuit, counsel for the plaintiffs requested information from
17 Defendants’ insurer. (*See*, Plaintiffs’ Counsel Letter to Defendants’ Insurer, dated July 28 and 29,
18 2020, attached hereto collectively as Exhibit “C.”)

19 In response to this request, Defendants’ Insurer informed plaintiffs of Defendants’ insurance
20 policy limits of \$25,000.00 per person/ \$50,000.00 per occurrence. (*See*, Defendants’ Automobile
21 Liability Insurer’s Letter to Plaintiffs’ Counsel dated September 4, 2020, attached hereto as Exhibit
22 “D.”)

23 In response to this Defendants’ Insurer’s notification of the Defendants’ automobile liability
24 policy insurance, plaintiffs’ counsel sent a “time-sensitive demand letter” to Defendants’ insurer in
25 which plaintiffs’ counsel demanded the Defendants’ entire per occurrence policy limit, to be split
26 among three individuals (one of which is a minor). (*See*, Plaintiffs’ Time-Sensitive Settlement Offer
27 to Defendants’ insurer dated October 22, 2020, attached hereto *sans exhibits* as Exhibit “E.”)

28 ///

1 In response to the plaintiffs' demand, Defendants' automobile liability policy insurer agreed
2 to provide the "per occurrence" policy limit to plaintiffs' counsel, subject to the restrictions imposed
3 on the policy and by Nevada Law. (*See*, Defendants' Automobile Liability Insurer's Letter to
4 Plaintiffs' Counsel dated November 12, 2020, attached hereto as Exhibit "F.")

5 Defendants' automobile liability insurance carrier was acting to perform under the plaintiffs'
6 offer.

7 Plaintiffs' counsel did not respond to Defendants' automobile liability insurer's efforts to
8 perform under plaintiffs' demand until several weeks after the "performance period" lapsed. After
9 remaining silent, plaintiffs' counsel responded by stating his belief that Defendants' insurer's
10 reliance on the language of NRS § 485.185 was a rejection and counter-offer. (*See*, Plaintiffs'
11 Counsel rejection letter dated December 1, 2020, attached hereto as Exhibit "G.")

12 Defendants assert that Defendants and their automobile liability insurance carrier could not
13 have performed by presenting a single check for three individual claimants, especially as one
14 claimant was a minor.¹ Due to the limitations placed on Defendants' automobile liability insurance
15 carrier by Nevada Law, performance of plaintiffs' demand was not possible without clarification of
16 the issues presented in Defendants' Automobile Liability Insurer's Letter dated November 12, 2020.
17 (Ex. F.) By failing to respond to Defendants' Automobile Liability Insurer's request for instructions
18 to allow for compliance with Nevada Law, plaintiffs' counsel actively thwarted Defendants' ability
19 to perform under the plaintiffs' offer.

20 As a consequence of plaintiffs' counsel's intentional acts preventing Defendants'
21 performance under the offer, Defendants filed a Motion to Enforce Settlement, which the District
22 Court denied without hearing.

23 **B. Court Order**

24 The District Court issued a Minute Order on Defendants' Motion to Enforce Settlement on
25 March 15, 2021. (*See*, District Court Minute Order dated March 15, 2021, attached hereto as Exhibit
26 "H.") The matter was scheduled for Hearing for March 17, 2021, but the Court's Minute Order
27

28 ¹ *See*, Nevada Revised Statutes § 41.200 and § 485.185, discussed herein.

1 resulted in the March 17, 2021, Hearing being vacated.

2 In the District Court's Minute Order, the District Court stated plaintiffs' offer could only be
3 accepted by performance, that is, by providing a single settlement check to plaintiffs' counsel for
4 three claimants (one of whom was and is a minor), by the date and time presented in the offer. (*Id.*)
5 The District Court acknowledged the Defendants' insurer's request for information, and stated this
6 was not performance. (*Id.*) The District Court cited the Restatement (Second) of Contracts and
7 said, "A mere promise to perform, without actual performance, does not constitute valid acceptance
8 in such a situation." (*Id.*)

9 The District Court did not address the requirements for a compromise of minor's claim as
10 requested by Defendants' automobile liability insurance provider, despite this being a required under
11 Nevada Law. (See, NRS § 41.200.)

12 The District Court did not address the limitations of automobile liability insurance policies
13 as articulated by NRS § 485.185.

14 The District Court did not address the Defendants' automobile liability insurer's attempts to
15 comply with state law and plaintiffs' counsel's silence as to instructions on rectifying the issues
16 prior to the date for acceptance.

17 By failing to address Defendants' insurer's legitimate legal concerns in complying with
18 plaintiffs' demand, the District Court did not provide a method by which Defendants' insurer could
19 perform under the contract and still maintain compliance with Nevada Law. Before the ink was dry
20 on the Nevada Constitution, the Nevada Supreme Court stated "Courts will not enforce illegal
21 contracts." (See, *Drexler v. Tyrrell*, 15 Nev. 114 (1880).)

22 By failing to address plaintiffs' counsel's silence in response to Defendants' automobile
23 liability insurance carrier's efforts to legal comply with plaintiffs' demand, the District Court has
24 failed to provide necessary guidance on how defendants and their insurers should address illegal
25 and impossible demands in the future.

26 As such, the instant Motion for Reconsideration is necessary.

27 ///

28 ///

1 II.

2 LEGAL ARGUMENT

3 Defendants contend the District Court failed to fully evaluate the plaintiffs' offer, the
4 inherent restrictions placed on Defendants' insurer in accepting the offer, the Defendants' insurer's
5 good faith efforts to perform under the plaintiff's offer, and plaintiffs' counsel's calculated silence
6 in preventing Defendants' insurer from performing under the offer, such that the failure to consider
7 these factors results in the District Court's March 15, 2021, Minute Order being clearly erroneous
8 such that reconsideration is necessary.

9 A. The District Court is Authorized to Reconsider, Amend, and Make
10 Additional Findings at Any Time Prior to Final Judgment.

11 The District Court has inherent authority to reconsider its rulings at any time prior to final
12 judgment. (See, Nevada Rules of Civil Procedure ("NRCPP"), Rule 54.)

13 District Courts may consider a previously decided issue "if substantially different evidence
14 is subsequently introduced or the decision was clearly erroneous." (See, *Masonry & Tile*
15 *Contractors Assoc. v. Jolley, Urga & Witth Ass'n.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).)

16 Eighth Judicial District Court Rules ("EDCR"), Rule 2.24 anticipates and provides for
17 rehearing of motions and reconsiderations of District Court rulings. As stated by the Nevada
18 Supreme Court in *Trail v. Faretto*, 91 Nev. 401, 403, 536 P.2d 1026, 1027 (1975), "[A] court may,
19 for sufficient cause shown, amend, correct, resettle, modify, or vacate, as the case may be, an order
20 previously made and entered on motion in the progress of the cause or proceeding."

21 Defendants acknowledge that granting a motion for reconsideration is an extraordinary
22 remedy, but feel it is necessary in the present matter.

23 B. The District Court's Minute Order Should Be Reconsidered As The
24 Court Did Not Address Considerations Necessary For Decision, Such
That the Order is Clearly Erroneous.

25 The plaintiffs' demand required performance, by presenting a single check in the amount of
26 Defendants' automobile liability insurance policy's single occurrence limits, to plaintiffs' counsel
27 by a date certain. (Ex. F.) The District Court determined that the only way Defendants' insurer
28 could perform under this contract was by providing the entire "per-occurrence" policy limits to

1 plaintiffs' counsel by the date provided. (Ex. H.)

2 **Nevada Revised Statutes § 485.185**

3 The Court did not address Defendants' insurer's questions to plaintiffs' counsel concerning
4 the defendant's automobile liability policy's single person limits which were presented in both
5 Defendants' Automobile Liability Insurer's Letter dated September 4, 2020 and Defendants'
6 Automobile Liability Insurer's Letter dated November 12, 2020. (Ex. H.)

7 The Defendants' insurer's request was to allow compliance with NRS § 485.185 (Nevada's
8 minimum automobile liability insurance coverage statute), which states, Nevada automobile
9 operators are required to maintain liability insurance "In the amount of \$25,000 for bodily injury or
10 death of one person in any one crash" and "Subject to the limit for one person, in the amount of
11 \$50,000.00 for bodily injury to or death of two or more persons in any one crash." (See, NRS §
12 485.185.)

13 This law provides that Nevada automobile operators must carry a certain level of liability
14 insurance coverage; Nevada automobile operators must carry automobile liability insurance which
15 provides coverage of \$25,000.00 per person, and \$50,000.00 per event, subject to the limitation that
16 in any single event, no individual will receive more than \$25,000.00.

17 In the instant matter, Defendants' automobile liability insurer wanted guidance on how to
18 issue checks to plaintiffs' counsel to allow for compliance with this law. (Ex. F.) Defendants'
19 insurer's need for compliance with this law was not a surprise to plaintiffs' counsel, as Defendants'
20 insurer informed plaintiffs' counsel of this limitation before plaintiffs' made their demand. (Ex. D.)

21 By stating that Defendants' insurer was required to perform an illegal act, the District Court
22 is ignoring state law and stating illegal contracts are valid.

23 At best, the District Court failed to address the legal limitations placed on Defendants'
24 insurer in responding to plaintiffs' demand, and this failure to consider the legal limitations placed
25 on Defendants' insurer warrants reconsideration.

26 **Nevada Revised Statutes § 41.200**

27 Nevada Revised Statutes § 41.200 is Nevada's Minor's Compromise Claim Statute, which
28 was designed to protect those minors who have legitimate claims against third-party tortfeasors.

1 (See, NRS § 41.200.)

2 In the District Court's Minute Order, the Defendants' insurer's concerns about compliance
3 with Nevada Law concerning the protection of minors was not addressed. The District Court's
4 Minute Order did not address NRS § 41.200, the Defendants' insurers' request for compliance with
5 this law, or plaintiffs' counsel's silence as Defendants' counsel attempted to comply with this law.

6 **Plaintiffs' Counsel's Silence**

7 In attempting to perform under the plaintiffs' offer, Defendants' insurer timely requested
8 information to allow for tender of Defendants' per occurrence policy limit to plaintiffs' counsel.
9 (Ex. F.) This demonstrated acceptance of plaintiffs' material terms.

10 The District Court's Minute Order stated that the only way Defendants' insurer could accept
11 the offer was by performance (by providing a single settlement check for the three plaintiffs). As
12 stated above, the District Court did not consider the legal barriers to performance in this manner.
13 The District Court did not state that the limitations on this performance, as timely presented to
14 plaintiffs' counsel during the "open offer" period, resulted in any burden on plaintiffs' counsel to
15 respond to allow performance. As written, the District Court's Minute Order appears to invite
16 parties to present illegal and impossible demands, and then remain silent when legal and legitimate
17 concerns over performance are presented, only to later benefit from the illegal offer presented. The
18 plaintiffs' counsel's unclean hands in creating the current situation will act to encourage others to
19 follow in these footsteps.

20 **III.**

21 **CONCLUSION**

22 The District Court's Minute Order stated the only way Defendants' insurer could accept the
23 plaintiffs' offer was to perform under the offer. The District Court's decision failed to consider the
24 fact that strict performance under the plaintiffs' offer was impossible, as strict performance under
25 the offered terms would be in violation of Nevada Law. The District Court's decision failed to
26 consider the fact that Defendants' insurer attempted performance by attempting to satisfy the
27 material terms of plaintiffs' demand in a legal manner. The District Court's decision failed to
28 address plaintiffs' counsel's silence in responding to Defendants' insurer's attempt to perform under

1 plaintiffs' demand in a legal manner.

2 As such, Defendants respectfully request this Honorable Court to Reconsider the Court's
3 March 15, 2021, Minute Order denying Defendants' Motion to Enforce Settlement Agreement, and
4 allow Hearing on Defendants' Motion to Enforce Settlement Agreement.

5 DATED this 19th day of March, 2021.

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

7 By: /s/ Michael R. Smith

8 DARRELL D. DENNIS

9 Nevada Bar No. 006618

10 MICHAEL R. SMITH

11 Nevada Bar No. 12641

12 6385 S. Rainbow Boulevard, Suite 600

13 Las Vegas, Nevada 89118

14 *Attorneys for Defendants*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of LEWIS BRISBOIS
3 BISGAARD & SMITH LLP and that on this 19th day of March, 2021, I did cause a true copy of the
4 foregoing **MOTION FOR RECONSIDERATION OF COURT'S MARCH 15, 2021 MINUTE**
5 **ORDER DENYING DEFENDANTS' MOTION TO ENFORCE SETTLEMENT**
6 **AGREEMENT**, to be served via the Court's electronic filing and service system to all parties on the
7 current service list.

8 Daniel R. Price
9 Christopher Beckstrom
10 **PRICE BECKSTROM, PLLC**
11 1404 South Jones Blvd.
12 Las Vegas, NV 89146
13 *Attorneys for Plaintiff*

14 By */s/ Gabriela Mercado*
15 Gabriela Mercado, An Employee of
16 LEWIS BRISBOIS BISGAARD & SMITH LLP
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EXHIBIT A

EXHIBIT A



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TIRE AND LOADING INFORMATION
RENSEIGNEMENTS SUR LES PNEUS ET LE CHARGEMENT



SEATING CAPACITY NOMBRE DE PLACES	TOTAL 5	FRONT 2 AVANT	REAR 3 ARRIERE
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The combined weight of occupants and cargo should never exceed
Le poids total des occupants et du chargement ne doit jamais dépasser

TIRE PNEU	SIZE DIMENSIONS	COLD TIRE PRESSURE PRESSION DES PNEUS À FROID	SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION VOIR LE MANUEL DE L'USAGER POUR PLUS DE RENSEIGNEMENTS
FRONT AVANT	205/55R16	230kPa, 33psi	
REAR ARRIERE	205/55R16	230kPa, 33psi	
SPARE DE SECOURS	T125/80D15	420kPa, 60psi	

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lbs



MANUFACTURED BY
HONDA MOTOR MANUFACTURING ALABAMA, LLC

Jan/M/20

GWR 3924 lbs

PAINT S3

SAVER 2183 lbs

SAVER 2094 lbs

TRIM PK

THIS VEHICLE CONFORMS TO ALL APPLICABLE U.S.A. FEDERAL
MOTOR VEHICLE SAFETY STANDARDS, AND THEFT PREVENTION STANDARDS
IN EFFECT ON THE DATE OF MANUFACTURE SHOWN ABOVE

V.I.N 5NPD84LE8LH580896

PASSENGER BAR





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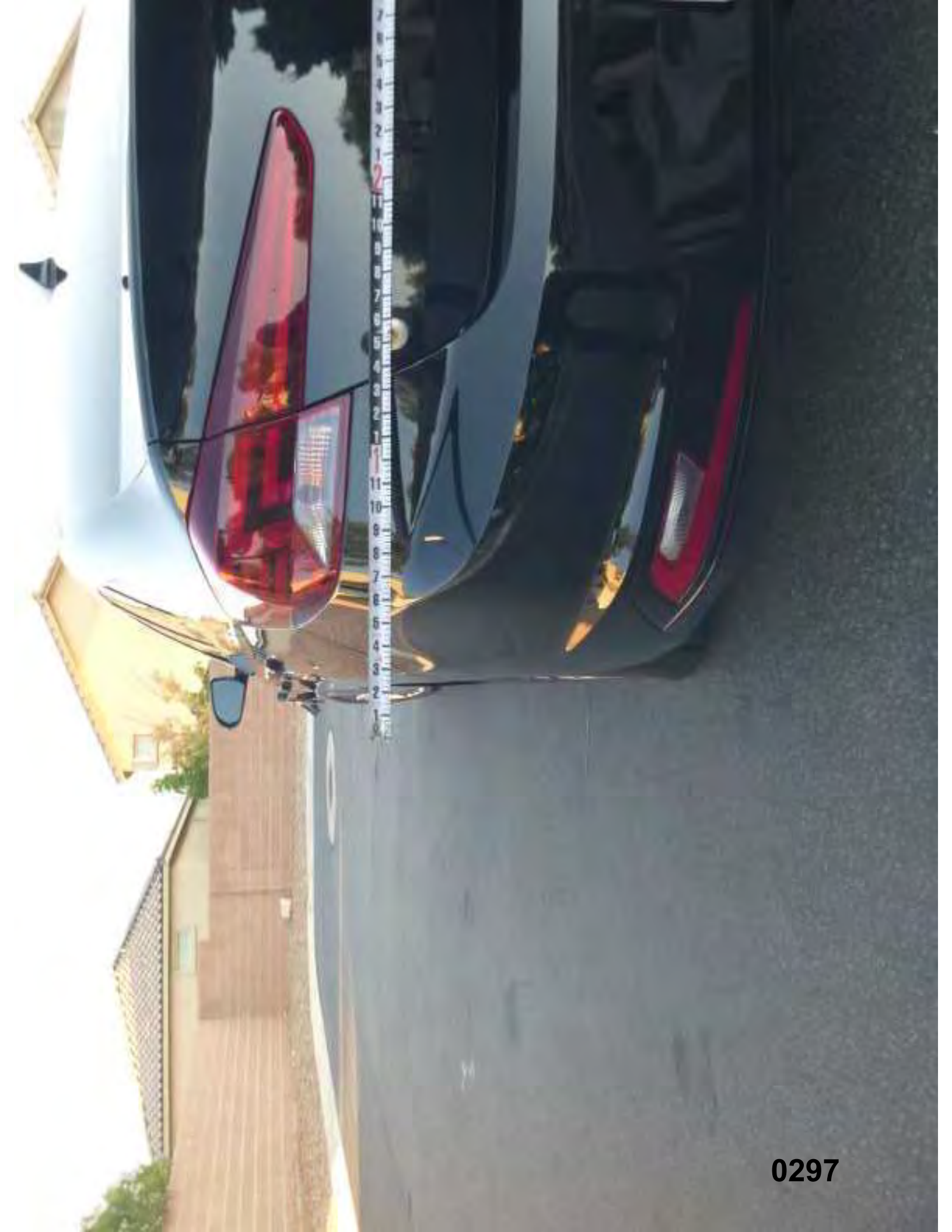
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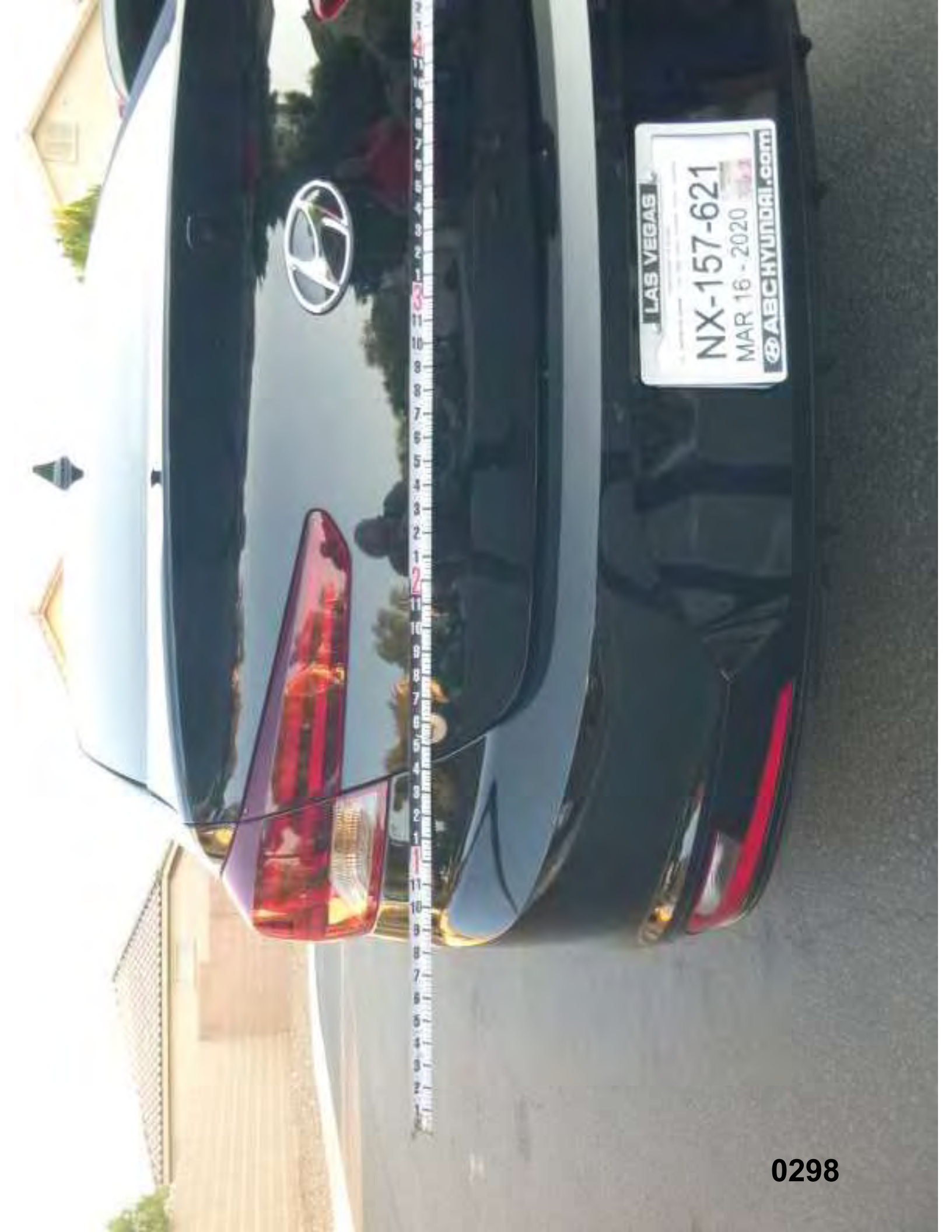
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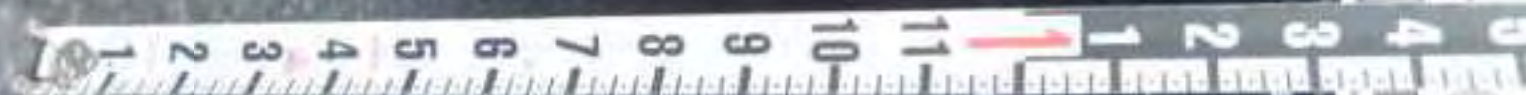


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EXHIBIT B

EXHIBIT B



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TIRE AND LOADING INFORMATION

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2 REAR

5 FRONT

SEATING CAPACITY - TOTAL

THE COMBINED WEIGHT OF OCCUPANTS AND CARGO SHOULD NEVER EXCEED

392 KG OR 865 LB

TIRE

FRONT

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ORIGINAL TIRE SIZE

245/45R20 99V

245/45R20 99V

T145/80D18LL 99M

COLD TIRE INFLATION
PRESSURE

220 kPa / 32 PSI

220 kPa / 32 PSI

420 kPa / 60 PSI

SEE OWNERS MANUAL FOR ADDITIONAL INFORMATION



HH533189

MFD BY FCA US LLC

GWR: 02314 KG

05100 LB

GWR: 01275 KG

FRONT: 02810 LB

DATE OF MANUFACTURE: 11-16

GWR: 01275 KG

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THIS VEHICLE CONFORMS TO ALL APPLICABLE U.S.A. FEDERAL MOTOR VEHICLE SAFETY
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PLANT: 112923 02800

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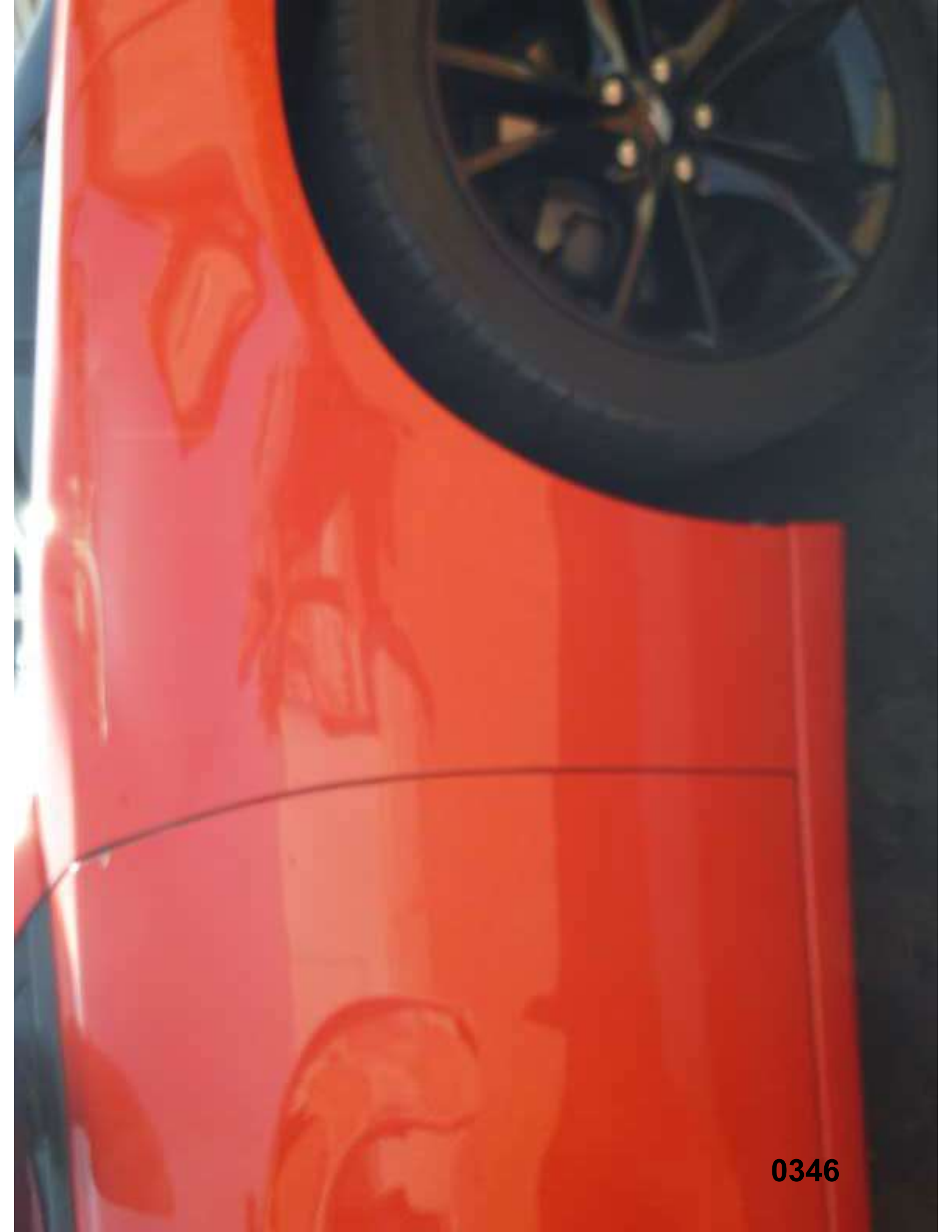
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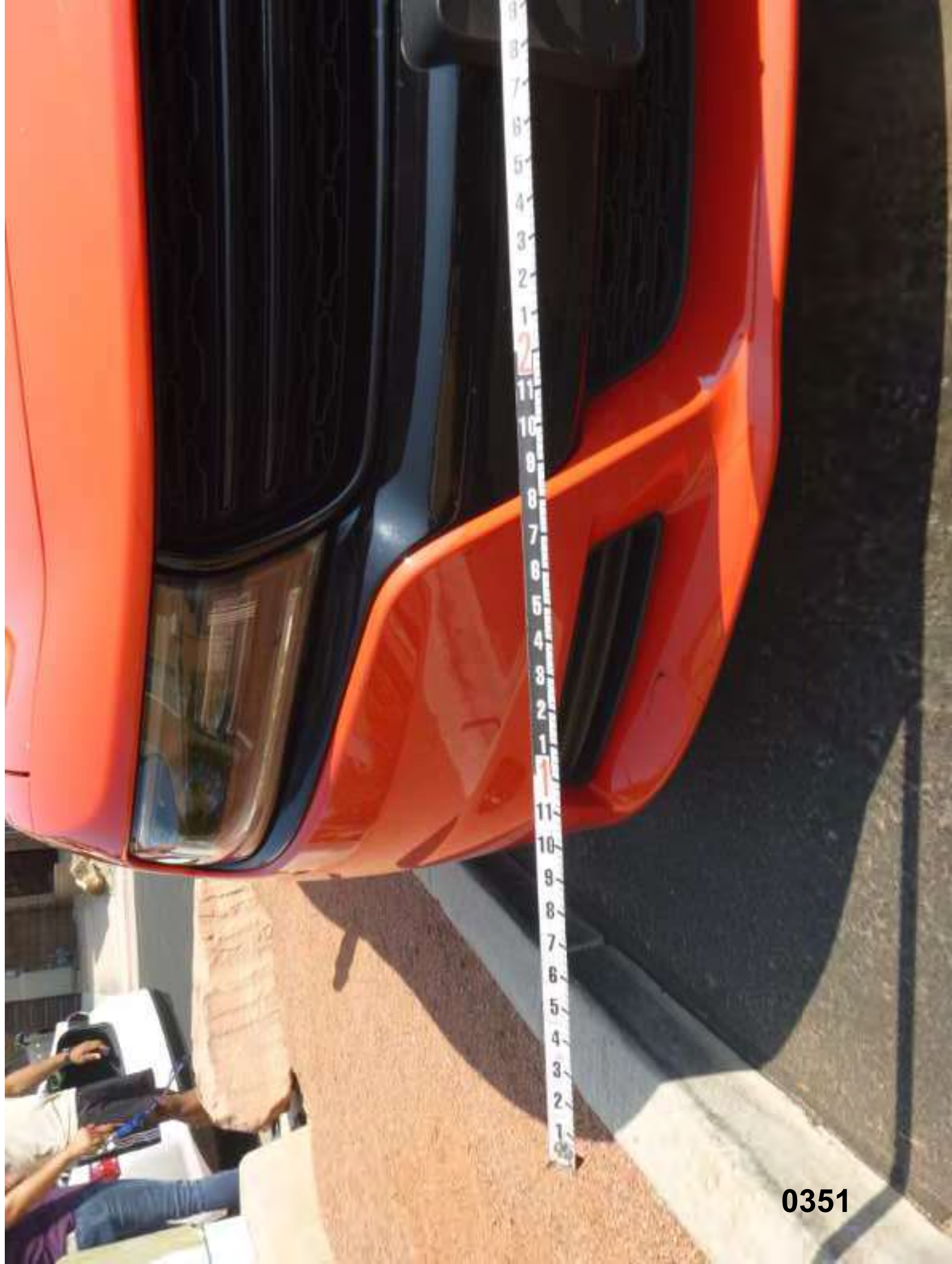
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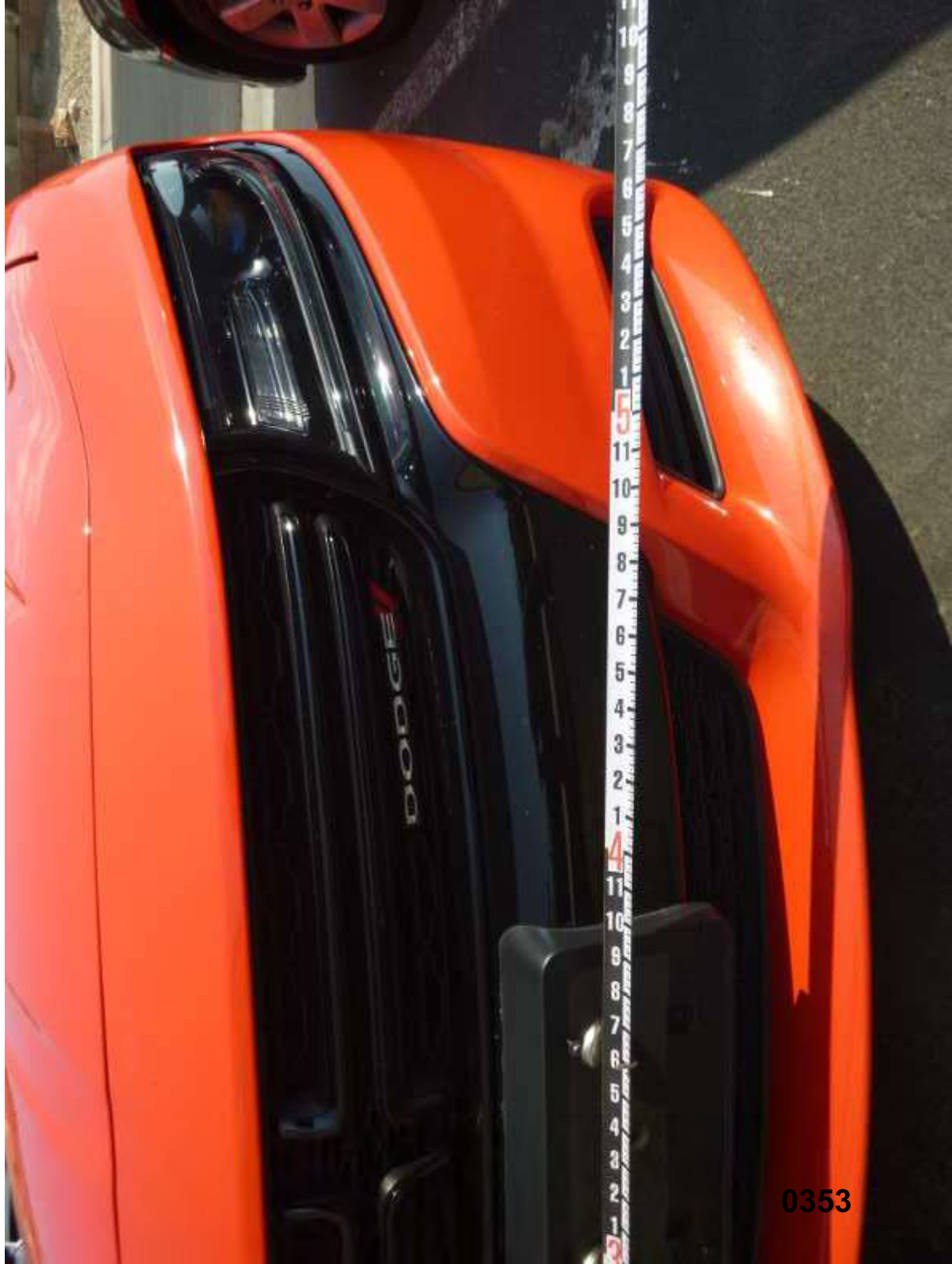
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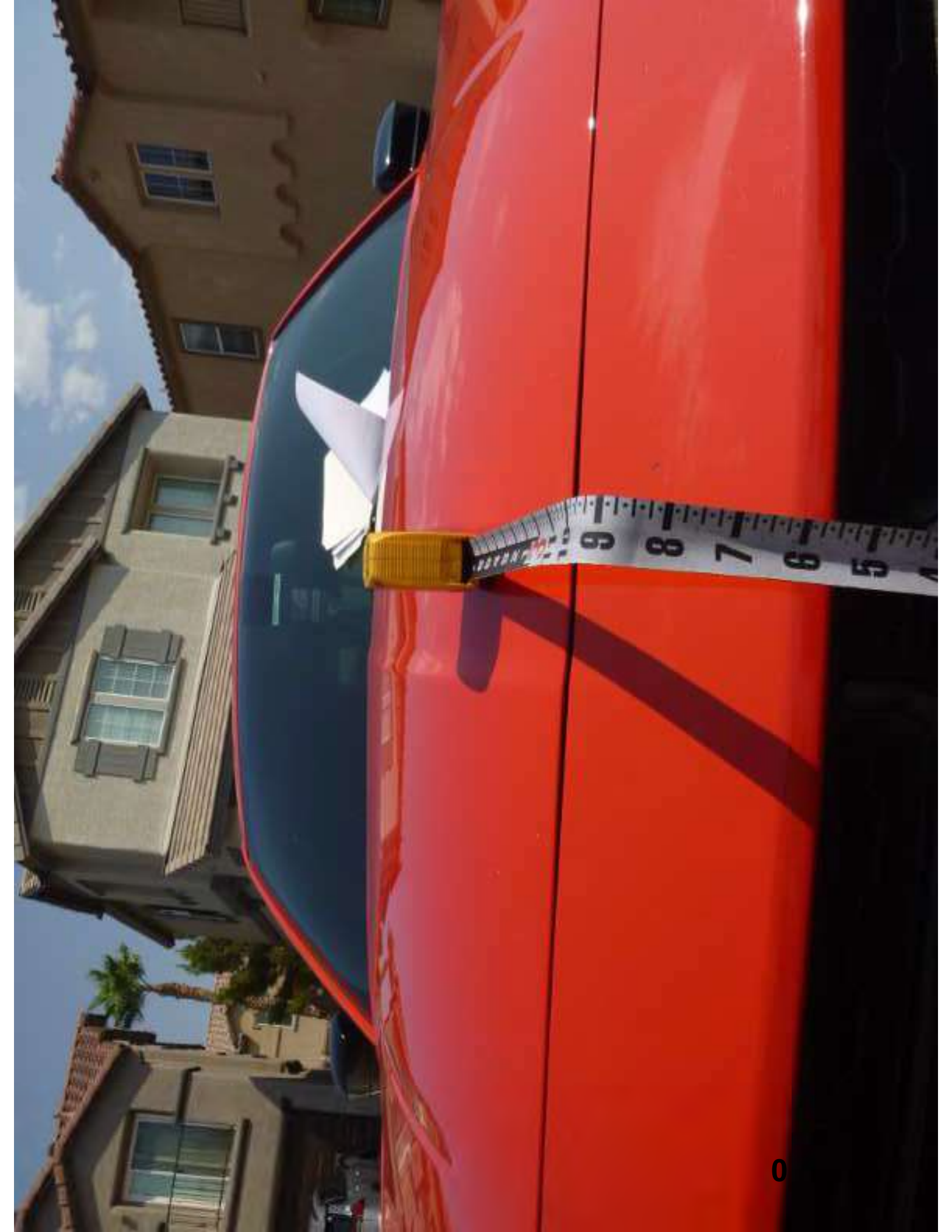
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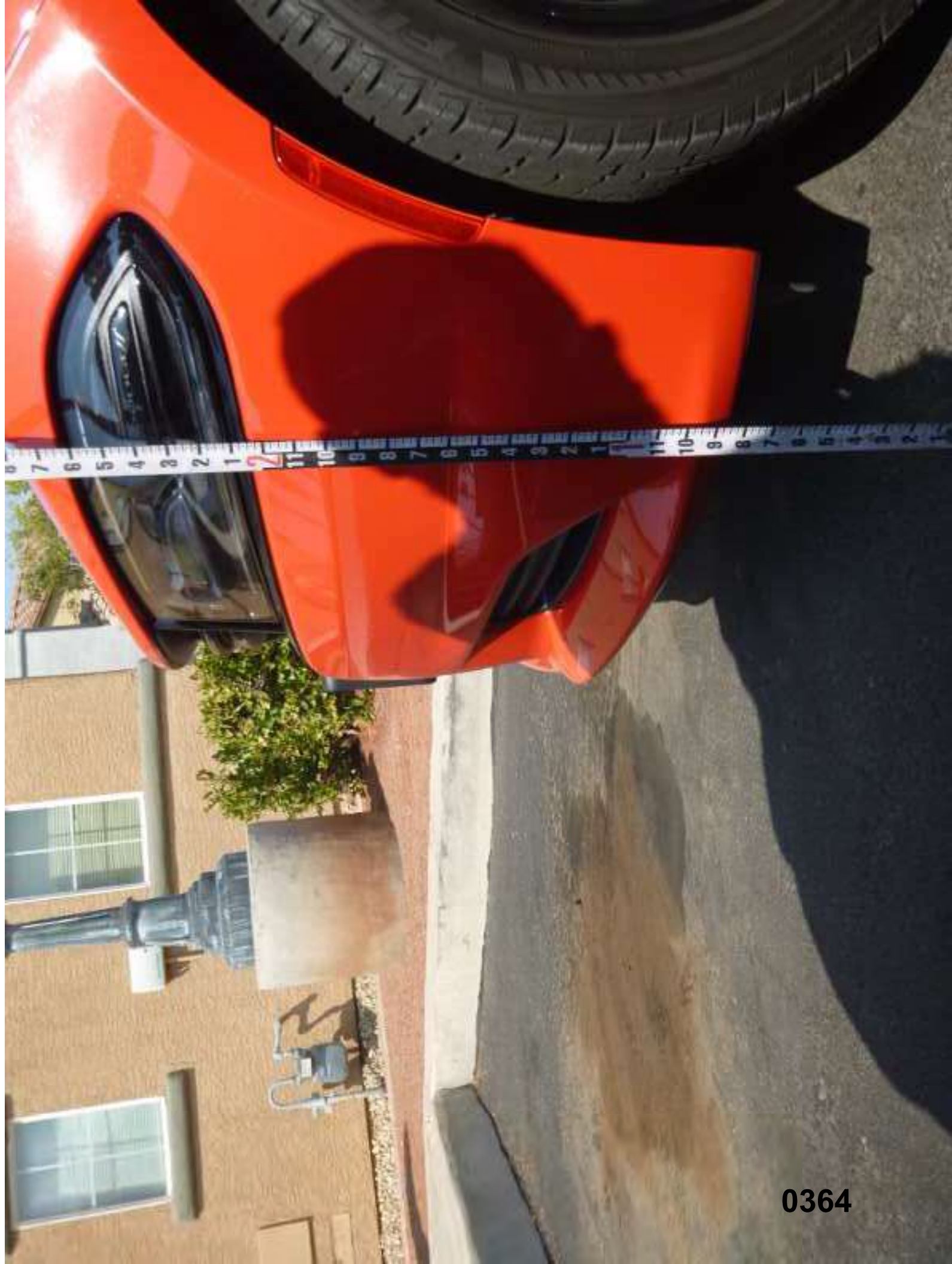


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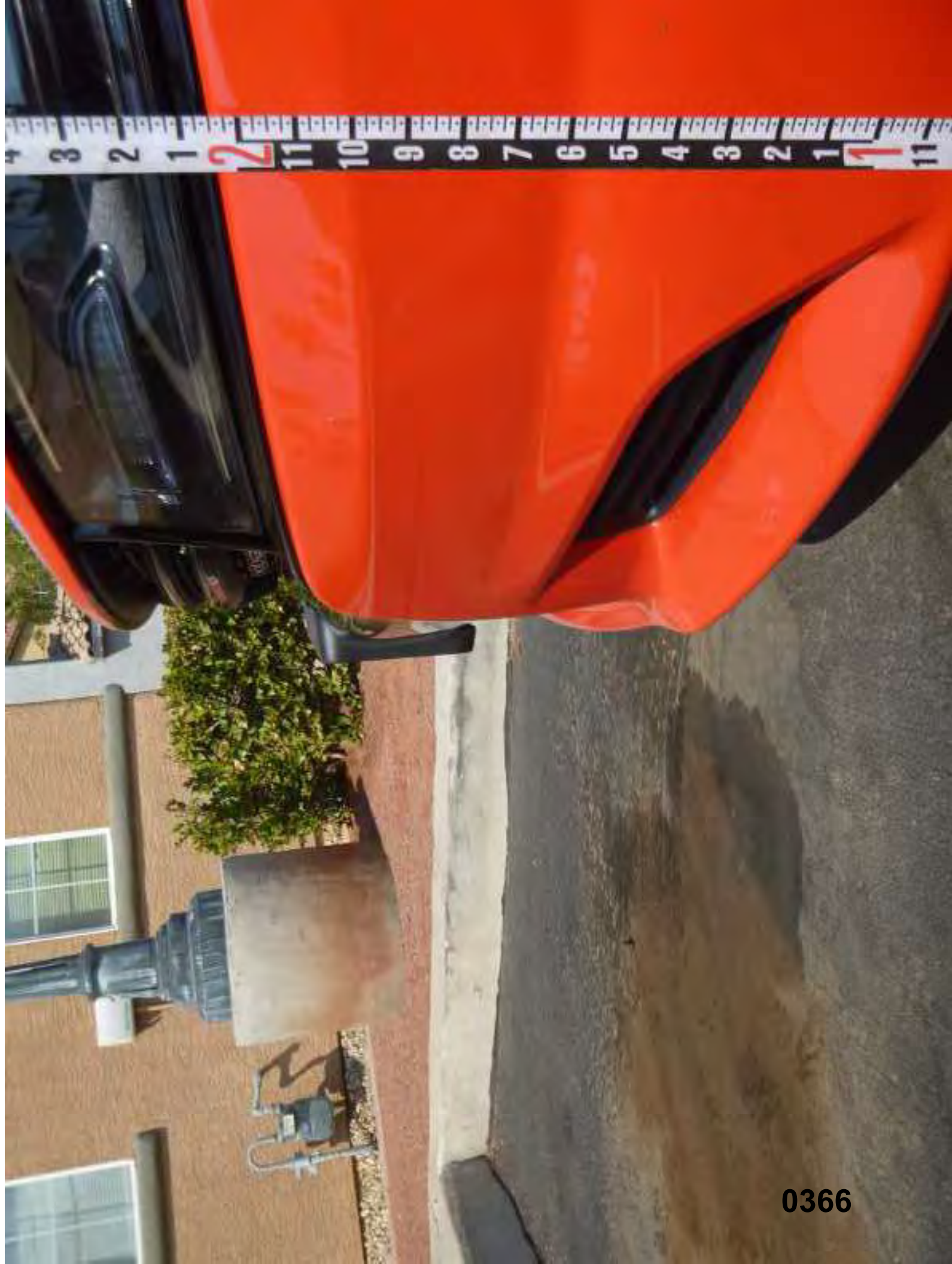




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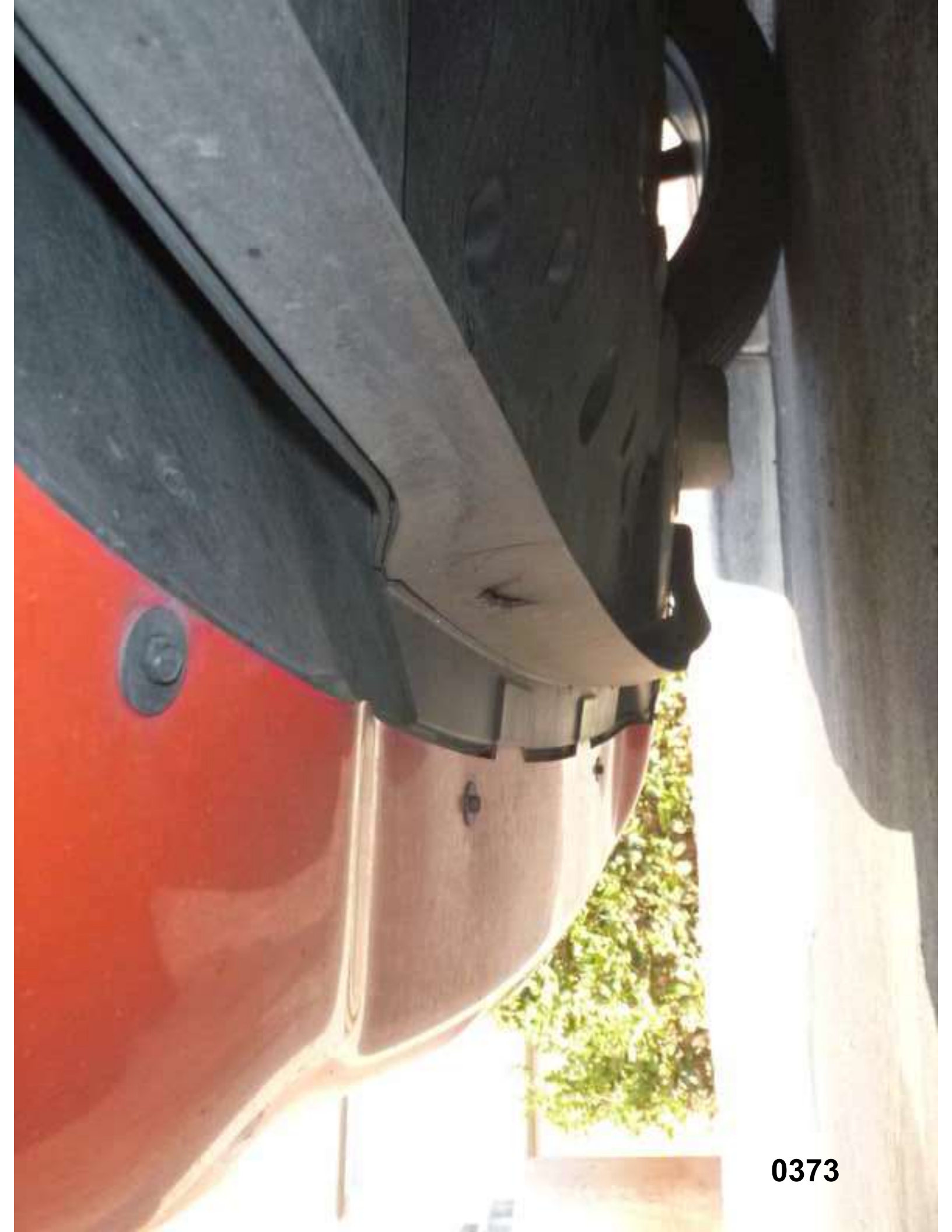
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EXHIBIT C

EXHIBIT C



July 28, 2020

Geico

Fax: 866-568-2132

Re: Your insured : Berenice Domenzain-Rodriguez & Edward J Rodriguez Moya
Date of Loss : 7/25/2020
Claim Number: 0279986740101014
My Client(s) : Judith Salter, Joshua Kaner & Sydney Kaner

Dear claims handler:

This is to advise you that my firm represents the above-named client(s) in a claim for personal injuries against your insured as a result of an incident on 7/25/2020.

Please provide me with a **certified copy of all insurance policies**, including any umbrella policy(ies), of your insured and retain this letter as an indication of my representation. Kindly forward copies of any recorded oral and or written statements taken from our client with regards to the facts of this loss. Please also preserve any and all information related to this claim.

Please confirm in writing your address and other information to correspond with the adjuster. Should you need further information or assistance with this claim, please feel free to contact me.

Finally, please instruct your insured to preserve all evidence in your insured's possession, custody, or control related to this incident. This includes any photographs, and/or video/audio of the incident, parties, and/or the involved vehicles, statements of the parties, etc. Failure to preserve that evidence may result in sanctions against your insured. *See, Stubli v. Big D International Trucks, Inc.*, 810 P.2d 785, 107 Nev. 309 (1991).

Sincerely,

Daniel Price

Daniel R. Price
PRICE BECKSTROM, PLLC

Office: 702-941-0503 Fax: 702-507-2335 Email: info@pricebeckstromlaw.com
7312 West Cheyenne Avenue Ste. 5, Las Vegas, Nevada 89129

0378



July 29, 2020

Whitney Atterberry
Geico
Fax: 866-568-2132

Re: Your insured : Berenice Domenzain-Rodriguez & Edward J Rodriguez Moya
 Date of Loss : 7/25/2020
 Claim Number: 0279986740101014
 My Client(s) : Judith Salte, Joshua Kanerr & Sydney Kaner

Dear Whitney Atterberry:

Attached please find written authorization to receive the medical reports, records and bills of my above-referenced client related to this claim. Pursuant to NRS 690B, as amended by SB 435, I request that you provide to my office all pertinent facts or provisions of your insured's policy relating to any coverage at issue, including policy limits. This information must be provided within ten (10) days of the date of this request.

Sincerely,

Daniel Price

Daniel R. Price
PRICE BECKSTROM, PLLC

Office: 702-941-0503 Fax: 702-507-2335 Email: info@pricebeckstromlaw.com
7312 West Cheyenne Avenue Ste. 5, Las Vegas, Nevada 89129

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EXHIBIT D

EXHIBIT D

Attn: Region IV Claims, PO Box 509119
San Diego, CA 92150-9914

9/4/2020

Price Beckstom Attorneys At Law

7312 W CHEYENNE AVE STE 5
Las Vegas, NV 89129-7425

Company Name:	GEICO Advantage Insurance Company
Claim Number:	027998674 0101 014
Loss Date:	Saturday, July 25, 2020
Policyholder:	Berenice Domenzain-rodriguez
Driver:	Edward Rodriguez moya

Dear Price Beckstom Attorneys At Law,

We acknowledge your request for the disclosure of our insured's bodily injury liability limits regarding your clients, Judith Salter, Joshua Kaner and Sydney Kaner.

Please accept this letter as confirmation of the available coverage in lieu of a Declarations Page and/or policy. The limits for this policy for the date of loss, 07/25/2020, is \$25,000/\$50,000.

Please note that we are respectfully denying your client's injury claim as having no causal relationship to this loss. We will not be collecting any medical records for this file.

If you have any questions or wish to discuss this matter further, please call me at the number listed below.

Sincerely,

Whitney Atterberry
520-546-5254
Claims Department

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EXHIBIT E

EXHIBIT E



Time-Limited Settlement Offer

October 22, 2020

Whitney Atterberry
GEICO Advantage Insurance Company
PO Box 509119
San Diego, CA 92150

Re: Your insureds : Berenice Domenzain-Rodriguez &
Edward J Rodriguez Moya
Date of Loss : 7/25/2020
Claim Number: 0279986740101014
My Clients : Judith Salter, Joshua Kaner and Sydney Kaner

Dear Ms. Atterberry:

I represent Judith Salter and Joshua Kaner (both individually and as the parent and guardian of minor Sydney Kaner) in connection with the above-referenced date of loss. This letter is a time-limited settlement offer on behalf of my clients. This is an attempt to resolve all of my clients' claims, that they have now or may have in the future, arising from this loss against your insured within the limits of your insureds' insurance policy. This settlement offer is not intended to be used in future litigation. Please consider the below information along with the attached documents as you evaluate this offer.

My clients' make this one-time offer to settle all of my clients' claims arising from this loss against your insured in exchange for the formal limits of your insureds' policy limits of \$50,000 as a global tender.

This offer expires on November 23, 2020 at 1:00 p.m., Pacific Time. This offer can only be accepted by the following performance, accomplished prior to the expiration of this offer:

- 1) Receipt of \$50,000 (the global policy limits of this policy) in my office, payable to "Price Beckstrom, PLLC, Judith Salter, Joshua Kaner, and Sydney Kaner".

My clients reserve all rights and defenses, known or unknown, that arise in law or equity. No comment, action, or inaction should be construed as to waive, alter, or modify any rights and or defenses possessed by my client. Please accept this letter as written confirmation that my office will protect any and all liens applicable to this claim and hold harmless your insureds and GEICO Advantage Insurance Company. My clients have ongoing pain and symptoms from this incident and may require, or may have required, medical care in addition to the care evidenced by the attached documents. Additionally, all funds attributable to minor Sydney Kaner will be held in trust until an order is issued from the appropriate court compromising the minor's claim,

**Office: 702-941-0503 Fax: 702-832-4026 info@pbnv.law
7312 W Cheyenne Ave Suite 5, Las Vegas, NV 89129**

0383

and at such time the funds will be distributed as ordered by the court. Following acceptance of this offer my clients will execute a release of all claims in favor of your insureds. A copy of my firm's W-9 is attached.

Sincerely,

Daniel Price

Daniel R. Price, Esq.
PRICE BECKSTROM, PLLC

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EXHIBIT F

EXHIBIT F

Attn: Region IV Claims, PO Box 509119
San Diego, CA 92150-9914

11/12/2020

Price Beckstom Pllc

7312 W CHEYENNE AVE STE 5
Las Vegas, NV 89129-7425

Company Name:	GEICO Advantage Insurance Company
Claim Number:	027998674 0101 014
Loss Date:	Saturday, July 25, 2020
Policyholder:	Berenice Domenzain-rodriguez
Driver:	Edward Rodriguez moya
Clients:	Judith Salter, Joshua Kaner and Sydney Kaner

Dear Price Beckstom Pllc,

Please be advised that there were a total of three (3) injured parties that were involved in the above referenced loss.

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/ \$50,000.00 per occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

Please take this matter under consideration to come up with a distribution of our remaining policy limits (with no one person receiving more than the \$25,000.00 single policy limit and all parties limited to \$50,000.00 combined.) Please notify me when you have come to a conclusion regarding the disbursement of the remaining limits.

Please note that all parties must agree to settlement before we can issue payments. We will coordinate with all parties to assist in the agreement and anticipated resolution to include the utilization of a mediator if necessary.

Please note given the nature of the case we will request court approval for any minors involved.

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Sincerely,

Whitney Atterberry
520-546-5254
Claims Department

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EXHIBIT G

EXHIBIT G

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EXHIBIT H

EXHIBIT H

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****March 15, 2021**

A-20-827003-C Judith Salter, Plaintiff(s)
 vs.
 Edward Rodriguez Moya, Defendant(s)

March 15, 2021 3:00 AM Minute Order

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having considered Defendants Motion to Enforce Settlement Agreement, Plaintiffs Opposition, and Defendants Reply, the motion is hereby DENIED. Plaintiffs Judith Salter, Joshua Kamer, and minor Sydney Kamer allege that they were involved in a motor-vehicle collision involving the defendants which occurred on or about July 25, 2020. Plaintiffs allege they were rear-ended by Defendants and sustained injuries as a result. On October 22, 2020, Plaintiffs sent a Time-Limited Settlement Offer to Defendants. The offer required acceptance by performance and included the following language:

My clients make this one-time offer to settle all of my clients claims arising from this loss against your insured in exchange for the formal limits of your insureds policy limits of \$50,000 as a global tender. This offer expires on November 23, 2020 at 1:00 p.m., Pacific Time. This offer can only be accepted by the following performance, accomplished prior to the expiration of this offer:

1) Receipt of \$50,000 (the global policy limits of this policy) in my office, payable to Price Beckstrom, PLLC, Judith Salter, Joshua Kaner, and Sydney Kaner.

(Plaintiffs 10/22/20 Settlement Offer) (emphasis added). GEICO responded to Plaintiffs settlement offer with a letter dated November 12, 2020, stating:

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/\$50,000.00 per

PRINT DATE: 03/17/2021

Page 1 of 2

Minutes Date: March 15, 2021

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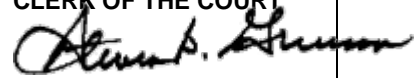
occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

Please take this matter under consideration to come up with a distribution of our remaining policy limits (with no one person receiving more than the \$25,000.00 single policy limit and all parties limited to \$50,000.00 combined.) Please notify me when you have come to a conclusion regarding the disbursement of the remaining limits.

GEICO's 11/12/20 Letter. Defendants now argue that the November 12, 2020 letter sent to Plaintiffs constituted valid acceptance of the settlement offer and request that this Court enforce the agreement.

Acceptance of an offer is a manifestation of assent to the terms thereof made by the offeree in a manner invited or required by the offer. *Eagle Materials, Inc. v. Stiren*, 127 Nev. 1131, 373 P.3d 911 (2011); (citing Restatement (Second) of Contracts 50 (1981)). Where an offer invites an offeree to accept by rendering a performance ... [a] contract is created when the offeree tenders or begins the invited performance. *Id.* (citing Restatement (Second) of Contracts 45 (1981)). Where the offer requires acceptance by performance and does not invite a return promise . . . a contract can be created only by the offeree's performance. Restatement (Second) of Contracts 50 (1981). A mere promise to perform, without actual performance, does not constitute valid acceptance in such a situation. *Id.* Plaintiff's October 22, 2020 Settlement Offer clearly states that the offer can only be accepted by performance accomplished prior to the expiration of the offer. It is undisputed that Defendants did not provide payment in the manner specified prior to the deadline. Accordingly, the essential element of acceptance is not present to form an enforceable contract and Defendants' motion is DENIED. Plaintiffs' counsel shall promptly submit a proposed order.

CLERK'S NOTE: The above minute order has been distributed via e-mail to: Attorneys Daniel R. Price & Darrell D. Dennis. kar 3/16/21



OPP

Daniel R. Price (NV Bar No. 13564)
Christopher Beckstrom (NV Bar No. 14031)
PRICE BECKSTROM, PLLC
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Las Vegas, Nevada 89146
Phone: (702) 941-0503
Fax: (702) 832-4026
info@pbnv.law
Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JUDITH SALTER, individually; JOSHUA
KANER, individually; and JOSHUA KANER as
guardian and natural parent of SYDNEY
KANER, a minor;

Plaintiffs,

v.

EDWARD RODRIGUEZ MOYA, an individual;
BERENICE DOMENZAIN-RODRIGUEZ, an
individual; DOE OWNERS I-V; DOE
DRIVERS I-V; ROE EMPLOYERS I-V and
ROE COMPANIES I-V;

Defendants.

Case No.: A-20-827003-C

Dept. No.: 6

**OPPOSITION TO DEFENDANTS' MOTION FOR RECONSIDERATION OF COURT'S
MARCH 15, 2021 MINUTE ORDER DENYING DEFENDANTS' MOTION TO ENFORCE
SETTLEMENT AGREEMENT**

Plaintiffs hereby oppose Defendants' Motion for Reconsideration of Court's March 15, 2021 Minute Order Denying Defendants' Motion to Enforce Settlement Agreement and set forth the following Memorandum of Points and Authorities in support of their position.

DATED this 2nd day of April, 2021.

/s/ Christopher Beckstrom

Daniel R. Price (NV Bar No. 13564)
Christopher Beckstrom (NV Bar No. 14031)
PRICE BECKSTROM, PLLC
1404 S. Jones Blvd.
Las Vegas, Nevada 89146

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Defendants, having failed in their attempt to enforce a purported settlement agreement, now argue it was legally impossible for them to accept the Plaintiffs' offer. They are wrong, as there is no law or regulation that precluded GEICO from tendering the global policy limit in the manner specified. Further, and importantly, Defendants are estopped in this proceeding or any future proceeding from claiming illegality or impossibility with respect to Plaintiffs' offer, as Defendants have previously represented the contrary before this Court. Finally, even if Defendants were correct in asserting illegality, the result would be the same: there would be no enforceable contract.

STATEMENT OF FACTS

— 2 —



Post-surgical incision wound

Mr. Kaner is only 30 years old.

Defendants carried one auto insurance policy with liability coverage limits of \$25,000.00 per individual and \$50,000.00 per incident through GEICO Advantage Insurance Company (“GEICO”). Prior to filing suit, Plaintiffs jointly offered to settle all of their claims in exchange for the global \$50,000.00 policy limit. Plaintiffs’ offer required acceptance by performance; namely a tender of the \$50,000.00 policy limit to be received in Plaintiffs’ counsel’s office, payable to “Price Beckstrom, PLLC, Judith Salter, Joshua Kaner, and Sydney Kaner.”¹ It is undisputed that GEICO did not complete the requested performance and instead sent its own offer in a letter dated November 12, 2020, stating:

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/\$50,000.00 per occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

¹ Exhibit 1—Plaintiffs’ Time-Limited Settlement Offer Dated October 22, 2020.

1 Please take this matter under consideration to come up with a distribution
2 of our remaining policy limits (with no one person receiving more than
3 the \$25,000.00 single policy limit and all parties limited to \$50,000.00
combined.) Please notify me when you have come to a conclusion
regarding the disbursement of the remaining limits.²

4 This Court's minute order entered on March 15, 2021, adopted Plaintiff's legal position, stating:

5 Plaintiff's October 22, 2020 Settlement Offer clearly states that the offer
6 can only be accepted by performance accomplished prior to the expiration
7 of the offer. It is undisputed that Defendants did not provide payment in
the manner specified prior to the deadline. Accordingly, the essential
8 element of acceptance is not present to form an enforceable contract and
Defendants' motion is DENIED.³

9 II.

10 LEGAL ANALYSIS

11 Defendants now seek reconsideration of their motion to enforce settlement. Defendants
12 present no new evidence. Rather, Defendants argue it was illegal or impossible for GEICO to issue
13 payment in the manner specified. It is important to note that GEICO has raised this issue for the very
14 first time in its instant motion. Before litigation, GEICO did not take the position that payment in the
15 manner specified by Plaintiffs' demand was illegal or impossible. It also did not raise these
16 arguments in its February 12, 2021, Motion to Enforce Settlement Agreement. To the contrary, that
17 motion unambiguously asserted that GEICO had in fact accepted Plaintiffs' settlement offer and an
18 enforceable contract had formed.

19 Herein, Plaintiffs prove 1) It was not illegal for GEICO to issue payment in the manner
20 specified; 2) Defendants are judicially estopped in this and any future proceeding from arguing
21 illegality or impossibility; and 3) even if Defendants arguments of illegality or impossibility were
22 correct (they are not), this still does not create an enforceable contract and the end result is the same.

23
24 ² Exhibit 2—GEICO Counteroffer Dated November 12, 2020 (emphasis added).

³ Exhibit 3—March 15, 2021, Minute Order.

1 **A. There is No Illegality or Impossibility Surrounding Plaintiffs’ Settlement Offer**

2 **i. NRS 485.185 did Not Prevent GEICO from Accepting Plaintiffs’ Offer**

3 Defendants have argued NRS 485.185 prevented GEICO from issuing the settlement check
4 in the manner Plaintiffs’ offer required. This statute places a requirement on motor vehicle owners to
5 carry liability insurance with certain minimum coverages. Nothing in the statute prevented GEICO
6 from issuing a check for the global policy limit, payable to all claimants.

7 The Plaintiffs’ October 22, 2020, settlement offer was a joint unapportioned settlement offer
8 made by multiple offerors. Defendants want this Court to believe this is somehow a legally complex
9 set of facts. Plaintiffs encourage this Court to again review the settlement offer, attached as Exhibit
10 1. This was a very simple, straightforward settlement proposal. After learning of the global
11 \$50,000.00 policy limit, Plaintiffs gave GEICO an opportunity to protect its insureds by extending a
12 joint offer to settle all of the injury claims related to the collision. GEICO wants this Court to believe
13 it was *impossible* or *illegal* for it to issue a check for a joint unapportioned settlement offer. This
14 position completely ignores relevant law that specifically allows such offers.

15 Rule 68 of the Nevada Rules of Civil Procedure contemplates this type of settlement offer.
16 Obviously, as Plaintiffs’ joint settlement offer was made before litigation, it was not made under
17 NRCP 68. Plaintiffs cite this rule simply to highlight the absurdity of Defendants’ position that their
18 offer was somehow illegal. Subsection (c) of NRCP 68 is titled “Joint Unapportioned Offers.” Under
19 this heading, NRCP 68(c)(1) reads simply, “A joint offer may be made by multiple offerors.”⁴
20 Multiple parties can make joint unapportioned offers under NRCP 68(f) during litigation. Plaintiffs
21 made a similar offer before this litigation. By Defendants’ logic, joint unapportioned offers under
22

23 _____
24 ⁴ NRCP 68(c)(1); *see also RTTC Communs., Ltd. Liab. Co. v. The Saratoga Flier, Inc.*, 121 Nev.
34, 42, 110 P.3d 24, 29 (2005) (noting the Nevada Rules of Civil Procedure were amended in 1998 to
provide for joint unapportioned offers).

1 NRCP 68 would be illegal. Defendants new position of illegality is the exact opposite of what
2 Nevada law provides.

3 Defendants' reliance on NRS 485.185 to claim Plaintiffs' offer was *illegal or impossible*
4 makes even less sense when examined under the specific circumstances of the case at bar. The
5 collision underlying this suit was a two-car incident. When Defendant Rodriguez-Moya struck the
6 Plaintiffs' vehicle, he was alone in his car. The three Plaintiffs named in this suit were the only
7 individuals occupying the Plaintiffs' vehicle. Therefore, these three Plaintiffs were the only people
8 who could make injury claims against Defendants and their GEICO insurance policy. Further, all
9 three Plaintiffs are members of the same family and were represented by the same law firm. It is
10 common for insurance carriers to issue payment for the global policy limit to be distributed by
11 agreement of the claimants. For clear reasons, this process is greatly facilitated when all claimants
12 are family members and share an attorney. If, hypothetically, Plaintiffs' attorneys were to wrongfully
13 distribute settlement funds, the Plaintiffs would have a claim against their attorneys, as in any other
14 case. But, under this hypothetical, Plaintiffs would still be bound by the settlement agreement and
15 could not pursue further relief against the Defendants or GEICO.

16 In sum, NRS 485.185 sets forth the state-minimum coverage requirements for auto insurance
17 policies and did not prevent GEICO from issuing payment in the manner specified in Plaintiffs' joint
18 settlement offer. Indeed, the fact that the law specifically provides for this type of offer in a litigation
19 setting⁵ lends further credence to the notion that Plaintiffs' offer laid no barrier for GEICO's timely
20 acceptance of the same. On this basis Plaintiffs request not only that this Court deny Defendants'
21 motion, but that its order specifically find that Plaintiffs' offer did not render GEICO's performance
22 illegal or impossible.

23
24

⁵ See NRCP 68(c)(1).

1 **ii. NRS 41.200 did Not Prevent GEICO from Accepting Plaintiffs' Offer**

2 Defendants have argued NRS 41.200 prevented GEICO from issuing the settlement check
3 because one of the claimants is a minor. This statute governs the procedures and requirements for
4 settling the claim of a minor. To summarize, all settlements of liability claims of minors are subject
5 to court approval, and require the parent or guardian of the minor to file a petition with the district
6 court providing various information about the claim. Once the court approves the settlement, the
7 funds can be disbursed, with any net proceeds of the minor being placed in a blocked trust account
8 until the court orders the funds released when the minor reaches the age of majority. The underlying
9 purpose of the statute is to protect the interests of injured minors and preserve minors' net proceeds
10 from settlements until they are able to take control of the funds.⁶ Viewed in this light, it is clear the
11 statute exists to protect minors both from unfair attorney fees and from the misappropriation of
12 settlement funds by minors' parents.

13 Plaintiffs' settlement offer anticipated this issue and warranted to GEICO that Sydney
14 Kaner's funds would be held in trust pending court approval: "Additionally, all funds attributable to
15 minor Sydney Kaner will be held in trust until an order is issued from the appropriate court
16 compromising the minor's claim, and at such time the funds will be distributed as ordered by the
17 court."⁷ This language provided adequate legal protection for GEICO. The law provides no
18 mechanism for a breach of the minors' compromise statute to enact punishments upon a settling
19 defendant or their insurance company. To the contrary, a claimant's attorneys may be disciplined by
20 the state bar for failing to obtain court approval for a minors' compromise. Further, the parents or
21 guardians of the minor may face legal penalties for misappropriation of the minor's funds. It is
22 common for settlement funds to be issued with a "Hold in Trust" letter, containing the language
23

24 ⁶ *Haley v. Dist. Ct.*, 128 Nev. 171, 177, 273 P.3d 855, 859 (2012)

⁷ Exhibit 1 at 1-2.

found in Plaintiffs’ settlement offer. This language warrants to the payor that the minor’s attorney will appropriately handle the funds as required by NRS 41.200, protecting it against any legal ramifications arising from misappropriation of the funds under general principles of equity and estoppel. NRS 41.200 did not provide any legal barrier to the acceptance of Plaintiffs’ settlement offer.

B. Defendants are Estopped from Claiming Illegality or Impossibility in Relation to Plaintiffs’ Settlement Offer

The principle of judicial estoppel prevents Defendants from claiming illegality or impossibility in relation to Plaintiffs’ pre-litigation settlement offer. Defendants have taken the position before this Court that a binding, enforceable contract formed. They cannot now claim illegality or impossibility—legal defenses to contract enforcement—in the instant proceeding or in any future proceeding.

The Ninth Circuit Court of Appeals explained this doctrine as follows:

The doctrine of judicial estoppel, sometimes referred to as the doctrine of preclusion of inconsistent positions, is invoked to prevent a party from changing its position over the course of judicial proceedings when such positional changes have an adverse impact on the judicial process. The policies underlying preclusion of inconsistent positions are general considerations of the orderly administration of justice and regard for the dignity of judicial proceedings. . . . Because it is intended to protect the integrity of the judicial process, it is an equitable doctrine invoked by a court at its discretion. . . . Judicial estoppel is most commonly applied to bar a party from making a factual assertion in a legal proceeding which directly contradicts an earlier assertion made in the same proceeding or a prior one.⁸

Defendants have taken two factually inconsistent positions in this proceeding. In their Motion to Enforce Settlement Agreement of February 12, 2021, Defendants requested this Court

⁸ *Russell v. Rolfs*, 893 F.2d 1033, 1037 (9th Cir. 1990) (internal citations, quotation marks, and brackets omitted); *see also Kaur v. Singh*, 477 P.3d 358 (Nev. 2020); *New Hampshire v. Maine*, 532 U.S. 742, 750 (2001) (“Courts have observed that ‘[t]he circumstances under which judicial estoppel may appropriately be invoked are probably not reducible to any general formulation of principle.’” (quoting *Allen v. Zurich Ins. Co.*, 667 F.2d 1162, 1166 (4th Cir. 1982))).

“recognize the settlement agreement as an enforceable contract.”⁹ Therein, Defendants made the factual assertion that GEICO “accepted the Plaintiffs’ offer on behalf of their clients.”¹⁰ Now, in support of the instant Motion for Reconsideration, Defendants have for the first time asserted they could not, actually, have accepted Plaintiffs’ offer because to do so would be illegal or impossible.¹¹ These are wholly incompatible positions which rely on contradictory factual and legal assertions. Defendants must be estopped from asserting it was illegal or impossible for GEICO to accept Plaintiffs’ offer after they previously filed a motion representing before this Court that it had *accepted* Plaintiffs’ settlement offer. To allow otherwise would make a mockery of the judicial process.

Plaintiffs request a finding of estoppel in this Court’s order denying the instant motion. The equitable principle of judicial estoppel exists to prevent situations like the one at bar, where Plaintiffs and this Court have been placed in the awkward position of analyzing impossibility and illegality—defenses to contract enforcement—after extensively analyzing and taking legal stances in response to Defendants’ previous position asserting that GEICO had accepted Plaintiffs’ offer and created an enforceable contract. In this way, Defendants have substantially “moved the goalposts,” adversely impacting the judicial process. Unless this Court enters a finding of estoppel, Defendants and GEICO will continue to reassert this position with ever more creative, inconsistent arguments in this and in future proceedings related to this car crash.

C. Even if Defendants are Correct, there is no Enforceable Contract

Defendants in their instant motion rely on allegations of impossibility and/or illegality in their arguments. These are legal defenses to contract enforcement. Plaintiffs have made their

⁹ Mot. to Enforce Settlement Agreement at 7.

¹⁰ *Id.* at 5.

¹¹ *See, e.g.*, Mot. for Reconsideration at 8 (“[T]he District Court’s Minute Order appears to invite parties to present illegal and impossible demands.”)

position explicitly clear herein—there is no illegality or impossibility with respect to the facts at bar, and Defendants did not accept Plaintiffs’ settlement offer. However, even if Defendants’ assertion of these defenses were meritorious, this would not result in an enforceable contract. The result would be the same.

III.

CONCLUSION

Plaintiffs respectfully request not only that the instant Motion for Reconsideration be denied, but that this Court enter a finding that there was no illegality or impossibility with respect to Plaintiffs’ very simple, straightforward pre-litigation settlement offer. Finally, Plaintiffs request a finding that Defendants and GEICO are estopped from asserting illegality or impossibility in this or any future proceeding arising from the subject motor vehicle collision.

Dated this 2nd day of April, 2021.

/s/ Christopher Beckstrom

Daniel R. Price (NV Bar No. 13564)
Christopher Beckstrom (NV Bar No. 14031)
PRICE BECKSTROM, PLLC
1404 S. Jones Blvd.
Las Vegas, Nevada 89146

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to NRCP 5, NEFCR 9, and EDCR 8.05, on the 2nd day of April, 2021, a copy of the foregoing ***Opposition to Defendants’ Motion for Reconsideration of Court’s March 15, 2021 Minute Order Denying Defendants’ Motion to Enforce Settlement Agreement*** was served upon the below through the Court’s electronic service system:

Darrell D. Dennis, Esq.
Michael R. Smith, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Blvd., Ste 600
Las Vegas, NV 89118
Attorneys for Defendants

/s/ Stephanie Amundsen

An Employee of PRICE BECKSTROM, PLLC

EXHIBIT 1

and at such time the funds will be distributed as ordered by the court. Following acceptance of this offer my clients will execute a release of all claims in favor of your insureds. A copy of my firm's W-9 is attached.

Sincerely,

Daniel Price

Daniel R. Price, Esq.
PRICE BECKSTROM, PLLC

EXHIBIT 2



Government Employees Insurance Company
GEICO General Insurance Company
GEICO Indemnity Insurance Company
GEICO Casualty Insurance Company

■ Chevy Chase, MD.	■ Dallas, TX
■ Fredericksburg, VA	■ Lakeland, FL
■ Woodbury, NY	■ Honolulu, HI.
■ Macon, GA	■ Coralville, IA
■ Poway, CA	■ Virginia Beach, VA

Date: November 12, 11:55:21 AM EST
To: 17028324026
From: ezdefaultreg@geico.com
Subj: ::LWDA::D227702176::Claim# 0279986740101014
Total pages: 3

To:
Policy Holder: Berenice Domenzain-Rodriguez
From: Whitney Atterberry (GEICO Claims Examiner)

Your letter from GEICO is attached.

=====

This email/fax message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution of this email/fax is prohibited. If you are not the intended recipient, please destroy all paper and electronic copies of the original message.

Attn: Region IV Claims, PO Box 509119
San Diego, CA 92150-9914

11/12/2020

Price Beckstom Pllc

7312 WCHEYENNE AVE STE 5
Las Vegas, NV 89129-7425

Company Name: GEICO Advantage Insurance Company
Claim Number: 027998674 0101 014
Loss Date: Saturday, July 25, 2020
Policyholder: Berenice Domenzain-rodriguez
Driver: Edward Rodriguez moya
Clients: Judith Salter, Joshua Kaner and Sydney Kaner

Dear Price Beckstom Pllc,

Please be advised that there were a total of three (3) injured parties that were involved in the above referenced loss.

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/ \$50,000.00 per occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

Please take this matter under consideration to come up with a distribution of our remaining policy limits (with no one person receiving more than the \$25,000.00 single policy limit and all parties limited to \$50,000.00 combined.) Please notify me when you have come to a conclusion regarding the disbursement of the remaining limits.

Please note that all parties must agree to settlement before we can issue payments. We will coordinate with all parties to assist in the agreement and anticipated resolution to include the utilization of a mediator if necessary.

Please note given the nature of the case we will request court approval for any minors involved.

0408

Sincerely,

Whitney Atterberry
520-546-5254
Claims Department

EXHIBIT 3

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto**COURT MINUTES****March 15, 2021**

A-20-827003-C Judith Salter, Plaintiff(s)
 vs.
 Edward Rodriguez Moya, Defendant(s)

March 15, 2021 3:00 AM Minute Order

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Having considered Defendants Motion to Enforce Settlement Agreement, Plaintiffs Opposition, and Defendants Reply, the motion is hereby DENIED. Plaintiffs Judith Salter, Joshua Kamer, and minor Sydney Kamer allege that they were involved in a motor-vehicle collision involving the defendants which occurred on or about July 25, 2020. Plaintiffs allege they were rear-ended by Defendants and sustained injuries as a result. On October 22, 2020, Plaintiffs sent a Time-Limited Settlement Offer to Defendants. The offer required acceptance by performance and included the following language:

My clients make this one-time offer to settle all of my clients claims arising from this loss against your insured in exchange for the formal limits of your insureds policy limits of \$50,000 as a global tender. This offer expires on November 23, 2020 at 1:00 p.m., Pacific Time. This offer can only be accepted by the following performance, accomplished prior to the expiration of this offer:

1) Receipt of \$50,000 (the global policy limits of this policy) in my office, payable to Price Beckstrom, PLLC, Judith Salter, Joshua Kaner, and Sydney Kaner.

(Plaintiffs 10/22/20 Settlement Offer) (emphasis added). GEICO responded to Plaintiffs settlement offer with a letter dated November 12, 2020, stating:

We have Bodily Injury Coverage on our policy with limits of \$25,000.00 per person/\$50,000.00 per

PRINT DATE: 03/16/2021

Page 1 of 2

Minutes Date: March 15, 2021

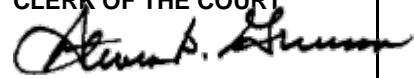
occurrence. At this time, we are extending an offer of the global limit of \$50,000.00 to settle the three (3) bodily injury claims presented in this loss.

Please take this matter under consideration to come up with a distribution of our remaining policy limits (with no one person receiving more than the \$25,000.00 single policy limit and all parties limited to \$50,000.00 combined.) Please notify me when you have come to a conclusion regarding the disbursement of the remaining limits.

GEICO's 11/12/20 Letter. Defendants now argue that the November 12, 2020 letter sent to Plaintiffs constituted valid acceptance of the settlement offer and request that this Court enforce the agreement.

Acceptance of an offer is a manifestation of assent to the terms thereof made by the offeree in a manner invited or required by the offer. *Eagle Materials, Inc. v. Stiren*, 127 Nev. 1131, 373 P.3d 911 (2011); (citing Restatement (Second) of Contracts 50 (1981)). Where an offer invites an offeree to accept by rendering a performance ... [a] contract is created when the offeree tenders or begins the invited performance. *Id.* (citing Restatement (Second) of Contracts 45 (1981)). Where the offer requires acceptance by performance and does not invite a return promise . . . a contract can be created only by the offeree's performance. Restatement (Second) of Contracts 50 (1981). A mere promise to perform, without actual performance, does not constitute valid acceptance in such a situation. *Id.* Plaintiff's October 22, 2020 Settlement Offer clearly states that the offer can only be accepted by performance accomplished prior to the expiration of the offer. It is undisputed that Defendants did not provide payment in the manner specified prior to the deadline. Accordingly, the essential element of acceptance is not present to form an enforceable contract and Defendants' motion is DENIED. Plaintiffs' counsel shall promptly submit a proposed order.

CLERK'S NOTE: The above minute order has been distributed via e-mail to: Attorneys Daniel R. Price & Darrell D. Dennis. kar 3/16/21



ROPP
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Nevada Bar No. 006618
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Nevada Bar No. 12641
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E-Mail: Michael.R.Smith@lewisbrisbois.com
Attorneys for Defendants

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

JUDITH SALTER, individually; JOSHUA
KANER, individually; and JOSHUA KANER
as guardian and natural parent of SYDNEY
KANER, a minor;

Plaintiffs,
vs.

EDWARD RODRIGUEZ MOYA, an
individual; BERENICE DOMENZIAN-
RODRIGUEZ, an individual; DOE OWNERS
I-V; DOE DRIVERS I-V; and ROE
COMPANIES I-V;

Defendants.

Case No. A-20-827003-C

Dept. No.: VI

**DEFENDANTS' REPLY TO PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION FOR RECONSIDERATION OF
COURT'S MARCH 15, 2021 MINUTE
ORDER DENYING DEFENDANTS'
MOTION TO ENFORCE SETTLEMENT
AGREEMENT**

COME NOW, Defendants EDWARD RODRIGUEZ MOYA and BERENICE
DOMENZIAN-RODRIGUEZ (hereinafter referred to collectively as "Defendants"), by and through
their counsel of record, the law office of LEWIS BRISBOIS BISGAARD & SMITH, LLP, and
hereby file the instant Reply to Plaintiffs' Opposition to Defendants' Motion for Reconsideration of
the Court's March 15, 2021, Minute Order denying Defendants' Motion to Enforce Settlement
Agreement.

///

///

1 This Reply to Opposition is made and based on the attached Memorandum of Points and
2 Authorities, including exhibits, the papers and pleadings on file with the Court, and any oral
3 argument the Court may entertain at time of Hearing.

4
5 DATED this 8th day of April, 2021.

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

7 By: */s/ Michael R. Smith*

8 DARRELL D. DENNIS

9 Nevada Bar No. 006618

10 MICHAEL R. SMITH

11 Nevada Bar No. 12641

12 6385 S. Rainbow Boulevard, Suite 600

13 Las Vegas, Nevada 89118

14 *Attorneys for Defendants*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **FACTS AND PROCEDURAL HISTORY**

4 **A. Underlying Facts**

5 The alleged facts of the underlying collision are not unusual and are well-known to this
6 Honorable Court. According to plaintiffs JUDITH SALTER, JOSHUA KAMER, and minor
7 SYDNEY KAMER (hereinafter referred to collectively as “plaintiffs”), they were “rear-ended” by
8 a vehicle operated by Defendant EDWARD RODRIGUEZ MOYA, which Defendant EDWARD
9 RODRIGUEZ MOYA owned jointly with his wife, Defendant BERENICE DOMINZIAN-
10 RODRIGUEZ (hereinafter referred to collectively as “Defendants”) on July 25, 2020 in Clark
11 County, Nevada.

12 No police were summoned to the scene.

13 Neither vehicle sustained visibly discernable damage. (*See*, photographs of Plaintiffs’
14 vehicle, attached hereto as Exhibit “A.” *See also*, Photographs of Defendants’ vehicle, attached
15 hereto as Exhibit “B.”)

16 Days after the alleged event, counsel for the plaintiffs presented the automobile liability
17 insurance carrier for Defendants a letter informing Defendant’s automobile liability insurance
18 carrier of the alleged event and of the counsel’s representation of the plaintiffs. (*See*, Plaintiffs’
19 Counsel Letters to Defendants’ Insurer, dated July 28 and 29, 2020, attached hereto collectively as
20 Exhibit “C.”)

21 In response to plaintiff’s counsel’s request, Defendants’ automobile liability insurance
22 carrier informed plaintiffs of Defendants’ applicable automobile liability insurance policy limits of
23 \$25,000.00 per person/ \$50,000.00 per occurrence. (*See*, Defendants’ Automobile Liability
24 Insurer’s Letter to Plaintiffs’ Counsel dated September 4, 2020, attached hereto as Exhibit “D.”)

25 In response to this Defendants’ automobile liability insurance carrier’s notification of the
26 Defendants’ automobile liability policy insurance, plaintiffs’ counsel sent a “time-sensitive demand
27 letter” to Defendants’ insurer in which plaintiffs’ counsel demanded the Defendants’ entire per
28 occurrence policy limit, to be split among three individuals (one of which is a minor). (*See*,

1 Plaintiffs' Time-Sensitive Settlement Offer to Defendants' insurer dated October 22, 2020, attached
2 hereto *sans exhibits* as Exhibit "E.")

3 In response to the plaintiffs' demand, Defendants' automobile liability policy insurer agreed
4 to provide the "per occurrence" policy limit to plaintiffs' counsel, subject to the restrictions imposed
5 on the policy and by Nevada Law. (*See*, Defendants' Automobile Liability Insurer's Letter to
6 Plaintiffs' Counsel dated November 12, 2020, attached hereto as Exhibit "F.")

7 Defendants' automobile liability insurance carrier accepted the material terms of plaintiffs'
8 settlement offer and was acting to perform under the plaintiffs' offer. Defendants' automobile
9 liability insurance carrier was acting to perform under the terms of the plaintiffs' settlement offer
10 consistent with the limitations imposed upon the Defendants' automobile liability insurance carrier
11 by operation of Nevada Law.

12 Despite knowing of the limitations placed on Defendants' automobile liability insurance
13 carrier by operation of Nevada Law, plaintiffs' counsel received Defendants' automobile liability
14 insurance carrier's request for instructions for satisfaction of plaintiffs demands within the confines
15 of the limitations imposed by Nevada Law and elected to remain silent as to Defendants' automobile
16 liability insurance carrier's request.

17 Plaintiffs' counsel did not respond to Defendants' automobile liability insurer's efforts to
18 perform under plaintiffs' demand until several weeks after the "performance period" lapsed. After
19 remaining silent, plaintiffs' counsel responded by stating his belief that Defendants' insurer's
20 reliance on the language of NRS § 485.185 was a rejection and counter-offer. (*See*, Plaintiffs'
21 Counsel rejection letter dated December 1, 2020, attached hereto as Exhibit "G.")

22 Defendants assert that Defendants and their automobile liability insurance carrier could not
23 have performed by presenting a single check for three individual claimants, especially as one
24 claimant was a minor.¹

25 Due to the limitations placed on Defendants' automobile liability insurance carrier by
26 Nevada Law, performance of plaintiffs' demand was not possible without clarification of the issues

27 _____
28 ¹ *See*, Nevada Revised Statutes § 41.200 and § 485.185, discussed herein.

1 presented in Defendants' Automobile Liability Insurer's Letter dated November 12, 2020. (Ex. F.)

2 By failing to respond to Defendants' Automobile Liability Insurer's request for instructions
3 to allow for compliance with Nevada Law, plaintiffs' counsel actively thwarted Defendants' ability
4 to perform under the plaintiffs' offer.

5 The material terms of the agreement (the total amount to be paid to plaintiffs in exchange
6 for release of all claims) were understood and agreed to by all parties.

7 Performance of the agreement was actively and intentionally undermined by plaintiffs'
8 counsel. As a consequence, Defendants filed a Motion to Enforce Settlement, which the District
9 Court denied without hearing.

10 **B. Court Order**

11 A Hearing on Defendants' Motion to Enforce Settlement was scheduled for Hearing for
12 March 17, 2021, but on March 15, 2021, the District Court issued a Minute Order on Defendants'
13 Motion to Enforce Settlement. (*See*, District Court Minute Order dated March 15, 2021, attached
14 hereto as Exhibit "H.") The Court's Minute Order resulted in the March 17, 2021, Hearing being
15 vacated.

16 In the District Court's March 15, 2021, Minute Order, the District Court stated plaintiffs'
17 offer could only be accepted by performance, that is, by providing a single settlement check to
18 plaintiffs' counsel for three claimants (one of whom was and is a minor), by the date and time
19 presented in the offer. (*Id.*) The District Court acknowledged the Defendants' insurer's request for
20 information, and stated this was not performance. (*Id.*) The District Court cited the Restatement
21 (Second) of Contracts and said, "A mere promise to perform, without actual performance, does not
22 constitute valid acceptance in such a situation." (*Id.*)

23 The District Court did not address the limitations of automobile liability insurance policies
24 as articulated by NRS § 485.185.

25 The District Court did not address the requirements for a compromise of minor's claim as
26 requested by Defendants' automobile liability insurance provider, despite this being a required under
27 Nevada Law. (*See*, NRS § 41.200.)

28 ///

1 The District Court did not address the Defendants' automobile liability insurer's attempts to
2 comply with state law. The District Court did not address plaintiffs' counsel's silence as to
3 Defendants' automobile liability insurance carrier's requests for instructions on rectifying the issues
4 prior to the date for acceptance.

5 By failing to address Defendants' automobile liability insurance carrier's legitimate legal
6 concerns in complying with plaintiffs' demand, the District Court did not provide a method by which
7 Defendants' automobile liability insurance carrier could perform under the contract and still
8 maintain compliance with Nevada Law.

9 By failing to address plaintiffs' counsel's silence in response to Defendants' automobile
10 liability insurance carrier's efforts to legal comply with plaintiffs' demand, the District Court has
11 failed to provide necessary guidance on how defendants and their insurers should address illegal
12 and impossible demands in the future.

13 As such, the instant Motion for Reconsideration is necessary.

14 **II.**

15 **LEGAL ARGUMENT**

16 Defendants contend the District Court 1) failed to fully evaluate the plaintiffs' offer; 2) failed
17 to address the inherent restrictions placed on Defendants' insurer in accepting the offer; 3) failed to
18 consider the Defendants' automobile liability insurance carrier's good faith efforts to perform under
19 the plaintiff's offer; and 4) plaintiffs' counsel's calculated silence in preventing Defendants' insurer
20 from performing under the offer. Defendants contend that the failure to consider these factors results
21 in the District Court's March 15, 2021, Minute Order being clearly erroneous such that
22 reconsideration is necessary.

23 Arguments in support of Defendants' position have been submitted to the Court.

24 In response to Defendants' positions, plaintiffs filed an Objection to Defendants' Motion for
25 Reconsideration. While this is not unusual and not unexpected, several key points presented in
26 plaintiffs' Objection require clarification.

27 ///

28 ///

1 **A. Plaintiffs Mischaracterize Defendants’ Position on Illegality of**
2 **Performance and Illegality of Contract.**

3 In their opposition, plaintiffs make the following accusation:

4 Defendants present no new evidence. Rather, Defendants argue it was
5 illegal for or impossible for GEICO to issue payment in the manner
6 specified. It is important to note that GEICO has raised this issue for the
7 very first time in its instant motion. Before litigation, GEICO did not take
8 the position that payment in the manner specified by Plaintiffs’ demand was
9 illegal or impossible. It also did not raise these arguments in its February
10 12, 2021, Motion to Enforce Settlement Agreement. To the contrary, that
11 Motion unambiguously asserted that GEICO had in fact accepted Plaintiffs’
12 settlement offer and an enforceable contract had formed.
13 (See, Plaintiff’s Opposition to Defendants’ Motion for Reconsideration,
14 specifically at 4:11-18, on file with the Court.)

15 This paragraph contains several assertions which must be addressed.

16 **First Assertion-**

17 The first assertion made by plaintiffs is that Defendants present no new evidence. This is a
18 true statement. All of the evidence presented by Defendants in their Motion to Enforce Settlement
19 is the same evidence presented in Defendants’ Motion for Reconsideration.

20 Defendants are not requesting reconsideration based upon new evidence, but are rather
21 requesting reconsideration to allow for review and commentary on facts and Nevada Statutes which
22 were not addressed in the District Court’s March 15, 2021, Minute Order. This is proper. (See
23 generally, *Masonry & Tile Contractors’ Assoc. v. Jolley, Urga & Wirth Ass’n.*, 113 Nev. 737, 941
24 P.2d 486 (1997) and *Trail v. Faretto*, 91 Nev. 401, 536 P.2d 1026 (1975).)

25 **Second Assertion-**

26 The second assertion made by plaintiffs is that Defendants argue/argued that it was illegal
27 or impossible for their automobile liability insurance provider (GEICO) to issue payment in the
28 manner specified, which was one check for three individual claimants, one of whom was a minor.
29 The second assertion is somewhat truthfully made- Defendants assert that it was not possible for
30 them to provide one settlement draft for three individuals, one of whom was a minor, in exchange
31 for the release of all claims and still remain in compliance with Nevada Law. Defendants have
32 presented Nevada Revised Statutes (“NRS”) § 485.185 and NRS § 41.200 in support of this position.

1 Defendants did not state that the offer or the contract were illegal, only that providing one settlement
2 check for all three plaintiffs was not permitted by Nevada Law. The demanded method of
3 performance, which was inconsistent with Nevada Law, was not possible and so Defendants'
4 automobile liability insurance provider sought from plaintiffs' counsel instructions on how to
5 provide the demanded sums and remain compliant with Nevada Law. (Ex. D & F.)

6 The absence of instruction on how to perform without addressing the limitations placed on
7 Defendants and their automobile liability insurance carrier is what warranted the instant Motion for
8 Reconsideration.

9 Nevada Revised Statute § 485.185 is Nevada's minimum automobile liability insurance
10 coverage statute, which states Nevada automobile operators are required to maintain liability
11 insurance "In the amount of \$25,000 for bodily injury or death of one person in any one crash" and
12 "Subject to the limit for one person, in the amount of \$50,000.00 for bodily injury to or death of two
13 or more persons in any one crash." (*See*, NRS § 485.185.)

14 By operation of this law, any payment provided by Defendants' automobile liability
15 insurance carrier is "subject to the limit for one person" such that no one person in a multi-participant
16 event would be able to recover from the automobile liability insurance carrier an amount greater
17 than the amount of the single-person limits of the subject insurance policy.

18 Nevada Revised Statute § 41.200 is Nevada's Minor's Compromise Claim Statute, which
19 was designed to protect those minors who have legitimate claims against third-party tortfeasors.
20 (*See*, NRS § 41.200.)

21 The second assertion is truthful with respect to the claim that Defendants assert that they
22 could not perform in the manner demanded without ignoring Nevada Law, and this assertion is not
23 disputed by Defendants. Defendants and their automobile liability insurance carrier could not
24 provide a single check to three claimants, one of whom was a minor, without addressing the
25 limitations placed on them by Nevada Law.

26 **Third Assertion-**

27 The third assertion, that Defendants raised the illegality of the form in which plaintiffs
28 demanded performance for the first time in Defendants' Motion for Reconsideration, ignores the

1 fact Defendants' automobile liability insurance carrier notified plaintiffs' counsel of the limitations
2 several times prior to the instant litigation (Ex. D & F).

3 Plaintiffs' third assertion also ignores the fact the Defendants' automobile liability
4 insurance carrier's inability to provide payment in the manner specified was the entire argument
5 presented in Defendants' Motion to Enforce Settlement. (*See*, Defendants' Motion to Enforce
6 Settlement and Reply thereto, on file with the Court.) In that Motion, Defendants argued that they
7 were not able to provide a single settlement draft to plaintiffs' counsel. (*Id.*) In that Motion,
8 Defendants argued the plaintiffs demanded the "policy limits" of \$50,000.00, which were the
9 plaintiffs' material terms, and Defendants' automobile liability insurance carrier agreed to provide
10 this amount, but stated the payment could not be made by way of providing a single check. (*Id.*)
11 The form of the payment/manner of the payment was not a material term to plaintiffs' agreement;
12 the form of the payment/manner of the payment was a limitation placed on Defendants' automobile
13 liability insurance carrier by operation of Nevada Law that was known to plaintiffs.

14 The statutes limiting Defendants' automobile liability insurance carrier were presented in
15 Defendants' Motion to Enforce Settlement Agreement. The existence of the limitations was
16 presented and discussed both pre-litigation and in Defendants' Motion to Enforce Settlement.

17 It is not clear upon which facts plaintiffs make the assertion that the Defendants' position
18 regarding the form/manner of payment was not possible. The third assertion is easily demonstrated
19 as incorrect.

20 **Fourth Assertion-**

21 The fourth assertion, that Defendants "unambiguously asserts that GEICO had in fact
22 accepted Plaintiffs' settlement offer and an enforceable contract had formed" is correct.

23 In their Motion to Enforce Settlement Agreement, Defendants presented the Nevada
24 Supreme Court decision of *May v. Anderson*, 121 Nev. 668, 119 P.3d 1254 (2005), in which the
25 Nevada Supreme Court stated

26 Because a settlement agreement is a contract, its construction and formation are
27 governed by principles of contract law. basic contract principles require, for an
28 enforceable contract, an offer and acceptance, meeting of the minds, and
consideration. With respect to contract formation, preliminary negotiations do not
constitute a binding contract unless the parties have agreed to all material terms. A

1 valid contract cannot exist when material terms are lacking or are insufficiently
2 certain and definite. A contract can be formed. however, when the parties have
3 agreed to the material terms, even though the contract's exact language is not
4 finalized until later. In the case of a settlement agreement, a court cannot compel
5 compliance when material terms remain uncertain. The court must be able to
ascertain what is required of the respective parties.
(*Id.* at 672, 119 P.3d at 1257.)

6 In the instant matter, all essential elements exist to allow the Honorable Court to determine
7 a valid settlement agreement existed- there was an offer made by plaintiffs to accept the total of
8 \$50,000.00 in exchange for all three of their claims; there was a meeting of the minds of the essential
9 terms (the amount provided in exchange for the dismissal of potential claims); and consideration
10 (dismissal of pursuit of claims in exchange for the amount to be provided).

11 Plaintiffs twist this basic framework into attempting to assert that Defendants believe the
12 contract was illegal. That is not the case- the Defendants assert that the core terms of the agreement
13 were established and agreed upon by all parties, only that the method of demanded performance
14 (one check for settlement of all three claims) was impossible as stated to plaintiffs several times
15 before and after plaintiffs' offer was made. (Ex. D & F.)

16 In Defendants' Motion for Reconsideration, Defendants argued the Honorable Court's
17 March 15, 2021, Minute Order stated that only performance of the offer (providing a single check
18 for all three claimants, without consideration of NRS § 485.185 and NRS § 41.200) was sufficient
19 to demonstrate acceptance of the offer and the March 15, 2021, Minute Order did not provide a
20 method for Defendants (and their automobile liability insurance carrier) to perform without violating
21 these statutes.

22 Defendants argued that the courts will not enforce illegal contracts, and that as the courts
23 will not enforce illegal contracts, the courts should not encourage violation or avoidance of laws in
24 performing contracts. This was the position presented by Defendants in their Motion to Enforce
25 Settlement and the Motion for Reconsideration- that the Court will not enforce illegal contracts, but
26 that the Court's position that performance was the only method of acceptance of plaintiffs' offer
27 ignored the constraints placed upon Defendants by Nevada Law. The Defendants could have
28 performed the essential terms of the contract (payment of the totality of the underlying automobile

1 liability insurance policy) in a variety of ways which did not violate NRS § 485.185 or NRS §
2 41.200.

3 By confusing and contorting Defendants' position, plaintiffs argue that Defendants
4 somehow argue that the underlying settlement agreement was illegal but should nonetheless be
5 enforced. Plaintiffs present Nevada Rules of Civil Procedure ("NRCP") Rule 68 concerning offers
6 of judgment as support for their position, but fail to inform this Honorable Court of the clear
7 distinctions between the statutes presented by Defendants and the purposes of offers of judgment.
8 While it is certainly true that NRCP 68 allows multiple offerors to make a single offer, this
9 simplification of the purpose and effect of this Rule on cases in litigation does not address the fact
10 that after acceptance of offer envisioned by plaintiffs, the amount of the offered amount must still
11 be divided amongst the offerors. The purpose of offers of judgment is to facilitate resolution of
12 cases before the courts. The purpose of pre-litigation "policy limits demands" as the type presented
13 by plaintiffs in the instant dispute are to facilitate resolution prior to litigation. As they are demands
14 on the policy, these demands are subject to the limitations placed on automobile liability insurance
15 policies by NRS § 485.185.

16 Defendants also argue that NRS § 41.200 (Nevada's Minor Compromise Claim Statute)
17 required addressing as part and parcel of the performance of plaintiffs' offer.

18 In their Opposition, plaintiffs explain the necessity of Court approval of a minor's bodily
19 injury claim and assert that the purpose of this statute is to protect the interests of the minor.
20 Plaintiffs continue by stating, "it is clear the statute exists to protect minors both from unfair attorney
21 fees and from the misappropriation of settlement funds by minors' parents. (*See*, Plaintiff's
22 Opposition to Defendants' Motion for Reconsideration, specifically at 7:10-12, on file with the
23 Court.)

24 Plaintiffs fail to inform this Honorable Court of another aspect of the minor's compromise
25 scheme, which is to protect defendants and their insurers from future uncertainty. The minor's
26 compromise scheme provides finality of judgment for defendants and their insurers.

27 The plaintiffs claim "the law has no mechanism for breach of the minor's compromise statute
28 to enact punishments upon a settling defendant or their insurance company." (*Id.* at 7.17-19.) What

1 plaintiffs fail to clarify is that punishments are not the concern of defendants or their insurers when
2 dealing with minors' claims. The omitted concern for defendants and their insurers is NRS § 11.250,
3 which provides minors with two years after reaching the age of majority the right to bring an action.
4 (*See*, NRS § 11.250.)

5 Statutes of limitation are designed to serve legitimate purposes, including to assure a
6 potential defendant that they will not be liable under the law for an alleged wrong for an indefinite
7 period of time. (*See*, *State Indus. Ins. System v. Jesch*, 101 Nev. 690, 694-95, 709 P.2d 172, 175-76
8 (1985).)

9 While the time period provided by NRS § 11.250 is not an indefinite period, the purpose and
10 intent of statutes of limitation are satisfied by enactment of NRS § 41.200.

11 **B. Despite Allegations Made by Plaintiffs, Defendants Have Not Stated the**
12 **Settlement Offer was Illegal.**

13 As stated herein and the pleadings presented to this Honorable Court, Defendants assert the
14 Plaintiffs' Settlement Offer was valid and enforceable, which is the exact opposite of illegal and
15 unenforceable. If Defendants did not believe this position, no Motion to Enforce Settlement
16 Agreement would have ever been filed.

17 What Defendants are asserting is that performance, which required recognition of Nevada
18 Statutes, was intentionally thwarted by plaintiffs by way of failure to respond to multiple requests
19 for instructions on how to comply with the statutes in question and perform the essential terms of
20 the plaintiffs' settlement offer.

21 As stated above, the plaintiffs presented a "policy limits demand" which by its nature
22 implicated the applicable policy limits, both per-person and per-incident, and the statutes concerning
23 automobile liability insurance.

24 In responding to and accepting plaintiffs' settlement offer, Defendants, through their
25 automobile liability policy carrier, informed plaintiffs of the limitations imposed by the State of
26 Nevada in performing plaintiff's settlement offer. The material terms as presented by plaintiffs (a
27 total of \$50,000.00 for release of all three plaintiffs' potential claims), was accepted by Defendants.
28 The hiccup was in performance- the issues created by plaintiffs could have been resolved by

1 plaintiffs by responding to Defendants' automobile liability insurance carrier's request for
2 instructions on how to perform under the known limitations.

3 In the Court's March 15, 2021, Minute Order, this Honorable Court stated the failure of the
4 underlying contract was a failure of performance. In so stating, without more, the Honorable Court
5 did not present guidance on how to resolve this dilemma moving forward. The scenario of several
6 claimants presenting demands to a single automobile liability insurance policy will surely happen
7 again.

8 Interestingly, the concern for future proceedings is also claimed by plaintiffs, but without
9 resolution of the situation presently presented to this Honorable Court, defendants and their
10 respective automobile liability insurers will not know if compliance with Nevada statutes is
11 required, permissive, or just a suggestion. By requesting estoppel, plaintiffs are essentially
12 requesting this Honorable Court deny future litigants or their insurers their right to seek clarification
13 of the issue.

14 For these reasons, Reconsideration of Defendant's Motion to Enforce Settlement is proper
15 and necessary.

16 III.

17 CONCLUSION

18 Defendants assert that there was an offer and acceptance, that there was a meeting of the
19 minds and agreement of all material terms, and that there was consideration. sufficient to support a
20 finding that a valid contract had been formed by the parties. Defendants assert that they manifested
21 assent to plaintiffs' terms sufficient to bind the parties to the contract. Defendants assert that the
22 limitations imposed on performance by way of Nevada Revised Statutes impaired tender of the
23 agreed-upon funds and that plaintiffs owed a duty to Defendants to resolve this issue, such that the
24 plaintiffs' failure to respond prevented complete performance.

25 In deciding Defendant's Motion to Enforce Settlement, the District Court issued a Minute
26 Order which stated the only way Defendants' automobile liability insurance carrier could accept the
27 plaintiffs' offer was to perform under the offer. The District Court's decision failed to consider the
28 fact that strict performance under the plaintiffs' offer was impossible, as strict performance under

1 the offered terms would be in violation of Nevada Law. The District Court's decision failed to
2 consider the fact that Defendants' insurer attempted performance by attempting to satisfy the
3 material terms of plaintiffs' demand in a legal manner. The District Court's decision failed to
4 address plaintiffs' counsel's silence in responding to Defendants' insurer's attempt to perform under
5 plaintiffs' demand in a legal manner.

6 As such, Defendants respectfully request this Honorable Court to Reconsider the Court's
7 March 15, 2021, Minute Order denying Defendants' Motion to Enforce Settlement Agreement, and
8 allow Hearing on Defendants' Motion to Enforce Settlement Agreement.

9
10 DATED this 8th day of April, 2021.

11 LEWIS BRISBOIS BISGAARD & SMITH LLP

12 By: /s/ Michael R. Smith

13 DARRELL D. DENNIS

14 Nevada Bar No. 006618

15 MICHAEL R. SMITH

16 Nevada Bar No. 12641

17 6385 S. Rainbow Boulevard, Suite 600

18 Las Vegas, Nevada 89118

19 *Attorneys for Defendants*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of LEWIS BRISBOIS
3 BISGAARD & SMITH LLP and that on this 8th day of April, 2021, I did cause a true copy of the
4 foregoing **DEFENDANTS' REPLY TO PLAINTIFFS' OPPOSITION TO DEFENDANTS'**
5 **MOTION FOR RECONSIDERATION OF COURT'S MARCH 15, 2021 MINUTE ORDER**
6 **DENYING DEFENDANTS' MOTION TO ENFORCE SETTLEMENT AGREEMENT**, to be
7 served via the Court's electronic filing and service system to all parties on the current service list.

8 Daniel R. Price
9 Christopher Beckstrom
10 **PRICE BECKSTROM, PLLC**
11 1404 South Jones Blvd.
12 Las Vegas, NV 89146
13 *Attorneys for Plaintiff*

14 By /s/ Gabriela Mercado
15 Gabriela Mercado, An Employee of
16 LEWIS BRISBOIS BISGAARD & SMITH LLP
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EXHIBIT A

EXHIBIT A



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TIRE AND LOADING INFORMATION
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The combined weight of occupants and cargo should never exceed
Le poids total des occupants et du chargement ne doit jamais dépasser

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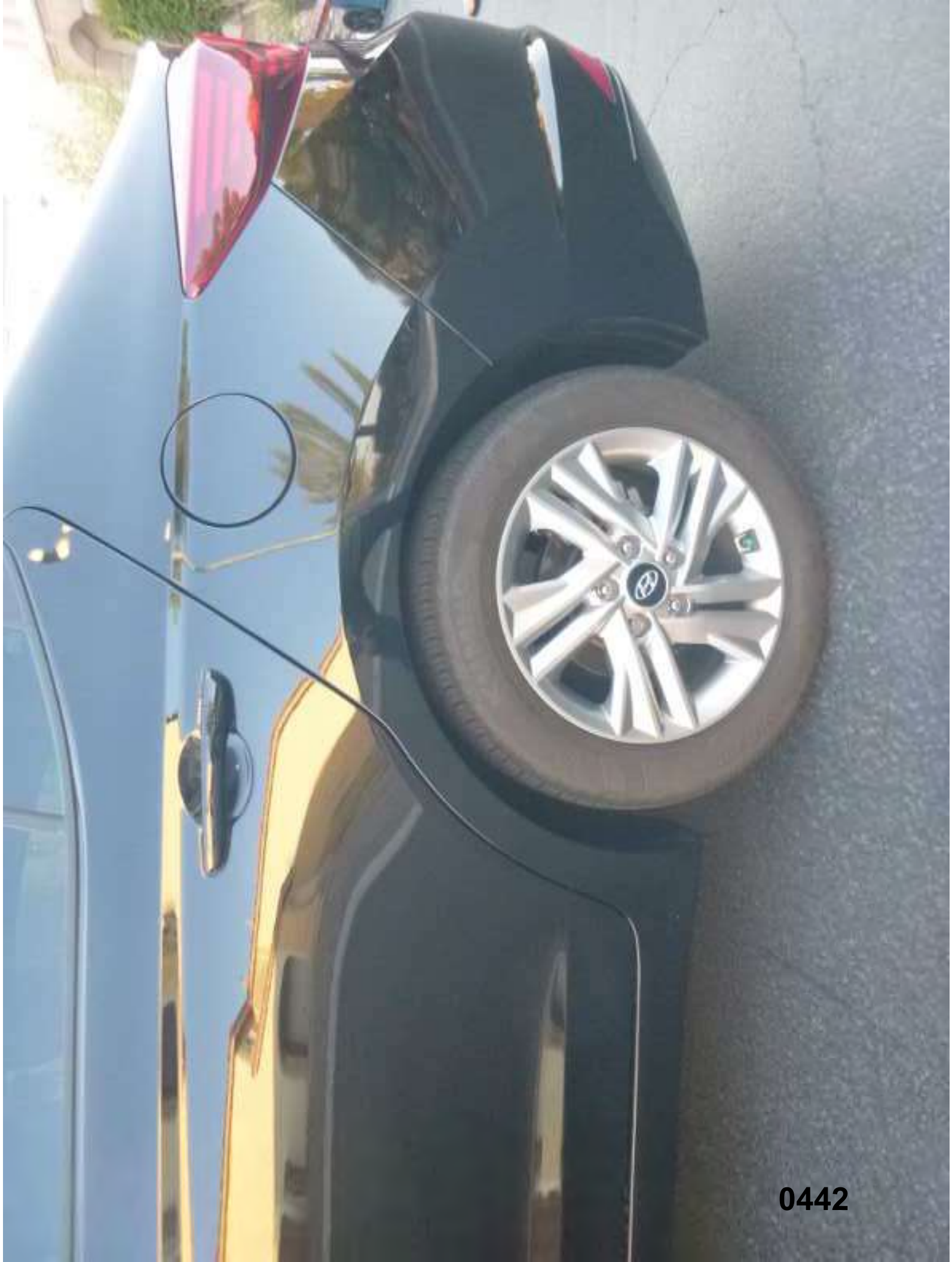
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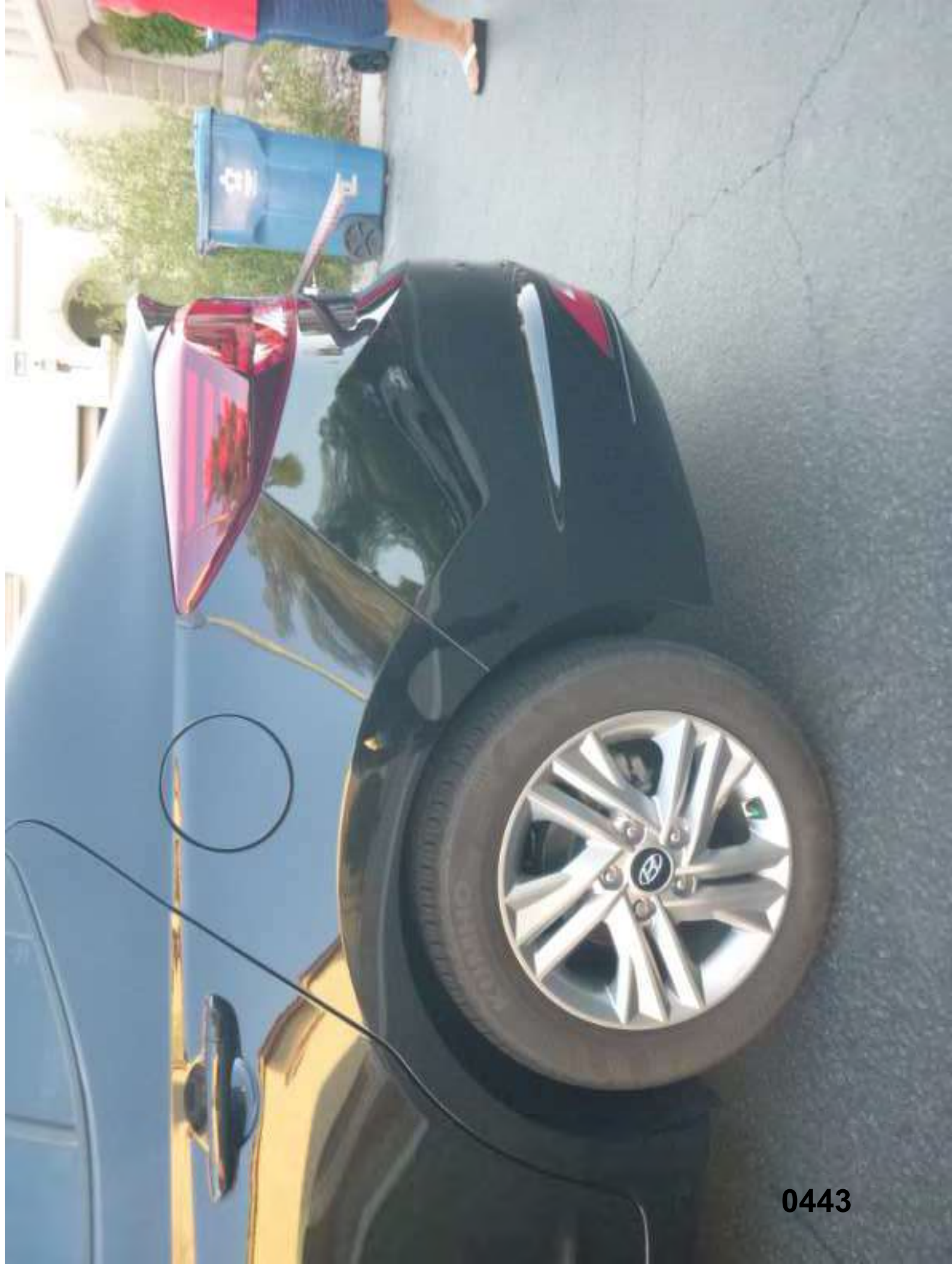
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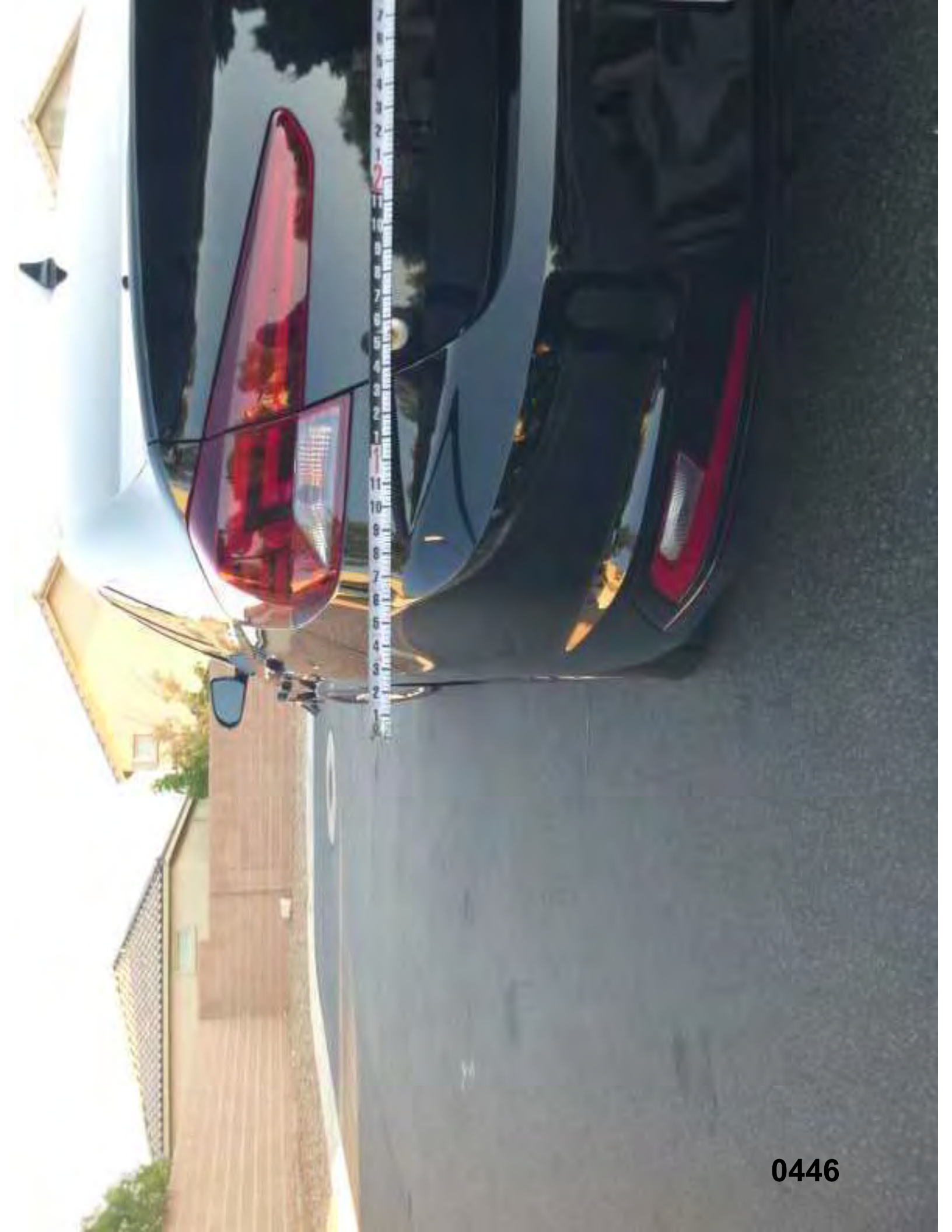
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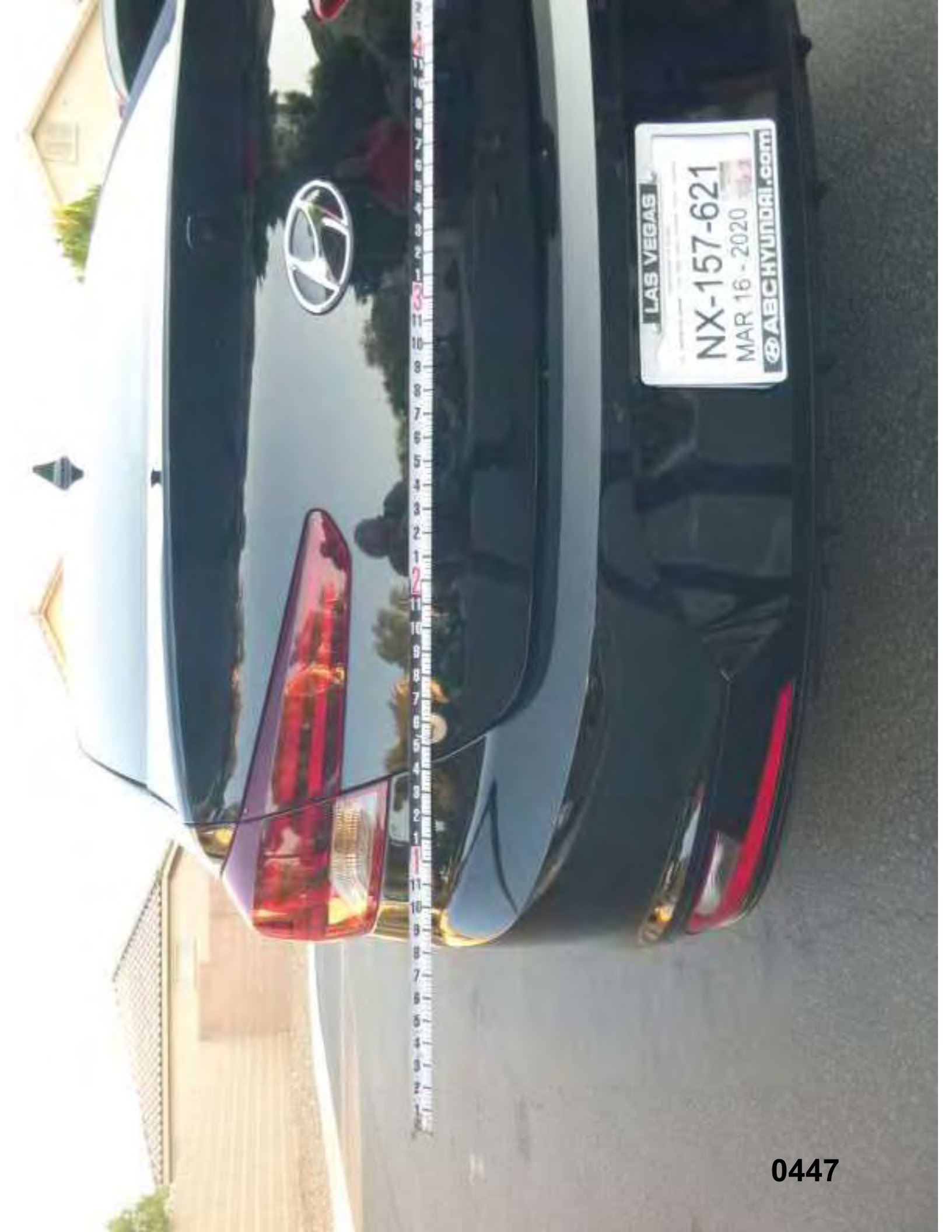
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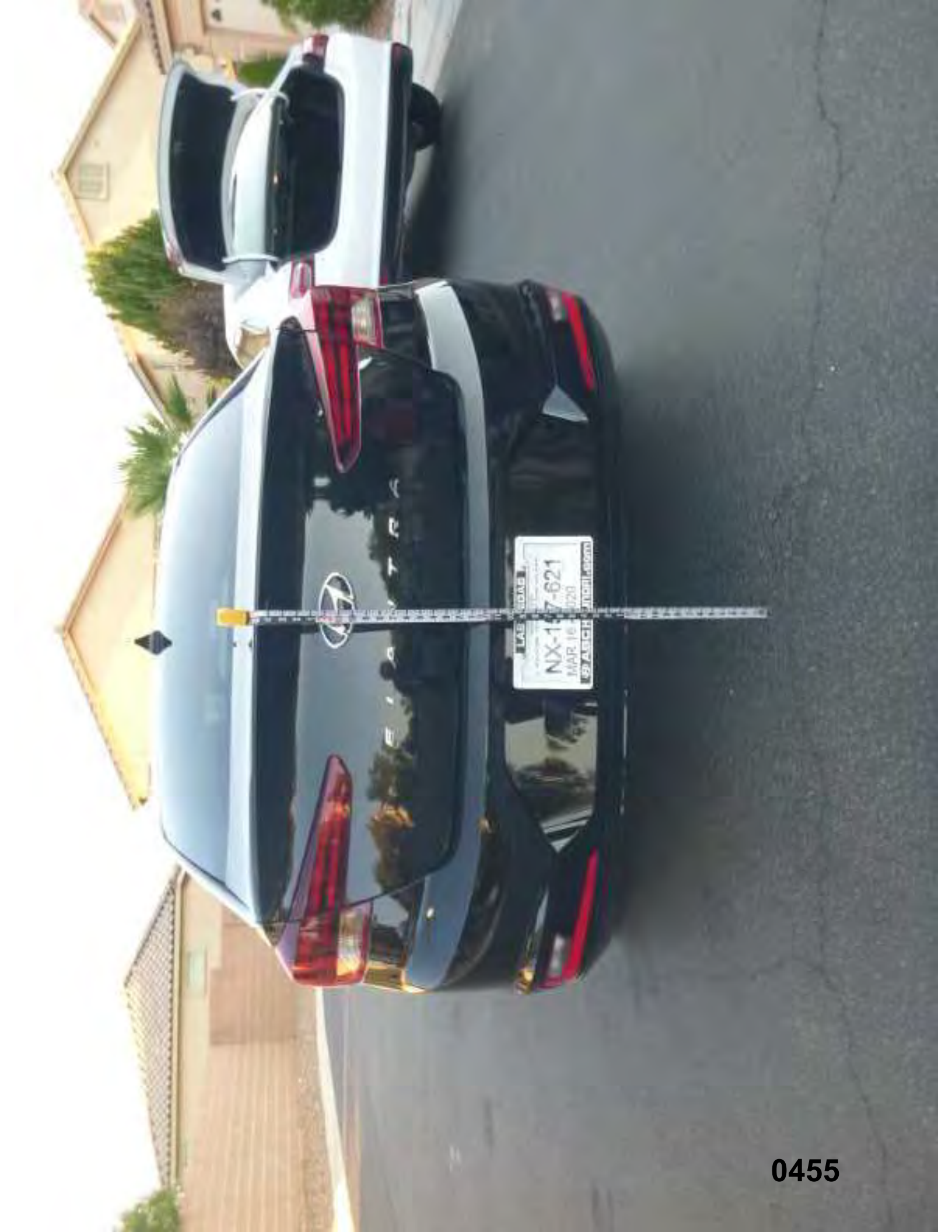
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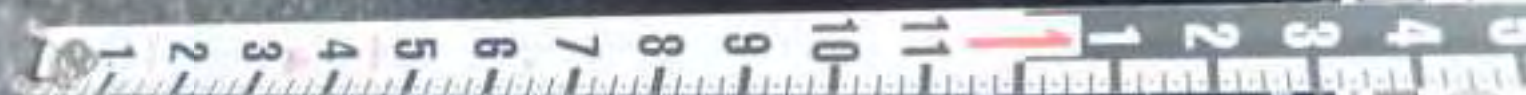


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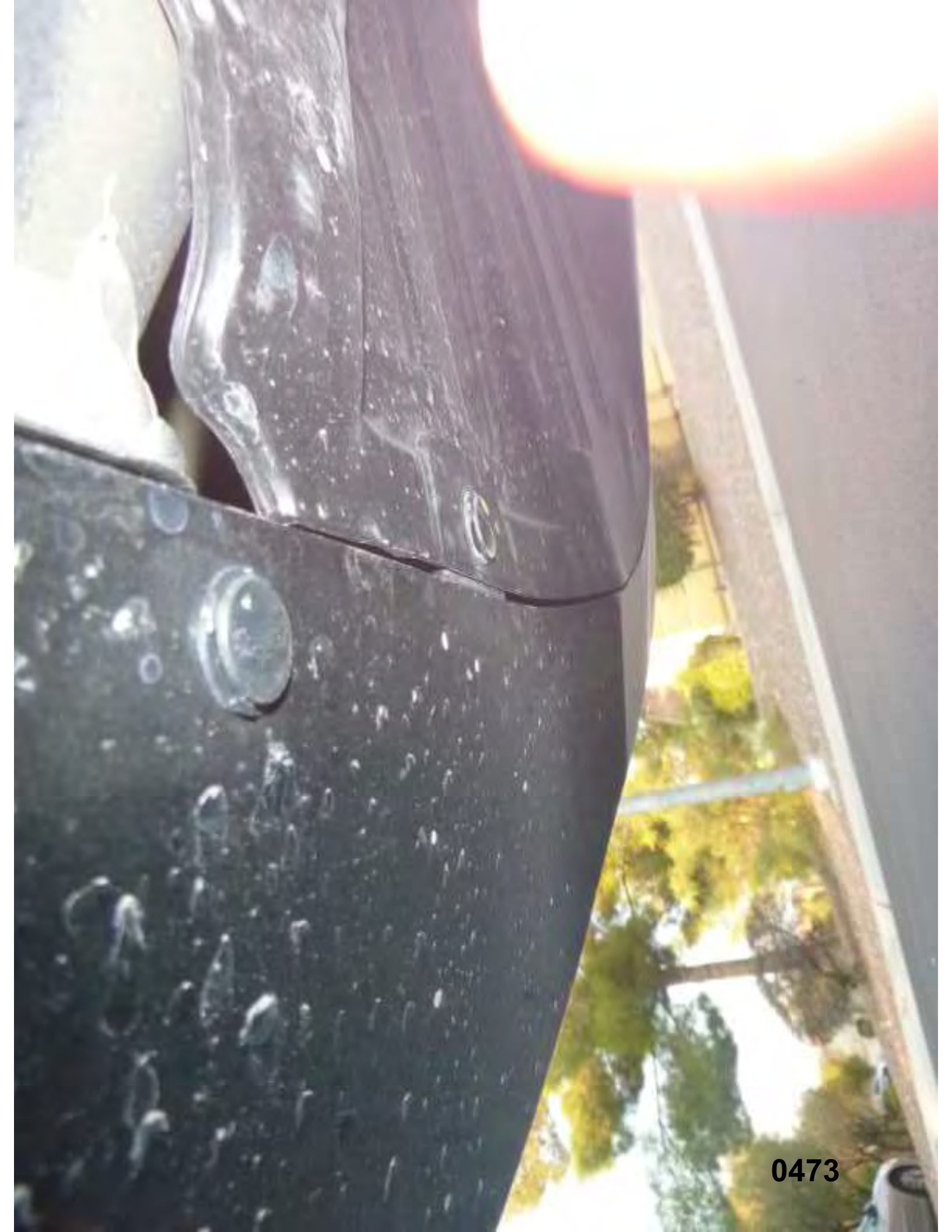
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EXHIBIT B

EXHIBIT B



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TIRE AND LOADING INFORMATION

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THE COMBINED WEIGHT OF OCCUPANTS AND CARGO SHOULD NEVER EXCEED

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TIRE

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ORIGINAL TIRE SIZE

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245/45R20 99V

T145/80D18LL 99M

COLD TIRE INFLATION PRESSURE

220 kPa / 32 PSI

220 kPa / 32 PSI

420 kPa / 60 PSI

SEE OWNERS MANUAL FOR ADDITIONAL INFORMATION



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MFD BY FCA US LLC

GWR: 02314 KG

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DATE OF MANUFACTURE: 11-16

THIS VEHICLE CONFORMS TO ALL APPLICABLE U.S.A. FEDERAL MOTOR VEHICLE SAFETY
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THE DATE OF MANUFACTURE SHOWN ABOVE.



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PLANT: 112923 02800

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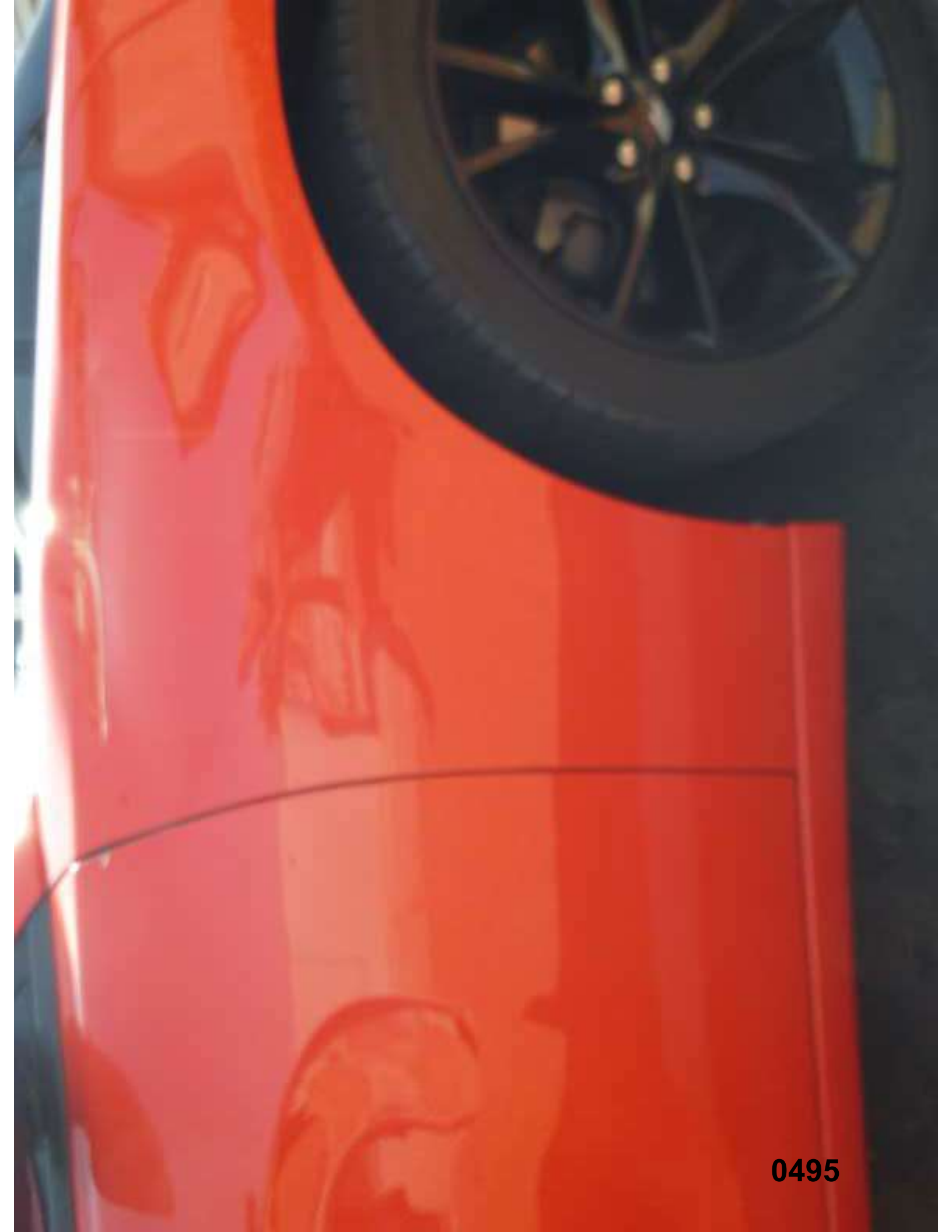
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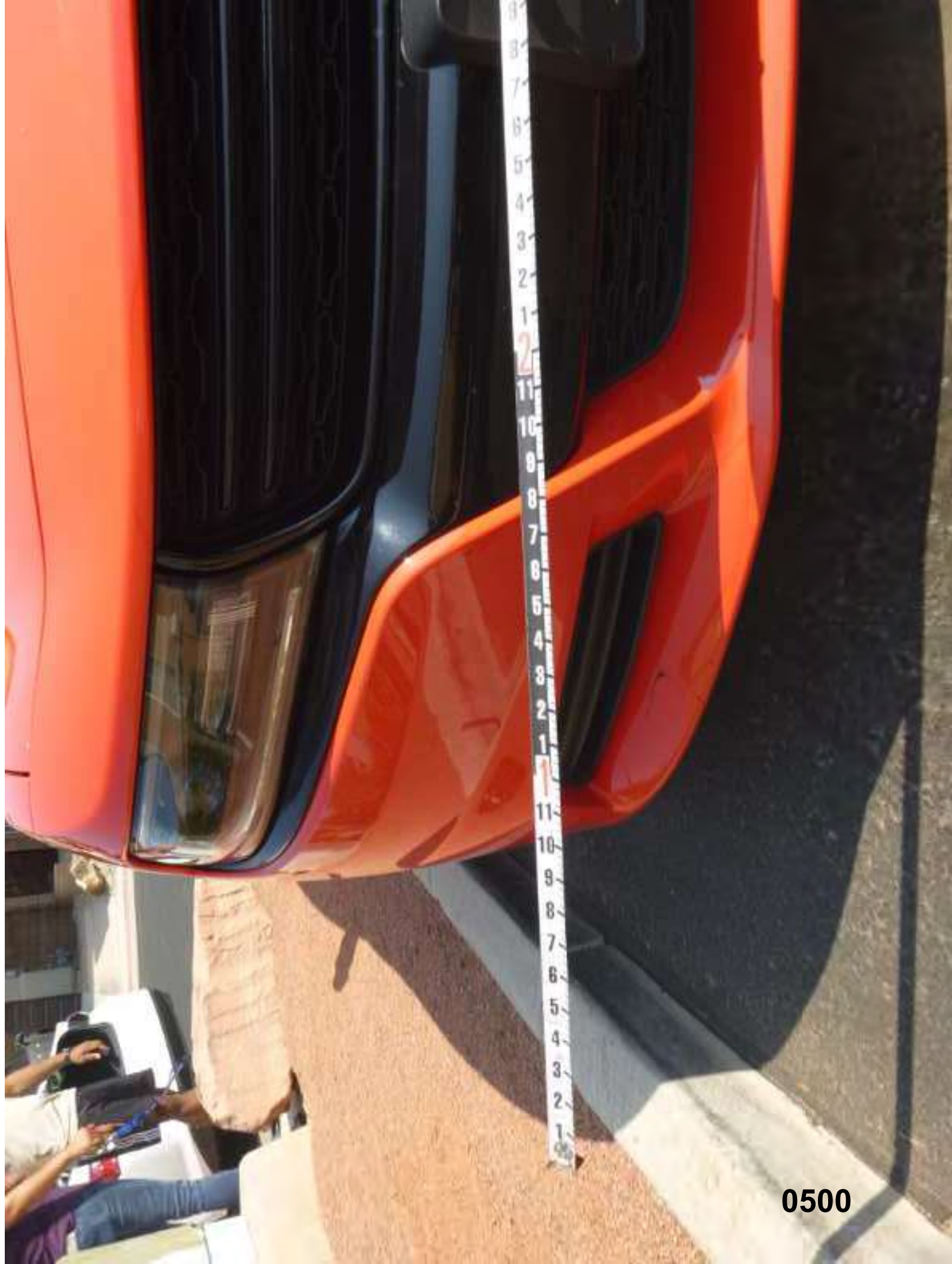
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