

**IN THE SUPREME COURT OF THE  
OF THE STATE OF NEVADA**

NATIONSBUILDERS INSURANCE )  
SERVICES, INC., a foreign corporation; )  
NBIS CONSTRUCTION & TRANSPORT )  
INSURANCE SERVICES, INC., a foreign )  
corporation; )

Petitioners, )

vs. )

THE EIGHTH JUDICIAL DISTRICT )  
COURT of the State of Nevada, in and for the )  
County of Clark; and THE HONORABLE )  
MARK R. DENTON, District Judge; )

Respondents. )

DIANE SANCHEZ; )

Real Party in Interest. )

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Elizabeth A. Brown  
Clerk of Supreme Court  
District Court Case No.  
A-19-805351-C

**PETITIONER'S APPENDIX**  
(VOLUME III OF V)

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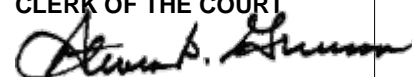
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

DIANE SANCHEZ,

Plaintiff,

vs.

ATX PREMIER INSURANCE COMPANY  
now known as WINDHAVEN NATIONAL  
INSURANCE COMPANY, a foreign  
corporation; NATIONSBUILDERS  
INSURANCE SERVICES, INC., a foreign  
corporation; NBIS CONSTRUCTION &  
TRANSPORT INSURANCE SERVICES,  
INC., a foreign corporation; DMA CLAIMS  
MANAGEMENT, INC., a foreign  
corporation; BLAS BON, an individual;  
DOES I-X; and ROE CORPORATIONS I-X,  
inclusive,

Defendants.

Case No: A-19-805351-C  
Dept. No.: XIII

**DEFENDANTS NATIONSBUILDERS  
INSURANCE SERVICES, INC. AND  
NBIS CONSTRUCTION &  
TRANSPORT SERVICES, INC.'S  
MOTION TO DISMISS SECOND  
AMENDED COMPLAINT, OR IN THE  
ALTERNATIVE, MOTION TO STAY  
PROCEEDINGS**

**HEARING REQUESTED**

Defendants Nationsbuilders Insurance Services, Inc. ("NBIS") and NBIS  
Construction & Transport Services, Inc. ("CTIS"), by and through their counsel of record,  
Lipson Neilson P.C., hereby submits this Motion to Dismiss Plaintiff Diane Sanchez's  
Second Amended Complaint ("Motion"). This Motion is made and based upon Nevada  
Rule of Civil Procedure 12(b)(5), the accompanying Memorandum of Points and

1 Authorities, and any exhibits attached thereto, which this Court may consider through  
2 judicial notice pursuant to NRS 47.130, *et. seq.* without converting the Motion into a  
3 motion for summary judgment, the pleadings and papers on file with the Court, and any  
4 oral argument of counsel at the time of hearing on the matter. Alternatively, NBIS and  
5 CTIS move to stay litigation pending adjudication of the appeal of the underlying default  
6 judgment, and in light of the permanent injunction and stay of proceedings entered in  
7 defendant ATX Premier Insurance Company, now known as Windhaven National  
8 Insurance Company's Texas liquidation proceeding.

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I. INTRODUCTION**

11 On May 25, 2021, this Court granted Plaintiff Diane Sanchez ("Plaintiff") leave to  
12 file a Second Amended Complaint to name NBIS and CTIS as defendants, and to bring  
13 claims against them for Breach of Contract, Breach of the Implied Covenant of Good  
14 Faith and Fair Dealing, and Violation of Nevada's Unfair Claims Practices Act. All of  
15 Plaintiff's allegations against NBIS and CTIS arise from a 2015 motor vehicle accident,  
16 the rejection of Plaintiff's pre-suit policy limit demand, and the lack of valid service on  
17 Defendant Blas Bon ("Bon") of both the complaint and amended complaint in the  
18 underlying personal injury lawsuit, resulting in entry of a \$15 million default judgment  
19 against Bon.

20 Bon was homeless and without counsel when the default judgment was entered.  
21 He subsequently appealed the order denying his motion to set aside the default  
22 judgment and that appeal remains pending at this time.<sup>1</sup> In fact, the parties were unable  
23 to reach a settlement at their recent NRAP 16 settlement conference and requested that  
24 the Supreme Court reinstate the briefing schedule accordingly. Plaintiff's claims against  
25 NBIS and CTIS are not ripe for consideration until after adjudication of Bon's appeal. On  
26 this basis alone, the Court should dismiss the Second Amended Complaint, or stay  
27

28 

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<sup>1</sup> See NV Sup Ct Docket No. 81983.

1 litigation until it is established that the default judgment is enforceable as a matter of  
2 law.

3 Further compounding matters, however, is the fact that ATX/Windhaven has filed  
4 a separate motion to dismiss or to stay litigation for the duration of Windhaven's  
5 liquidation proceeding pending in the District Court of Travis County, Texas  
6 ("Windhaven Motion"). Although the Windhaven Motion seeks only to dismiss or stay  
7 the claims against ATX/Windhaven, it is impossible for NBIS or CTIS to defend against  
8 Plaintiff's claims without implicating ATX/Windhaven's defenses or otherwise bearing on  
9 ATX/Windhaven's potential liability for Plaintiff's damages. This is particularly true as  
10 ATX/Windhaven was the licensed insurer of the applicable automobile insurance policy  
11 that covered Bon at the time of the accident. For these reasons, a stay of all claims is  
12 also appropriate pending the duration of the Windhaven liquidation proceeding.

13 But a litigation stay is only the threshold of relief that this Court should grant to  
14 NBIS and CTIS in this action. The substantive claims themselves are without merit and  
15 must be dismissed pursuant to NRCP 12(b)(5). There is no contract between NBIS and  
16 Bon, or CTIS and Bon that gives rise to claims for breach of contract or breach of the  
17 implied covenant of good faith and fair dealing. The only contract at issue is the  
18 ATX/Windhaven insurance policy, and neither NBIS nor CTIS are parties to that  
19 contract. The mere fact that NBIS was the parent company for ATX/Windhaven at the  
20 time of the Accident, or that CTIS acted as a claims administrator on the policy is  
21 insufficient to establish the existence of a joint venture, particularly in light of Plaintiff's  
22 failure to assert specific factual allegations on which this Court could even base a  
23 finding that a joint venture exists. Further, Plaintiff makes no factual assertions at all to  
24 support a claim for alter ego that could justify piercing the corporate veil and exposing  
25 NBIS and CTIS to the liability on ATX/Windhaven's contract claims.

26 Finally, neither NBIS nor CTIS are insurers within the purview of NRS  
27 686A.310(1). CTIS is a claims administrator that should be exempted from liability under  
28 Nevada's Unfair Claims Practices Act as set forth in *Albert H. Wohlers & Co. v. Bartgis*,



1 114 Nev. 1249, 1262, 969 P.2d. 949, 959 (1998). Similarly, NBIS was merely the parent  
2 company of ATX/Windhaven at the time of the Accident. Neither NBIS nor CTIS have  
3 any relationship with Bon or a contract with Bon. Additionally, NBIS had no role in the  
4 administration or adjusting of Plaintiff's claim on the ATX/Windhaven policy. For these  
5 reasons, discussed further below, NBIS and CTIS request that this Court dismiss  
6 Plaintiff's first, second, and third claims for relief.

7 **II. STATEMENT OF RELEVANT FACTS**

8 **A. The Accident**

9 On or around April 28, 2015, Plaintiff drove her 1995 BMW 325i sedan  
10 northbound on Interstate 15. See Second Amended Complaint ("SAC") ¶ 13. Bon was  
11 directly behind Plaintiff, driving a 1997 Dodge Ram 2500 pick-up truck, owned by his  
12 friend Hipolito Cruz ("Cruz") and insured by ATX/Windhaven. *Id.* ¶¶ 11-12, 18-20. When  
13 Plaintiff purportedly slowed down for traffic, Bon's pick-up truck collided with the back of  
14 Plaintiff's sedan. *Id.* ¶¶ 14-15. A second vehicle, driven by Joseph Acosta ("Acosta"),  
15 also rear-ended the sedan. *Id.* ¶ 17.

16 **B. DMA Denies Plaintiff's Bodily Injury Claim on the ATX/Windhaven  
Policy.**

17 On June 16, 2015, Plaintiff sent a policy limit demand to DMA Claims  
18 Management, Inc. ("DMA"), the third-party administrator contracted by ATX, now  
19 Windhaven, to adjust certain claims. *Id.* ¶ 41. The demand was patently unreasonable;  
20 it demanded policy limits whilst evidencing a mere \$7,818 in damages and requested a  
21 response from DMA on a short time frame and under threat of litigation. *Id.* On July 17,  
22 2015, DMA sent correspondence to Plaintiff rejecting the demand. *Id.* ¶ 44.

23 **C. Plaintiff Files the Underlying Personal Injury Lawsuit against Bon  
and Acosta.**

24  
25 On August 7, 2015, Plaintiff filed the Personal Injury Action against Bon and  
26 Acosta, Case No. A-15-722815-C ("the Personal Injury Action"). *Id.* ¶ 46; see also  
27 Complaint, attached hereto as **Exhibit 1**. Paragraph 6 of the complaint specifically  
28 alleged as follows:

1 That on April 28, 2015, in Clark County, Nevada, Defendants BLAS BON  
2 caused a crash with Plaintiff. During the same sequence of events,  
3 Defendant JOSEPH ACOSTA, also negligently crashed into Plaintiff. The  
4 vehicle operated by BLAS BON was owned by HIPOLITO CRUZ. The  
vehicle operated by JOSEPH ACOSTA was owned by WILFRED  
ACOSTA.

5 *Id.* At the time of filing, Plaintiff knew that Bon was homeless and splitting his  
6 time between a neighborhood community center and Cruz's residence. See Motion to  
7 Set Aside Default Judgment and exhibits, attached hereto as **Exhibit 2**. Cruz's address  
8 appears three times within the report, including in Bon's voluntary statement as to "[his]  
9 current location." *Id.* Bon also identified his employer as "South West Trees" and  
10 provided a phone number. *Id.* A simple Google search confirms that South West Trees  
11 is a business located at 2901 S. Highland Drive, Las Vegas. Bon also provided a phone  
12 number, as did other passengers. *Id.*

13 Despite this knowledge, Plaintiff made no attempt to serve Bon at Cruz's home or  
14 to inquire about Bon's whereabouts through any of the other addresses or phone  
15 numbers provided, and attempted service only once at the community center before  
16 purporting to serve Bon through the Nevada Department of Motor Vehicles pursuant to  
17 NRS 14.070. *Id.* On April 1, 2016, Plaintiff defaulted Bon. SAC ¶ 55. The summons and  
18 complaint mailed in supposed compliance with NRS 14.070 were returned undelivered  
19 to Sanchez's counsel. Notably, Acosta answered the complaint and successfully  
20 served a cross-claim against Bon at the Cruz residence on March 3, 2016. Ex. 3.

21 In October 2016, Plaintiff filed an amended complaint against Bon, Acosta, and  
22 Acosta's father, Wilfred Acosta. See Amended Complaint, attached hereto as **Exhibit 3**.  
23 While Bon remained a named defendant in the caption and was included in the  
24 nebulous term "Defendants," the amended complaint deleted all specific references to  
25 Bon, Cruz, or the pick-up truck. *Id.* In fact, the amended complaint no longer alleged  
26 that Bon was the cause of the accident at all. *Id.* Instead, the amended complaint  
27 stated as follows:

28 ///

1           5. Defendant JOSEPH ACOSTA was, at all times mentioned herein, the  
2 operator of a 1997 BMW 52851, Nevada Plate No. 361LKK (hereinafter  
3 referred to as the "Vehicle"). The Vehicle was owned by Defendant  
WILFREDO ACOSTA.

4           6. On April 28, 2015, in Clark County, Nevada, Defendant JOSEPH  
5 ACOSTA caused a crash with Plaintiff.

6           *Id.* Plaintiff failed to serve the amended complaint on Bon and spent the next two  
7 years litigating against only the Acostas. Ex. 3. In October 2018, Plaintiff settled her  
8 claims and the court statistically closed the action. *Id.*

9           **D. Default Judgment Entered against Bon, Court Grants Plaintiff's**  
10 **Motion for Judicial Assignment of Bon's Claims against**  
**ATX/Windhaven and Others.**

11           On March 29, 2019, nearly six months after the case closed and three years after  
12 taking Bon's default, Plaintiff sought a multi-million dollar default judgment against Bon.  
13 SAC ¶ 59; see also Ex. 3. On July 19, 2019, the district court granted the application  
14 and issued judgment against Bon for \$15,209,896.28. SAC ¶ 63. Additionally, on  
15 August 20, 2019, the district court also granted Plaintiff's motion for judicial assignment  
16 of any claims that Bon might have against ATX/Windhaven "or any other applicable  
17 liability insurer" pursuant to NRS 21.320. SAC ¶¶ 64-65.

18           **E. Bon's Appeal of the Default Judgment Entered in the Underlying**  
19 **Personal Injury Lawsuit; Notice of Windhaven Liquidation**

20           On January 17, 2020, Bon filed a motion to set aside the default judgment. Ex. 2.  
21 On March 30, 2020, Bon's attorney also filed a Notice of Permanent Injunction and  
22 Automatic Stay re: Liquidation of Windhaven National Insurance fka ATX Premier  
23 Insurance Company, notifying the parties of an order Appointing Liquidator, Permanent  
24 Injunction, and Notice of Automatic Stay filed in the District Court of Travis County,  
25 Texas ("Windhaven Liquidation"). See Notice, attached hereto as **Exhibit 4**.

26           On September 19, 2020, the district court denied the motion to set aside. See  
27 Order, attached hereto as **Exhibit 5**. On October 20, 2020, Bon filed a Notice of Appeal  
28 of the order denying the motion to set aside the default judgment, as well as all

1 judgments, rulings, and interlocutory orders made appealable by the same. See Notice  
2 of Appeal, **Exhibit 6**. The appeal remains pending at this time. On February 18, 2021,  
3 the parties stipulated to use a private mediator for the NRAP 16 settlement conference.  
4 See Status Report Regarding Settlement Conference, attached hereto as **Exhibit 7**.  
5 The parties did not reach a settlement and Bon requested that the Supreme Court  
6 reinstate the briefing schedule. *Id.*

7 **F. Plaintiff Files a Bad Faith Action against ATX and Windhaven**  
8 **Separately, DMA, and Bon.**

9 On November 13, 2019, Plaintiff filed the instant bad faith action against ATX and  
10 Windhaven (separately), DMA, and Bon. On November 18, 2019, Plaintiff filed an  
11 amended complaint. Windhaven removed the action to federal court. The case was  
12 remanded to this court in or around January 2021.

13 On April 26, 2021, Plaintiff filed a motion for leave to file a second amended  
14 complaint naming NBIS and CTIS as defendants and voluntarily dismissing Windhaven.  
15 In the motion, Plaintiff argued that it had become “abundantly clear that Windhaven  
16 [was] not financially responsible for ATX’s bad faith handling of Sanchez’s bodily injury  
17 claim ...Rather, NBIS and CTIS have always retained financial responsibility and control  
18 over any claims arising from ATX’s insurance policies...” This court granted the motion  
19 for leave.

20 Despite the pending appeal of the order denying Bon’s motion to set aside the  
21 default judgment, the Texas injunction order prohibiting lawsuits against  
22 ATX/Windhaven, and her own claim that Windhaven was not responsible for Plaintiff’s  
23 damages, on June 1, 2021, Plaintiff filed the SAC against ATX and Windhaven, in  
24 addition to Bon, DMA, NBIS, and CTIS. The SAC alleged causes of action for (1)  
25 Breach of Contract; (2) Breach of the Covenant of Good Faith and Fair Dealing; (3)  
26 Violation of the Nevada Unfair Claims Practices Act; and (4) Action on the Default  
27 Judgment (against Bon only).

28 ///

1 **III. LEGAL ARGUMENT**

2 **A. Standard of Review**

3 **i. NRCP 12(b)(5)**

4 Nevada Rule of Civil Procedure 12(b)(5) provides that a party may move to  
5 dismiss a complaint where the complaint fails to state a claim upon which relief can be  
6 granted. Nev. R. Civ. Pr. 12(b)(5). Under Rule 8(a), a properly plead complaint must  
7 provide “a short and plain statement of the claim showing that the pleader is entitled to  
8 relief.” Nev. R. Civ. P. 8(a). While Rule 8 does not require detailed factual allegations, it  
9 demands more than “labels and conclusions” or a “formulaic recitation of the elements  
10 of a cause of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations  
11 omitted).

12 Dismissal is proper where the allegations are insufficient to establish the  
13 elements of a claim for relief.” *Stockmeier v. Nev. Dep’t of Corr. Psychological Review*  
14 *Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 (2009). Thus, a complaint should be  
15 dismissed where “it appears beyond a doubt that the plaintiff could prove no set of facts  
16 that if accepted by the trier of fact, would entitle him to relief.” *Dezzani v. Kern &*  
17 *Assocs.*, 134 Nev. 61, 72, 412 P.3d 56, 64 (2018); citing *Washoe Med. Ctr., Inc. v.*  
18 *Reliance Ins. Co.*, 112 Nev. 494, 496, 915 P.2d 288, 289 (1996) (citation omitted). If,  
19 however, matters are outside the pleadings are presented to the Court, the Rule  
20 12(b)(5) motion to dismiss must be treated as a motion for summary judgment under  
21 Nevada Rule of Civil Procedure 56(b). Nev. R. Civ. Pr. 12(b)(5).

22 **ii. Request for Judicial Notice**

23 A court shall take judicial notice if requested by a party and supplied with all of  
24 the necessary information. Nev. Rev. Stat. § 47.150(2). Facts are subject to judicial  
25 notice if they are “[g]enerally known within the territorial jurisdiction of the trial court; or  
26 ... [c]apable of accurate and ready determination by resort to sources whose accuracy  
27 cannot be reasonably questioned.” Nev. Rev. Stat. § 47.140. It is well-established that  
28 “sources whose accuracy cannot be reasonably questioned” include court filings. *Porter*

1 *v. Ollison*, 620 F.3d 952 (9th Cir. 2010) (court may take judicial notice of dockets in  
2 state court proceedings).

3 Additionally, judicial notice may be taken on matters of public record without  
4 converting a motion to dismiss into a motion for summary judgment. See *Breliant v.*  
5 *Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993) (court may  
6 take into account matters of public record, orders, items present in the record of the  
7 case, and any exhibits attached to the complaint when ruling on a motion to dismiss for  
8 failure to state a claim upon which relief can be granted); see also *Mack v. S. Bay Beer*  
9 *Distribs.*, 798 F.2d 1279, 1282 (9th Cir. 1986) (a court may properly look beyond the  
10 complaint to matters of public record without converting a Rule 12(b)(6) motion to one  
11 for summary judgment).

12 Here, NBIS and CTIS respectfully request that this Court take judicial notice of  
13 the following facts related to the underlying personal injury action and pending appeal:

- 14 1. That Plaintiff filed a complaint against Bon and Acosta in the underlying  
15 personal injury action on August 7, 2015, as evidenced by Exhibit 1, a  
16 copy of the filed complaint.
- 17 2. That Plaintiff filed an amended complaint against Bon, Acosta, and Wilfred  
18 Acosta in the underlying personal injury action on October 13, 2016, as  
19 evidenced by Exhibit 3, a copy of the filed amended complaint.
- 20 3. That Bon filed a motion to set aside the default judgment in the underlying  
21 personal injury action on January 17, 2020, as evidenced by Exhibit 2 a  
22 filed copy of the motion.
- 23 4. That Bon filed a notice of permanent injunction and automatic stay  
24 regarding the liquidation of Windhaven National Insurance fka ATX  
25 Premier Insurance Group on March 30, 2020, as evidenced by Exhibit 4, a  
26 filed copy of the same.
- 27 5. That the district court denied the motion to set aside in the underlying  
28 personal injury action on September 19, 2020, as evidenced by Exhibit 5,  
a filed copy of the order.
6. That Bon filed a Notice of Appeal of the order denying his motion to set  
aside on October 20, 2020, as evidenced by Exhibit 6, a filed copy of the  
notice.
7. That the appeal remains pending and did not resolve at the NRAP 16  
settlement conference, as evidenced by Exhibit 7, a filed copy of Bon's  
Status Report Regarding Settlement Conference.

**B. If the Court Denies this Motion to Dismiss, Litigation Should be Stayed Pending (1) Adjudication of the Appeal in the Underlying Personal Injury Action; and (2) Lifting of the Texas Injunctive Order.**

In the event this Court does not dismiss the Second Amended Complaint, it should nevertheless stay litigation pending adjudication of the appeal in the Underlying Personal Injury Action. The outcome of Bon's appeal will be determinative of Plaintiff's ability to maintain this bad faith action against the defendants. Indeed, it is impossible to determine whether the insurer acted in bad faith in refusing to settle ... until it is established that the insured is liable for the injuries, and the amount of the damages." *Lexington Ins. Co. v. Royal Ins. Co. of Am.*, 886 F. Supp. 837, 841 (N.D. Fla. 1995); see also *Branch Banking & Tr. Co. v. Nev. Title Co.*, No. 2:10-CV-1970 JCM (RJJ), 2011 U.S. Dist. LEXIS 40948, at \*6 (D. Nev. Apr. 13, 2011) (bad faith claim not ripe until the appeal process is complete) and *Semenza v. Nevada Medical Liability Ins. Co.*, 765 P.2d 184, 186, 104 Nev. 666, 668 (Nev., 1988) (legal malpractice claim does not accrue when appeal pending). Allowing Plaintiff to move forward with this action during the pendency of the appeal will waste judicial time and resources.

Additionally, ATX/Windhaven has filed a separate motion to dismiss or to stay litigation pursuant to Tex. Ins. Code § 443.008 for the duration of the liquidation proceeding pending in the District Court of Travis County, Texas, case number D-1-GN-20-001052 ("Windhaven Motion"). If the claims against ATX/Windhaven are dismissed or stayed because the Texas liquidation proceeding has sole jurisdiction, principles of equity and fairness demand that litigation against the remaining defendants should also be stayed until Plaintiff obtains leave to prosecute ATX/Windhaven or submits a claim and receives a distribution of Windhaven's assets in the Texas liquidation proceeding. Although NBIS and CTIS strongly dispute Plaintiff's allegations, Plaintiff has placed all of the defendants in the same bucket, making it nearly impossible to adjudicate claims against NBIS and CTIS without also adjudicating ATX/Windhaven's affirmative defenses and potential liability for Plaintiff's damages. For these reasons, a stay of all claims is appropriate pending the expiration of the stay in Windhaven's liquidation proceeding.

1           **C. Plaintiff's First and Second Claims for Relief Must Be dismissed**  
2           **Because There is No Contractual Relationship Between Bon and**  
3           **NBIS or Bon and CTIS.**

4           "As a general rule, none is liable upon a contract except those who are parties to  
5 it." *Cty. of Clark v. Bonanza No. 1*, 96 Nev. 643, 649, 615 P.2d 939, 943 (1980), citing  
6 *Paxton v. Bacon Mill and Mining Co.*, 2 Nev. 257 (1866) and *Barbara's Lighting Center,*  
7 *Inc. v. Churchill*, 540 P.2s 1110 (Colo. App. 1975); see also *Albert H. Wohlers & Co. v.*  
8 *Bartgis*, 114 Nev. 1249, 1262, 969 P.2d. 949, 959 (1998). Therefore, to bring claims for  
9 breach of contract and breach of the implied covenant of good faith and fair dealing, a  
10 plaintiff must first establish that her claim arose from a valid contract. See *Perry v.*  
11 *Jordan*, 111 Nev. 943, 900 P.2d 335 (1995); see also *Hilton Hotels v. Butch Lewis*  
12 *Prods.*, 107 Nev. 226, 808 P.2d 919 (1991) and *Frantz v. Johnson*, 116 Nev. 455, 999  
13 P.2d 351 (2000).

14           In the context of insurance bad faith, Nevada recognizes an exception "where a  
15 claims administrator is engaged in a joint venture with an insurer..."  
16 *Albert Wohlers*, 114 Nev. at 1262. When that occurs, "the administrator may be held  
17 liable for its bad faith in handling the insured's claim, even though the organization is not  
18 technically a party to the insurance policy." *Id.* However, merely sharing or allocating  
19 administrative or claim handling duties is insufficient to trigger the exception; the key is  
20 the existence of a joint venture, "wherein two or more persons conduct some business  
21 enterprise, agreeing to share jointly, or in proportion to capital contributed, in profits and  
22 losses." *Hook v. Giuricich*, 108 Nev. 29, 31, 823 P.2d 294, 296 (1992). "To determine  
23 whether the parties intended to create a joint venture, the Court applies ordinary rules of  
24 contract interpretation and considers the parties' actions and conduct." *Baroi v. Platinum*  
25 *Condo. Dev., LLC*, No. 2:09-CV-00671-PMP-GWF, 2012 U.S. Dist. LEXIS 95729, at \*6  
(D. Nev. July 10, 2012).

26           Here, Plaintiff seeks to hold NBIS and CTIS liable for "a contract of insurance  
27 ...between **ATX and Cruz**..." SAC ¶ 69 (emphasis added). Plaintiff does not allege the  
28 existence of a contract between Cruz and NBIS, or Cruz and CTIS, because there are



1 none. As the Second Amended Complaint makes clear, ATX/Windhaven – not NBIS or  
2 CTIS - issued the insurance policy that covered the pick-up truck Bon was driving on the  
3 day of the Accident (and Bon as a permissive driver of that truck). The contract is  
4 between Bon and ATX/Windhaven.

5 Plaintiff attempts to end-run the lack of contractual privity by generally pleading  
6 that ATX/Windhaven, NBIS, and/or CTIS, “together with DMA, jointly managed,  
7 investigated, evaluated, adjusted, and performed other claims handling tasks regarding  
8 Sanchez’s bodily injury claim.” Plaintiff further pleads that “each possessed a joint  
9 financial interest to act for the benefit of each other by satisfying the duty to investigate,  
10 evaluate, adjust, and perform other claims handling and/or administrative tasks as joint  
11 venturers.” These vague, unsubstantiated allegations are insufficient to survive a motion  
12 to dismiss. See *Uhlmeier v. Usaa Cas. Ins. Co.*, No. 3:19-cv-00438-LRH-CLB, 2020  
13 U.S. Dist. LEXIS 25538, at \*9 (D. Nev. Feb. 13, 2020), citing *Hollis v. Rock Creek Pack*  
14 *Station*, 594 F. Supp. 156, 160 (D. Nev. 1984).

15 Plaintiff should have pled specific factual allegations regarding the joint venture  
16 itself, such as “what the administrative responsibilities are, how the profit sharing  
17 operates, or what the special relationship entails.” *Id.* In the absence of these  
18 allegations, there are no facts in the pleadings on which this court could base a finding  
19 that a joint venture exists. Further, Plaintiff wholly failed to make any allegation  
20 whatsoever to support a claim of alter ego that could justify piercing NBIS’ corporate  
21 veil, not even a short and plain statement of an alter-ego claim showing that Plaintiff is  
22 entitled to relief. See *Viega GmbH v. Eighth Judicial Dist. Court*, 130 Nev. 368, 375–76,  
23 328 P.3d 1152, 1157 (2014) (“Corporate entities are presumed separate . . . ); see also  
24 Nev. R. Civ. P. 8.

25 At most, the pleadings assert that CTIS is an affiliated company of NBIS, and  
26 that NBIS was the parent company ATX/Windhaven at the time of the Accident.  
27 Assuming these are true, undisputed allegations, the mere existence of a relationship  
28 between a parent company and its subsidiaries is insufficient to support Plaintiff’s claims

1 for breach of contract and breach of the implied covenant of good faith and fair dealing.  
2 Plaintiff's first and second claims must be dismissed accordingly.

3 **D. Plaintiff's Third Claim for Violation of Nevada's Unfair Claims**  
4 **Practices Act Must be Dismissed Because Neither NBIS nor CTIS are**  
5 **Insurers.**

6 Nevada's Unfair Claims Practices Act ("Act") creates a private right of action for  
7 numerous activities arising from the settling of insurance claims. Nev. Rev. Stat. §  
8 686A.310(1). The Act makes clear, however, that only an "insurer" is liable to its insured  
9 for any damages sustained by the insured as a result of the commission of any act set  
10 forth in subsection 1..." *Id.* (emphasis added). The very title of the section is "Unfair  
11 practices in settling claims; *liability of insurer* for damages." *Id.* (emphasis in the  
12 original), citing *A Minor v. Clark Co. Juvenile Ct. Servs.*, 87 Nev. 544, 548, 490 P.2d.  
13 1248, 1250 (1971) (title of statute may be considered in construing its meaning). "From  
14 a plain reading of its title, there is no indication that the legislature intended NRS  
15 686A.310 to apply to other entities beyond insurers." *Albert Wohlers*, 114 Nev. at 1263.  
16 For this very reason, the Nevada Supreme Court declined to extend liability under the  
17 statute to the claims administrator in *Albert Wohlers*. *Id.* at 1263.

18 Like *Albert Wohlers & Co.*, CTIS is a claims administrator, not an insurer. Even  
19 the Amended and Restated Claims Handling Agreement ("Amended Agreement") on  
20 which Plaintiff hangs the bulk of her bad faith action supports this conclusion. See SAC,  
21 Ex. 1. Therefore, notwithstanding any purported liability for breach of contract or breach  
22 of the implied covenant of good faith and fair dealing, CTIS cannot be held liable for  
23 damages under NRS 686A.310. *See generally Albert Wohlers*, 114 Nev. at 1263-64.

24 Similarly, NBIS is not an insurance company and is not Bon's (or Cruz's) insurer.  
25 It was merely the parent company for ATX/Windhaven at the time of the Accident.  
26 Plaintiff already knows that NBIS is not Bon's insurer, having plead in her Second  
27 Amended Complaint that "ATX was the licensed insurer and underwriter of the  
28 applicable automobile insurance policy that covered Bon at the time of the [Accident]." SAC ¶ 20. The crux of Plaintiff's assertion that NBIS is liable under the Act appears to

1 be based again, on a purported but unspecified joint venture or potentially on an un-  
2 plead alter ego assertion – not on actual unfair practices in settling Plaintiff’s bodily  
3 injury claim. Therefore, even at the dismissal-motion stage of litigation, there can be no  
4 finding of liability against NBIS and CTIS under NRS 686A.310 as a matter of law.  
5 Plaintiff’s third claim for relief must be dismissed accordingly.

6 **IV. CONCLUSION**

7 Based on the foregoing arguments, NBIS and CTIS respectfully request that this  
8 Court dismiss Plaintiff’s First, Second, and Third Causes of Action against NBIS and  
9 CTIS. Alternatively, NBIS and CTIS request that litigation be stayed as to all claims  
10 pending the adjudication of Bon’s appeal and for the duration of the Windhaven  
11 liquidation proceedings.

12 DATED this 22<sup>nd</sup> day of July, 2021.

13 LIPSON NEILSON P.C.

14 */s/ Megan H. Thongkham*

15 By:

16 Joseph P. Garin, Esq. (NV Bar No. 6653)  
17 Megan H. Thongkham, Esq. (NV Bar No. 12404)  
18 9900 Covington Cross Drive, Suite 120  
19 Las Vegas, Nevada 89144

20 *Attorneys for Defendants,*  
21 *NationsBuilders Insurance Services, Inc. and*  
22 *NBIS Construction & Transport Insurance Services, Inc.*  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b) and Administrative Order 14-2, I certify that on the 22<sup>nd</sup> day of July, 2021, I electronically served the foregoing **DEFENDANTS NATIONSBUILDERS INSURANCE SERVICES, INC. AND NBIS CONSTRUCTION & TRANSPORT SERVICES, INC.'S MOTION TO DISMISS SECOND AMENDED COMPLAINT, OR IN THE ALTERNATIVE, MOTION TO STAY PROCEEDINGS** to the following parties utilizing the Court's E-File/ServeNV System:

Dennis M. Prince, Esq. Kevin T. Strong, Esq. PRINCE LAW GROUP 10801 West Charleston Blvd., Suite 560 Las Vegas, NV 89135 <a href="mailto:eservice@thedplg.com">eservice@thedplg.com</a> <i>Attorneys for Plaintiff,</i> <i>Diane Sanchez</i>	
---	--

*/s/ Brenda Correa*

\_\_\_\_\_  
An Employee of LIPSON NEILSON P.C.

# EXHIBIT 1

# EXHIBIT 1

## DISTRICT COURT CIVIL COVER SHEET

A-15-722815-C

County, Nevada

Case No.

(Assigned by Clerk's Office)

XXV

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

DIANE SANCHEZ 9000 S. Las Vegas Blvd., #1257, Las Vegas, Nevada 89123

Phone Number: 702-460-0036

Defendant(s) (name/address/phone):

BLAS BON

Attorney (name/address/phone):

Paul D. Powell 6785 West Russell Road, Suite 210 Las Vegas Nevada 89118

Phone number: 702-728-5500

Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types****Real Property****Landlord/Tenant**

- ☐ Unlawful Detainer  
☐ Other Landlord/Tenant

**Title to Property**

- ☐ Judicial Foreclosure  
☐ Other Title to Property

**Other Real Property**

- ☐ Condemnation/Eminent Domain  
☐ Other Real Property

**Negligence**

- ☒ Auto  
☐ Premises Liability  
☐ Other Negligence

**Malpractice**

- ☐ Medical/Dental  
☐ Legal  
☐ Accounting  
☐ Other Malpractice

**Torts****Other Torts**

- ☐ Product Liability  
☐ Intentional Misconduct  
☐ Employment Tort  
☐ Insurance Tort  
☐ Other Tort

**Probate**

(select case type and estate value)

- ☐ Summary Administration  
☐ General Administration  
☐ Special Administration  
☐ Set Aside  
☐ Trust/Conservatorship  
☐ Other Probate

**Estate Value**

- ☐ Over \$200,000  
☐ Between \$100,000 and \$200,000  
☐ Under \$100,000 or Unknown  
☐ Under \$2,500

**Construction Defect & Contract****Construction Defect**

- ☐ Chapter 40  
☐ Other Construction Defect

**Contract Case**

- ☐ Uniform Commercial Code  
☐ Building and Construction  
☐ Insurance Carrier  
☐ Commercial Instrument  
☐ Collection of Accounts  
☐ Employment Contract  
☐ Other Contract

**Judicial Review/Appeal****Judicial Review**

- ☐ Foreclosure Mediation Case  
☐ Petition to Seal Records  
☐ Mental Competency

**Nevada State Agency Appeal**

- ☐ Department of Motor Vehicle  
☐ Worker's Compensation  
☐ Other Nevada State Agency

**Appeal Other**

- ☐ Appeal from Lower Court  
☐ Other Judicial Review/Appeal

**Civil Writ****Civil Writ**

- ☐ Writ of Habeas Corpus  
☐ Writ of Mandamus  
☐ Writ of Quo Warrant

- ☐ Writ of Prohibition  
☐ Other Civil Writ

**Other Civil Filing****Other Civil Filing**

- ☐ Compromise of Minor's Claim  
☐ Foreign Judgment  
☐ Other Civil Matters

*Business Court filings should be filed using the Business Court civil coversheet.*

8/6/2015

Date

Signature of Initiating party or representative

*See other side for family-related case filings.*

**Paul D. Powell, Esq.**  
Nevada Bar No. 7488  
**THE POWELL LAW FIRM**  
6785 W. Russell Road, Suite 210  
Las Vegas, Nevada 89118  
Phone: (702) 728-5500  
Facsimile: (702) 728-5501  
Email: paul@TPLF.com

**CLARK COUNTY, NEVADA**

### DIANE SANCHEZ COMPLAINT

NBIS 000472

1 Roe Corporations are presently unknown to Plaintiff at this time, who therefore  
2 sues said Defendants by such fictitious names. When the true names and  
3 capacities of these defendants are ascertained, Plaintiff will amend this  
4 Complaint accordingly.

- 5 5. That at all times pertinent, Defendants were agents, servants, employees or joint  
6 venturers of every other Defendant herein, and at all times mentioned herein  
7 were acting within the scope and course of said agency, employment, or joint  
8 venture, with knowledge and permission and consent of all other named  
9 Defendants.  
10
- 11 6. That on April 28, 2015, in Clark County, Nevada, Defendants BLAS BON  
12 caused a crash with Plaintiff. During the same sequence of events, Defendant  
13 JOSEPH ACOSTA also negligently crashed into Plaintiff. The vehicle operated  
14 by BLAS BON was owned by HIPOLITO CRUZ. The vehicle operated by  
15 JOSEPH ACOSTA was owned by WILFRED ACOSTA.  
16
- 17 7. That as a direct and proximate result of the negligence of Defendants, Plaintiff  
18 sustained injuries to Plaintiff's shoulders, back, bodily limbs, organs and  
19 systems, all or some of which condition may be permanent and disabling, and all  
20 to Plaintiff's damage in a sum in excess of \$10,000.  
21
- 22 8. That as a direct and proximate result of the negligence of Defendants, Plaintiff  
23 received medical and other treatment for the aforementioned injuries, and that  
24 said services, care, and treatment are continuing and shall continue in the future,  
25 all to the damage of Plaintiff.  
26  
27  
28



1 9. That as a direct and proximate result of the negligence of Defendants, Plaintiff  
2 has been required to, and has limited occupational and recreational activities,  
3 which have caused and shall continue to cause Plaintiff loss of earning capacity,  
4 lost wages, physical impairment, mental anguish, and loss of enjoyment of life,  
5 in a presently unascertainable amount.

6  
7 10. That as a direct and proximate result of the negligence of Defendants, Plaintiff's  
8 vehicle was damaged and Plaintiff lost the use of that vehicle.

9 11. That as a direct and proximate result of the aforementioned negligent of all  
10 Defendants, Plaintiff has been required to engage the services of an attorney,  
11 incurring attorney's fees and costs to bring this action.  
12

13 **FIRST CAUSE OF ACTION**

14 12. Plaintiff incorporates paragraphs 1 through 15 of the Complaint as though said  
15 paragraphs were fully set forth herein.

16 13. Defendants owed Plaintiff a duty of care to operate their vehicles in a reasonable  
17 and safe manner. Defendant breached that duty of care by striking Plaintiff's  
18 vehicle on the roadway. As a direct and proximate result of the negligence of  
19 Defendant, Plaintiff has been damaged in an amount in excess of \$10,000.00.  
20

21 **SECOND CAUSE OF ACTION**

22 14. Plaintiff incorporates paragraphs 1 through 17 of the Complaint as though said  
23 paragraphs were fully set forth herein.  
24

25 ///

26 ///

27 ///

1       15.    The acts of Defendants as described herein violated the traffic laws of the State  
2           of Nevada and Clark County, constituting negligence per se, and Plaintiff has  
3           been damaged as a direct and proximate result thereof in an amount in excess of  
4           \$10,000.00.

5           WHEREFORE, Plaintiff expressly reserving the right to amend this complaint prior to  
6           or at the time of trial of this action, to insert those items of damage not yet fully ascertainable,  
7           prays judgment against all Defendants, and each of them, as follows:  
8

- 9           1.    For general damages sustained by Plaintiff in an amount in excess of \$10,000.00;  
10          2.    For special damages sustained by Plaintiff in an amount in excess of \$10,000.00;  
11          3.    For property damages sustained by Plaintiff;  
12          4.    For reasonable attorney's fees and costs;  
13          5.    For interest at the statutory rate; and  
14          6.    For such other relief as the Court deems just and proper.  
15

16       DATED this 7<sup>th</sup> day of August 2015.

17  
18                                   THE POWELL LAW FIRM

19                                     
20

21                                   Paul D Powell, Esq.  
22                                   Nevada Bar No. 7488  
23                                   6785 W. Russell Road, Suite 210  
24                                   Las Vegas, Nevada 89118

25                                   Attorneys for DIANE SANCHEZ  
26  
27  
28

**Paul D. Powell, Esq.**  
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Phone: (702) 728-5500  
Facsimile: (702) 728-5501


**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

BLAS BON, individually, DOES I - X, and ROE  
CORPORATIONS I - X, inclusive,  
  
Defendants.

)  
)  
) A-15-722815-C  
)  
) CASE NO.  
) DEPT. NO. XXV  
)  
)  
) INITIAL APPEARANCE FEE  
) DISCLOSURE (NRS CHAPTER 19)

DATED this 6<sup>th</sup> day of August, 2015.

**THE POWELL LAW FIRM**

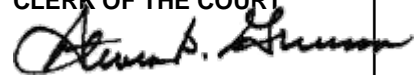


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Paul D. Powell, Esq.  
Nevada Bar No. 7488  
6785 West Russell Road Suite 210  
Las Vegas, Nevada 89118

# EXHIBIT 2

# EXHIBIT 2



1 **MSAD**

2 WILLIAM P. VOLK, ESQ.

3 Nevada Bar No. 006157

4 WILLIAM D. SCHULLER, ESQ.

5 Nevada Bar No. 011271

6 **KOLESAR & LEATHAM**

7 400 South Rampart Boulevard, Suite 400

8 Las Vegas, Nevada 89145

9 Telephone: (702) 362-7800

10 Facsimile: (702) 362-9472

11 E-Mail: wvolk@klnevada.com

12 wschuller@klnevada.com

13 Attorneys for Defendant,

14 BLAS BON

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 \*\*\*

18 DIANE SANCHEZ,

19 Plaintiff,

20 vs.

21 BLAS BON, individually; JOSEPH ACOSTA,  
22 individually; DOES I - X, and ROE  
23 CORPORATIONS I - X, inclusive,

24 Defendants.

CASE NO. A-15-722815-C

DEPT NO. XXV

HEARING REQUESTED

**MOTION TO SET ASIDE DEFAULT  
JUDGMENT**

25 JOSEPH ACOSTA, individually; and  
26 WILFREDO ACOSTA, individually,

27 Cross-Claimants,

28 vs.

BLAS BON, individually,

Cross-Defendant.

Defendant BLAS BON ("Bon"), by and through his attorneys at Kolesar & Leatham,  
hereby moves to set aside the \$15.2 million default judgment the Court entered in favor of  
Plaintiff DIANE SANCHEZ ("Sanchez") on July 19, 2019 ("Default Judgment").

///

KOLESAR & LEATHAM  
400 South Rampart Boulevard, Suite 400  
Las Vegas, Nevada 89145  
Tel: (702) 362-7800 / Fax: (702) 362-9472

1 This Motion is made and based upon NRCP 1, NRCP 55, NRCP 60, NRS 14.070, the  
2 following Memorandum of Points and Authorities, the pleadings and papers on file herein, and  
3 any argument presented at the time of hearing on this matter.

4 DATED this 17<sup>th</sup> day of January, 2020.

5 KOLESAR & LEATHAM

6  
7 By 

8 WILLIAM P. VOLK, ESQ.

9 Nevada Bar No. 006157

10 WILLIAM D. SCHULLER, ESQ.

11 Nevada Bar No. 011271

12 400 South Rampart Boulevard, Suite 400

13 Las Vegas, Nevada 89145

14 Attorneys for Defendant,  
15 BLAS BON

16 \*\*\*\*\*  
17  
18  
19  
20  
21  
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28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. PROCEDURAL HISTORY**

**A. Pleadings & Motion to Enlarge Time**

On August 7, 2015, Sanchez filed the Diane Sanchez Complaint ("Complaint"), which alleges negligence and negligence *per se* against Bon and Defendant JOSEPH ACOSTA ("Joseph"). The gravamen of the Complaint is that Bon caused a motor vehicle accident with Sanchez, during which Joseph also negligently crashed into Sanchez's vehicle. *Id.* at ¶ 6. Defendant Joseph Acosta's Answer to Plaintiff's Complaint and Cross-Claim Against Blas Bon ("Cross-Claim"), filed December 1, 2015, seeks contribution and indemnity against Bon. On March 3, 2016, Joseph served Bon with the Cross-Claim. *See* Defendant/Cross-Claimant Joseph Acosta's Motion to Enlarge Time to Perfect Service of Cross Claim Against Cross-Defendant Blasbon ("Motion to Enlarge Time"), filed March 7, 2017, at Ex. 1.

On October 13, 2016, Sanchez filed the Amended Complaint, which alleges negligence and negligence *per se* against unspecified Defendants and additionally alleges imposition of liability pursuant to NRS 41.440 against Defendant WILFREDO ACOSTA ("Wilfredo"). Defendants Joseph Acosta and Wilfredo Acosta's Answer to Plaintiffs' Amended Complaint and Cross-Claim Against Bon ("Amended Cross-Claim"), filed November 9, 2016, again seeks contribution against Bon. On March 7, 2017, Joseph filed the Motion to Enlarge Time, which the Court subsequently granted, allowing an additional 60 days for Joseph to serve Bon. *See* Court Minutes of April 11, 2017. Sanchez did not move to enlarge the time for service of the Amended Complaint on Bon.

**B. Attempted Service of Complaint**

On October 20, 2015, Sanchez filed an Affidavit of Due Diligence, attaching a Declaration of Diligence of process server Michael E. Clarke ("Clarke"), which states that he attempted to serve the Summons and Complaint on Bon on October 19, 2015 as follows:

///

///

///

1 Attempted to serve defendant at last known address of 3900  
2 Cambridge Street Suite 106, Las Vegas Nevada. This address is a  
3 Clark County neighborhood community center where the  
4 defendant had his mail sent; his current whereabouts are now  
5 unknown to them. A record search with the Clark County  
6 Assessor's Office reveals no records found. A search with Clark  
7 County voters [sic] registration reveals no records found. A local  
8 phone search for defendants [sic] phone number reveals no records  
9 found. A registered vehicle search with Nevada DMV and  
10 Premium Finder search reveals no records found.

11 See Plaintiff Diane Sanchez's Application for Entry of Default Judgment ("Default Judgment  
12 Application"), a true and correct copy of which is attached hereto as **Exhibit A** (without  
13 documents relating to future medical treatment/expenses (Ex. 8) and economic damages (Ex. 9)),  
14 at Ex. 4.

15 On March 29, 2016, Sanchez filed an Amended Affidavit of Compliance,<sup>1</sup> which states in  
16 pertinent part as follows:

17 That on or about October 27, 2015 [Paul D. Powell, Esq.] caused  
18 to be served upon the Director of the Department of Motor  
19 Vehicles of the State of Nevada at Carson City, Nevada, via United  
20 States Mail, a copy of the Complaint on file herein, a copy of the  
21 Summons issued following the filing of the Complaint, a copy of the  
22 Declaration of Diligence, together with the statutory fee of  
23 \$5.00, all in accordance with N.R.S. 14.070. Said documents were  
24 received by the Department of Motor Vehicles on November 2,  
25 2015 as evidenced by the letter from the Department of Motor  
26 Vehicles attached hereto as **Exhibit 2**, acknowledging receipt of  
27 said Complaint and Summons.

28 That on or about November 9, 2015 [Paul D. Powell, Esq.] caused  
to be deposited in the United States Mail at Las Vegas, Nevada,  
certified mail return receipt requested, with postage fully prepaid  
thereon, a copy of the Complaint and Summons, the traffic  
accident report and a copy of the DMV letter evidencing proof of  
service on Defendant BLAS BON at the Defendant's last known  
address of 3900 Cambridge Street, Suite 106, Las Vegas, Nevada  
89119. **The package was returned to sender on November 12,  
2015 as unclaimed. A copy is attached hereto as Exhibit 3.**

See Default Judgment Application, Ex. A hereto, at Ex. 5 (emphasis in original).

///

///

<sup>1</sup> The Affidavit is incorrectly dated March 29, 2015.



1           **C.      Default & Default Judgment**

2           On April 1, 2016, the Court filed the Default on Defendant Blas Bon ("Default"), which  
3 states that Bon was duly served through the DMV on November 2, 2015. **Over two months**  
4 **later**, on June 22, 2016, Sanchez filed the Notice of Entry of Default. **Over 33 months later**, on  
5 March 29, 2019, Sanchez moved for a default judgment. *See* Default Judgment Application, Ex.  
6 B hereto. On June 11, 2019, the Court held a hearing on the Default Judgment Application.  
7 Plaintiff's Supplement to Application for Entry of Default Judgment ("Supplement to  
8 Application"), filed July 9, 2019, includes the Unsworn Declaration in Lieu of Affidavit Pursuant  
9 to NRS 53.045 of David J. Oliveri, M.D.<sup>2</sup> and the Unsworn Declaration in Lieu of Affidavit  
10 Pursuant to NRS 53.045 of Stan V. Smith, Ph.D.<sup>3</sup> A true and correct copy of the Supplement to  
11 Application is attached hereto as **Exhibit B** (without Oliveri Declaration exhibits).

12           On July 19, 2019, the Court issued the Default Judgment against Bon in the amount of  
13 **\$15,209,896.28** (plus \$2,759.45 in costs). Sanchez filed the Notice of Entry of Default Judgment  
14 on **July 19, 2019**. A true and correct copy of the Notice of Entry of Default Judgment is attached  
15 hereto as **Exhibit C**.

16           **D.      Dismissal of Co-Defendants**

17           On October 16, 2018, the Court issued a Stipulation and Order for Dismissal With  
18 Prejudice, executed by counsel for Sanchez and Joseph and Wilfredo. On February 7, 2019, the  
19 Court issued a Civil Order to Statistically Close Case by reason of the stipulated judgment.

20           **E.      Computation of Damages**

21           The Request for Exemption from Arbitration, served **December 21, 2015**, sets forth  
22 Sanchez's medical specials at over **\$81,027.02**. *See* Commissioner's Decision on Request for  
23 Exemption, filed January 15, 2016. Notably, Plaintiff's Initial Early Case Conference Disclosure  
24 of Witnesses and Documents Pursuant to NRCP 16.1, served almost two months later on  
25 **February 11, 2016**, sets forth Sanchez's total medical damages at only **\$26,876.42**. *See* Joint  
26 Case Conference Report, filed February 17, 2016, at Ex. 1. The Default Judgment Application

27 \_\_\_\_\_  
<sup>2</sup> Dr. Oliveri is Sanchez's retained physical medicine and rehabilitation physician and life care planner.

28 <sup>3</sup> Dr. Smith is Sanchez's retained economist.

1 filed March 29, 2019 requested the following damages:

2	• Past Medical Damages	\$465,285.01;
3	• Future Medical Damages	\$827,038.00;
4	• Past & Future Lost Wages	\$840,260.00;
5	• Past & Future Lost Household Services	\$446,334.00;
6	• Future Reduction in Value of Life	\$2,685,877.00;
7	• Past Pain & Suffering	\$2,000,000.00;
8	• Future Pain & Suffering	\$3,000,000.00;
9	• Prejudgment Interest	TBD; and
10	• Attorney's Fees and Costs	TBD
11	<b>Total:</b>	<b>\$10,264,794.01</b>

12 *See* Ex. A hereto at pp. 20-21.

## 13 **II. FACTUAL BACKGROUND**

14 1. The subject motor vehicle accident ("Accident") took place on April 28, 2015 in  
15 Clark County, Nevada. *See* Amended Complaint at ¶ 6.

16 2. The State of Nevada Traffic Accident Report ("Accident Report") lists Bon's  
17 address as 3900 Cambridge Street, Suite 106, Las Vegas, Nevada 89119 ("Cambridge Address").

18 *See* Default Judgment Application, Ex. A hereto, at Ex. 1, p. 3.

19 3. The Accident Report lists Bon's date of birth and phone number and notes that he  
20 has a Nevada driver's license. *Id.*

21 4. The Accident Report lists the owner of the vehicle Bon was driving at the time of  
22 the Accident as Hipolito Felipe Cruz ("Cruz") and Cruz's address as 4000 Abrams Avenue, Las  
23 Vegas, Nevada 89110 ("Abrams Address"). *Id.*

24 5. The Accident Report notes that Nevada Highway Patrol cited both Bon and  
25 Joseph for violation of NRS 484B.127.<sup>4</sup> *Id.* at pp. 3, 7.

26 ///

27  
28 <sup>4</sup> "The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway." NRS 484B.127(1).

6. The Voluntary Statement of Bon to Nevada Highway Patrol lists Bon's residence as the Abrams Address and Bon's employer as "South West Trees." See Default Judgment Application, Ex. A hereto, at Ex. 1.

7. South West Tree Company is located at 2901 S. Highland Drive, Las Vegas, Nevada 89109.

8. Joseph served the Cross-Claim on Bon at the Abrams Address and attempted to serve the Amended Cross-Claim on Bon at the Abrams Address. See Motion to Enlarge Time at Ex. 1, Ex. 2.

9. Clark County owns 3900 Cambridge Street, which is an office building zoned for offices and professional and business services. See Real Property Parcel Record for APN 162-15-702-011, a true and correct copy of which is attached hereto as **Exhibit D**.

10. Counsel for Sanchez and Cruz's insurer, DMA Claims Services, exchanged letters regarding the underlying claim on several occasions prior to the Default, including on June 16, 2015; July 10, 2015;<sup>5</sup> July 17, 2015;<sup>6</sup> and August 8, 2015, true and correct copies of which are attached hereto as **Exhibit E**.

11. The Certificate of Service for the Notice of Entry of Default states that counsel for Sanchez served same on Bon at the Cambridge Address via certified mail and on DeLawrence Templeton at DMA Claims Services via certified mail. See Default Judgment Application, Ex. A hereto, at Ex. 6.

12. The Certificate of Service for the Notice of Entry of Default Judgment states that counsel for Sanchez served same on Bon at the Cambridge Address via U.S. Postal Service; Sanchez's counsel did not serve DMA Claims Services. See Ex. C hereto.

13. At the April 11, 2017 hearing before the Court, counsel for Joseph stated that "Bon is very much aware of the case." See Court Minutes, a true and correct copy of which is attached hereto as **Exhibit F**.

///

<sup>5</sup> The July 10 letter to Sanchez's counsel was sent without a handwritten or digital signature.

<sup>6</sup> The July 17 letter to Sanchez's counsel was sent without a handwritten or digital signature.

14. Paul D. Powell, Esq. represented Sanchez as lead counsel in the instant litigation, from the time of filing the Complaint through the stipulated dismissal of Joseph and Wilfredo; and Dennis M. Prince, Esq. represented Sanchez as lead counsel from the time of filing the Default Judgment Application to present.

15. Messner Reeves LLP represented Joseph and Wilfredo in the instant litigation, from the time of answering the Complaint through stipulated dismissal.

16. Sanchez never set forth a legal basis for an attorney's fee award in requesting a default judgment. *See* Default Judgment Application, Ex. A hereto, generally; Supplement to Application, Ex. B hereto, generally.

### III. LEGAL ARGUMENT

#### A. Legal Standard for Setting Aside a Default Judgment

As a prefatory matter, a trial court is required to consider the underlying public policy of deciding a case on the merits whenever possible. *Moseley v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 124 Nev. 654, 665-67, 188 P.3d 1136, 1144-45 (2008); *see also Scrimmer v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 116 Nev. 507, 516-17, 998 P.2d 1190, 1196 (2000) ("good public policy dictates that cases be adjudicated on their merits") (citations omitted). Keeping that sound public policy in mind, pursuant to NRCP 55(c), "[t]he court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b)."

A party may move to set aside a default judgment for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

NRCP 60(b) (emphasis added). A motion based on NRCP 60(b) must be brought "within a

1 reasonable time” and for reason (1), no more than six months after the proceeding or service of  
2 the written notice of entry of the default judgment. NRCP 60(c)(1). The primary purpose of  
3 Rule 60(b) is to redress any injustice that may have resulted and as such, it should be liberally  
4 construed to effectuate such purpose. *Nevada Indus. Dev., Inc. v. Benedetti*, 103 Nev. 360, 364,  
5 741 P.2d 802, 805 (1987) (citation omitted).

6 The court may also set aside a default judgment against a defendant who was not  
7 personally served and who has not appeared if such motion is filed within six months of service  
8 of the notice of entry. NRCP 60(d)(2). Regardless of the basis for the motion, in setting aside a  
9 default judgment, the trial court is vested with broad discretion and barring an abuse of that  
10 discretion, its determination will not be disturbed on appeal. *Rodriguez v. Fiesta Palms, LLC*,  
11 134 Nev. 654, 656, 428 P.3d 255, 257 (2018) citing *Cook v. Cook*, 112 Nev. 179, 181–82, 912  
12 P.2d 264, 265 (1996).

13 **B. The Court Should Set Aside the Default Judgment.**

14 Bon moves to set aside the Default Judgment on three separate grounds: 1) surprise and  
15 excusable neglect under NRCP 60(b)(1); 2) particular circumstances which justify relief under  
16 NRCP 60(b)(6); and 3) Sanchez’s improper service on Bon under NRCP 60(d)(2). The instant  
17 Motion is timely as Sanchez filed the Notice of Entry of Default Judgment less than six months  
18 ago (on July 19, 2019).

19 **1. Surprise & Excusable Neglect**

20 Pursuant to NRCP 60(b)(1), “the court may relieve a party or its legal representative from  
21 a final judgment, order, or proceeding for...mistake, inadvertence, **surprise, or excusable**  
22 **neglect**” (emphasis added). *Surprise* is “[a]n occurrence for which there is no adequate warning  
23 or that affects someone in an unexpected way.” SURPRISE, Black’s Law Dictionary (11th ed.  
24 2019). And *excusable neglect* is “[a] failure – which the law will excuse – to take some proper  
25 step at the proper time (esp. in neglecting to answer a lawsuit) not because of the party’s own  
26 carelessness, inattention, or willful disregard of the court’s process, but because of some  
27 unexpected or unavoidable hindrance...” NEGLECT, Black’s Law Dictionary (11th ed. 2019).  
28 In ruling on whether relief under NRCP 60(b)(1) is appropriate, the court must consider several

1 factors: (1) whether there was a prompt application to remove the judgment; (2) presence or  
2 absence of intent to delay the proceedings; (3) the moving party's knowledge of procedural  
3 requirements (or lack thereof); (4) the movant's good (or bad) faith; and (5) the public policy in  
4 favor of resolving cases on the merits. *Kahn v. Orme*, 108 Nev. 510, 513, 835 P.2d 790, 792-93  
5 (1992) citing *Yochum v. Davis*, 98 Nev. 484, 486-87, 653 P.2d 1215, 1216-17 (1982) (additional  
6 citation omitted); see also *Rodriguez*, 134 Nev. at 657, 428 P.3d at 257 citing *Yochum*  
7 (additional citation omitted).

8 Here, even assuming *arguendo* that Bon was aware of the Default filed on April 1, 2016,  
9 he would have been surprised to learn that Sanchez did not seek to obtain the Default Judgment  
10 until **three years later** (on March 29, 2019). See, e.g., *Bruno v. Schoch*, 94 Nev. 712, 714, 582  
11 P.2d 796, 797 (1978) (in suit against putative father for breach of promise to contribute to child's  
12 support, default judgment should have been vacated where mother did not seek default judgment  
13 against the putative father until almost 11 months after entry of default). Additionally, given the  
14 extent of the damage to the vehicles involved in the Accident and the fact that Sanchez did not  
15 seek medical attention at the scene, Bon would have been surprised to learn that Sanchez  
16 subsequently alleged **over \$10.2 million in damages** and was ultimately awarded **over \$15.2**  
17 **million**. Separately, as set forth in detail *infra*, the lack of proper service on Bon constitutes  
18 surprise and/or excusable neglect, thus necessitating setting aside the Default Judgment.

19 The *Yochum* factors weigh in Bon's favor as he is acting promptly to remove the  
20 judgment via the instant Motion. There was no intent to delay the proceedings as Bon was  
21 unaware of the proceedings. Bon lacked knowledge of procedural requirements as he was  
22 unrepresented during the entirety of the litigation. Bon is moving in good faith to set aside the  
23 Default Judgment. And finally, as always, public policy favors resolving cases on the merits.

## 24 2. Particular Circumstances Justify Relief

25 Pursuant to NRCP 60(b)(6), "the court may relieve a party or its legal representative from  
26 a final judgment, order, or proceeding for...any other reason that justifies relief." Rule 60(b)  
27 was amended in March of 2019 to include subsection 6. As such, there does not appear to be any  
28 case law interpreting this catchall provision for setting aside a final judgment. However, the

underlying facts and procedural posture preceding the Default Judgment in the instant litigation demonstrate a sound reason that justifies relief. The following facts, when viewed collectively, justify relief in favor of Bon:

- Other than Bon, all the parties – Sanchez, Joseph, and Wilfredo – had the adequate representation of counsel throughout the litigation.
- While Sanchez settled with Joseph and Wilfredo, the amount of the settlement (if any) was not deducted from the Default Judgment.
- Sanchez’s damages ballooned from a relatively modest \$81,027.02 pre-Default to an astonishing \$10,264,794.01 post-Default.
- Bon never had the opportunity retain his own experts or to cross-examine Sanchez’s experts, Dr. Oliveri and Dr. Smith, as to the significant damages alleged.
- There was no legal basis for the \$4,345,684.65 in attorney’s fees the Court awarded Sanchez in the Default Judgment.<sup>7</sup>
- Bon’s liability remains questionable as the Accident involved four vehicles and both Bon and Joseph were cited for “following too closely.”<sup>8</sup>
- The Amended Complaint, which was filed prior to the Default Judgment Application, does not include any charging allegations specific to Bon.<sup>9</sup>

In short, allowing the Default Judgment to stand would run counter to both Nevada’s laudable public policy of deciding cases on the merits and NRCP 60(b)’s salutary purpose of redressing injustice resulting from a final judgment.

///

<sup>7</sup> See Ex. C hereto, Default Judgment at p. 4, ll. 3-5 (“Attorneys’ fees based on a contingency fee agreement of forty percent (40%) of the total judgment award in the amount of \$4,345,684.65 (\$10,864,211.63 \* .40) pursuant to *O’Connell v. Wynn Las Vegas, LLC*, 134 Nev. Adv. Rep. 67,429 P.3d 664, 670-71 (Nev. Ct. App. 2018).”). In *O’Connell*, the Nevada Court of Appeals held that an award of attorney’s fees on the basis of a contingency fee agreement was appropriate where plaintiff obtained a more favorable verdict at trial than her offer of judgment pursuant to NRCP 68. 134 Nev. at 551-52, 429 P.3d at 666. Here, Sanchez did not serve an offer of judgment on Bon and Sanchez’s causes of action do not provide for attorney’s fees as a measure of damages.

<sup>8</sup> See Default Judgment Application, Ex. A hereto, at Ex. 1, pp. 3, 7.

<sup>9</sup> Compare Complaint at ¶ 6 (“That on April 28, 2015, in Clark County, Nevada, [Bon] caused a crash with Plaintiff. During the same sequence of events, [Joseph] also negligently crashed into Plaintiff.”) with Amended Complaint at ¶ 6 (“On April 28, 2015, in Clark County, Nevada, [Joseph] caused a crash with Plaintiff.”).

3. *Sanchez's Improper Service on Bon*

Pursuant to NRCP 60(d)(2), the court has the power to “set aside the default judgment against a defendant who was not personally served with a summons and complaint and who has not appeared in the action, admitted service, signed a waiver of service, or otherwise waived service.” Indeed, “[a] default judgment not supported by proper service of process is void and must be set aside.” *Browning v. Dixon*, 114 Nev. 213, 218, 954 P.2d 741, 744 (1998) (emphasis added) citing *Gassett v. Snappy Car Rental*, 111 Nev. 1416, 1420, 906 P.2d 258, 261 (1995); see also *Michel v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 117 Nev. 145, 17 P.3d 1003 (2001) (faulty service of process provided good cause to set aside default judgment).

a. Sanchez Did Not Attempt to Serve Amended Complaint on Bon.

The first issue with service stems from the fact that Sanchez filed the Amended Complaint (October 13, 2016) between the time the Court issued the Default (April 1, 2016) and the time the Court issued the Default Judgment (July 19, 2019). In other words, Bon's default was entered on the original Complaint, but the Court subsequently entered default judgment on the Amended Complaint. Under Nevada law, an amended complaint supersedes the original complaint and renders it nugatory. *Associated Aviation Underwriters, Inc. v. Vegas Jet, L.L.C.*, 106 F. Supp. 2d 1051, 1054 (D. Nev. 2000) citing *Randono v. Ballow*, 100 Nev. 142, 143, 676 P.2d 807, 808 (1984) (“The amended complaint in this case was a distinct pleading which superseded the original complaint.”) and *McFadden v. Ellsworth Mill & Mining Co.*, 8 Nev. 57, 60 (1872) (“The amended complaint is in itself a full, distinct, and complete pleading, and entirely supersedes the original.”).

Sanchez's Amended Complaint is the operative pleading and Sanchez had to serve Bon with same in order to enter judgment on that pleading. Pursuant to NRCP 5(a)(2), while service is usually not required on a party who is in default, “a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4” (emphasis added). The Complaint alleges “[t]hat on April 28, 2015, in Clark County, Nevada, **[Bon] caused a crash with Plaintiff**” and that “[d]uring the same sequence of events, [Joseph] also negligently crashed into Plaintiff.” *Id.* at ¶ 6 (emphases added). The Amended Complaint substitutes Joseph for Bon



1 as to the negligent act, alleging that “[o]n April 28, 2015, in Clark County, Nevada, **[Joseph]**  
2 **caused a crash with Plaintiff.**” *Id.* at ¶ 6 (emphases added). No mention whatsoever is made as  
3 to Bon’s actions (or failure to act). As to negligence, the Amended Complaint alleges that  
4 “Defendant [singular] breached that duty of care by striking Plaintiff’s vehicle on the roadway.”  
5 *Id.* at ¶ 13. The parties are left to guess as to which Defendant Sanchez is referring to. As to  
6 negligence *per se*, Sanchez alleges that “[t]he acts of Defendants **as described herein** violated  
7 the traffic laws of the State of Nevada and Clark County, constituting negligence *per se*...” *Id.* at  
8 ¶ 15 (emphasis added). Again, Bon’s acts are not described anywhere in the Amended  
9 Complaint.<sup>10</sup> As such, there is an unknown theory of negligence against Bon and thus “a new  
10 claim for relief” requiring service pursuant to NRCP 5(a)(2).

11 Therefore, the Court must set aside the void Default Judgment because it is not supported  
12 by proper service of process.

13 b. Sanchez Did Not Meet NRS 14.070’s Service Requirements.

14 The second issue with service involves the specific requirements set forth in NRS 14.070,  
15 which Sanchez attempted to utilize in serving Bon. NRS 14.070 provides a method for the  
16 service of process on operators of automobiles involved in accidents over Nevada’s public roads,  
17 streets, or highways. The operator is deemed to have appointed the Director of the Department  
18 of Motor Vehicles as attorney for service of process in any action resulting in damage or loss to  
19 person or property. NRS 14.070(1). Service is completed through the deposit of a copy of the  
20 process and the payment of the statutory fee to the Director as well as delivery by registered or  
21 certified mail of a copy of the process to the defendant at the address supplied in the accident  
22 report or the best available address. NRS 14.070(2). A return receipt signed by the defendant, or  
23 a return of the United States Postal Service stating the defendant refused to accept delivery or  
24 could not be located, or that the address is insufficient, along with the plaintiff’s affidavit of  
25

26 <sup>10</sup> NRCP 8(a) requires that a pleading stating a claim for relief must include “a short and plain statement of the claim  
27 showing that the pleader is entitled to relief.” While Nevada is a notice-pleading jurisdiction, the complaint must  
28 “set forth sufficient facts to demonstrate the necessary elements of a claim for relief so that the defending party has  
adequate notice of the nature of the claim and relief sought.” *W. States Const., Inc. v. Michoff*, 108 Nev. 931, 936,  
840 P.2d 1220, 1223 (1992) (citations omitted).

1 compliance, should be attached to the original process and returned and filed in the action in  
2 which it was issued. *Id.* The provisions of this statute apply to resident motorists who “cannot  
3 be found within [Nevada] following a crash which is the subject of [the] action for which process  
4 is served pursuant to this section.” NRS 14.070(6). Sanchez failed to meet several of the service  
5 requirements set forth in NRS 14.070.

6 i. Source of Address

7 As a prefatory matter, the Affidavit of Compliance and the Amended Affidavit of  
8 Compliance are defective in that neither states the source of the Cambridge Address, which  
9 Sanchez utilized as Bon’s “best known address.” *See* Default Judgment Application, Ex. A  
10 hereto, at Ex. 5. The affidavit of compliance by plaintiff must state the source of the address  
11 relied on by the plaintiff, and the affidavit must be based on facts and not mere conclusions.  
12 *Mitchell v. Second Judicial Dist. Court*, 82 Nev. 377, 381, 418 P.2d 994, 997 (1966). When  
13 notice is sent to the *best address* available to the plaintiff, “[a] sworn statement as to source will  
14 serve to establish the good faith of the plaintiff to give actual notice and will, to some extent,  
15 diminish the possibility of fraud.” *Id.*, 82 Nev. at 381, 418 P.2d at 997. Therefore, Sanchez’s  
16 attempted service via NRS 14.070 is deficient.

17 ii. Affirmative Duty to Search

18 In interpreting statutory service through the DMV, Nevada has held that “substitute  
19 service pursuant to NRS 14.070(2) is efficacious only if the plaintiff first demonstrates that, after  
20 due diligence, the resident defendant cannot be found within the state.” *Browning*, 114 Nev. at  
21 217, 954 P.2d at 743. In *Browning*, the Nevada Supreme Court concluded that the phrase *cannot*  
22 *be found* imposes “an affirmative obligation on a plaintiff to diligently search” for a resident  
23 motorist defendant to determine whether the defendant has, in fact, departed the state or cannot  
24 be located within the state. *Browning*, 114 Nev. at 216-17, 954 P.2d at 743. The *Browning*  
25 Court noted that “[a]ny other conclusion contravenes the plain meaning of the statute and  
26 violates the principles of procedural due process.” *Id. citing Sheriff v. Wu*, 101 Nev. 687, 689-  
27 90, 708 P.2d 305, 306 (1985) (“Where a statute may be given conflicting interpretations, one  
28 rendering it constitutional, and the other unconstitutional, the constitutional interpretation is

1 favored.”); *McKay v. Bd. of Supervisors*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986) (“words  
2 in a statute should be given their plain meaning unless this violates the spirit of the act”).

3 For example, in *Price v. Dunn*, the Nevada Supreme Court concluded that, despite the  
4 plaintiff’s attempts to discover the defendant’s address through the telephone book, inquiries at  
5 the power company, and a conversation with the defendant’s stepmother, “her actual efforts, as a  
6 matter of law, fall short of the due diligence requirement to the extent of depriving [the  
7 defendant] of his fundamental right to due process.” *Browning*, 114 Nev. at 218, 954 P.2d at 744  
8 quoting *Price*, 106 Nev. 100, 102-03, 787 P.2d 785, 786-87 (1990). Similarly, in *Gassett*, the  
9 Nevada Supreme Court concluded that plaintiff’s attempts to locate the defendant solely through  
10 one visit to an old address and service via publication, despite knowledge of defendant’s counsel,  
11 failed to demonstrate due diligence and thus, the default judgment was void. 111 Nev. at 1420,  
12 906 P.2d at 261. Because “[w]here other reasonable methods exist for locating the whereabouts  
13 of a defendant, plaintiff should exercise those methods.” *Browning*, 114 Nev. at 218, 954 P.2d at  
14 744 quoting *Price*, 106 Nev. at 103, 787 P.2d 787.

15 Here, Sanchez’s attempted service through the DMV presupposes that a diligent effort  
16 has been made to locate Bon. However, the process server’s Declaration of Diligence fails to  
17 identify the person who told him the Cambridge Address was Bon’s mailing address. See  
18 Default Judgment Application, Ex. A hereto, at Ex. 4. There was no attempt to contact Cruz, the  
19 owner of the vehicle Bon was driving, despite the fact that Cruz’s address was set forth in the  
20 Accident Report. See Default Judgment Application, Ex. A hereto, at Ex. 1. Nor was there an  
21 attempt to contact DMA, despite the fact that Sanchez’s counsel had previously corresponded  
22 with DMA in June, July, and August of 2015. See Correspondence, Ex. E hereto.

23 Clarke, Sanchez’s process server, only attempted service once, at the Cambridge  
24 Address, which is an office building where family services/faith ministries are located. See  
25 Default Judgment Application, Ex. A hereto, at Ex. 4. Clarke did not attempt service the Abrams  
26 Address or Bon’s place of work, despite knowledge of both. See Default Judgment Application,  
27 Ex. A hereto, at Ex. 1. Unlike Joseph, Sanchez did not move for additional time to serve Bon.  
28 Additionally, Clarke provided no backup documentation regarding the purported searches of the

1 Clark County Assessor's Office, Clark County voter registration, "local phone search,"  
2 registered vehicle search through Nevada DMV, and "Premium Finder." And Clarke provided  
3 no description as to what "Premium Finder" entails.

4 Therefore, Sanchez did not satisfy the duty to search diligently for Bon in Nevada prior to  
5 resorting to statutory service.

6 iii. Proof of Mailing

7 Another deficiency is apparent given that service requires "a return receipt signed by the  
8 defendant or a return of the United States Postal Service stating that the defendant refused to  
9 accept delivery or could not be located, or that the address was insufficient." NRS 14.070(2).  
10 Bon did not sign a return receipt as he did not receive the certified mail containing the Summons  
11 and Complaint. The U.S. Postal Service returned the certified mail Sanchez sent to the  
12 Cambridge Address as "Unclaimed." See Default Judgment Application, Ex. A hereto, at Ex. 5.  
13 There is no indication that: 1) Bon refused to accept delivery or could not be located; or 2) that  
14 the Cambridge Address was insufficient. Indeed, the *Return to Sender* stamp on the envelope  
15 could have indicated as much, as it includes the following additional options, none of which  
16 were checked:

- 17 • Undeliverable as Addressed;
- 18 • Moved, Left No Address;
- 19 • Refused;
- 20 • Attempted, Not Known;
- 21 • No Such Street;
- 22 • No Such Number;
- 23 • No Receptacle;
- 24 • Deceased; and
- 25 • Vacant.

26 Therefore, service is also insufficient because Sanchez did not meet this additional  
27 requirement.

28 ///

iv. Relations with Opposing Counsel

Finally, Nevada Rule of Professional Conduct 3.5A states that “[w]hen a lawyer knows or reasonably should know the identity of a lawyer representing an opposing party, he or she should not take advantage of the lawyer by causing any default or dismissal to be entered without first inquiring about the opposing lawyer’s intention to proceed.” Sanchez’s counsel communicated directly with DMA on several occasions. *See* Correspondence, Ex. E hereto. Additionally, the Certificate of Service for the Notice of Entry of Default indicates that the filing was served via certified mail to DeLawrence Templeton at DMA Claims Services. *See* Default Judgment Application, Ex. A hereto, at Ex. 6. Thus, while Bon was not yet represented by counsel *per se*, Sanchez certainly violated the spirit of NRPC 3.5A in causing the Default to be entered against Bon without first inquiring of DMA’s intention to retain counsel for Bon.

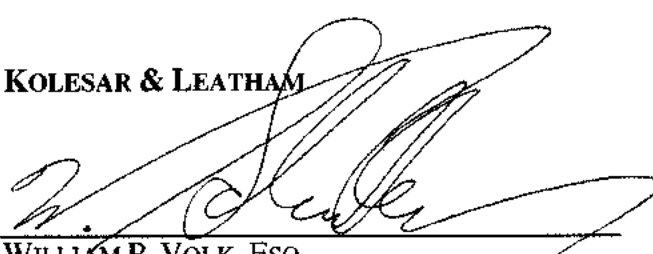
IV. CONCLUSION

Based on the foregoing, the Court should set aside the Default Judgment and order a trial on the merits.

DATED this 17<sup>th</sup> day of January, 2020.

KOLESAR & LEATHAM

By

  
WILLIAM P. VOLK, ESQ.  
Nevada Bar No. 006157  
WILLIAM D. SCHULLER, ESQ.  
Nevada Bar No. 011271  
400 South Rampart Boulevard, Suite 400  
Las Vegas, Nevada 89145

Attorneys for Defendant,  
BLAS BON

**CERTIFICATE OF SERVICE**

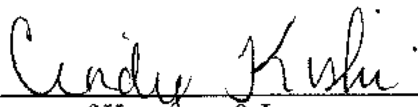
I hereby certify that I am an employee of Kolesar & Leatham, and that on the 17<sup>th</sup> day of January, 2020, I caused to be served a true and correct copy of the foregoing **MOTION TO SET ASIDE DEFAULT JUDGMENT** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed below.

Party: Diane Sanchez - Plaintiff  
E Service eservice@egletlaw.com

Other Service Contacts

Bernita Lujan .	blujan@messner.com
Dana Marcolongo .	dana@tplf.com
Jenny Marimberga .	jenny@tplf.com
Kimberly Shonfeld .	kshonfeld@messner.com
Lauren Pellino .	lpellino@tplf.com
Lindsay Reid .	lindsay@tplf.com
Michael Meyer .	cmeyer@messner.com
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Liz Flores	Lflores@egletlaw.com
Lisa M Lee	llee@thedplg.com
Tracey Zastrow	tzastrow@messner.com

  
An Employee of KOLESAR & LEATHAM

# **Exhibit A**

(Plaintiff Diane  
Sanchez's Application  
for Entry of Default  
Judgment)

*Steven D. Grierson*

1 **APPL**  
2 **DENNIS M. PRINCE, ESQ.**  
3 Nevada Bar No. 5092  
4 **TRACY A. EGLET, ESQ.**  
5 Nevada Bar No. 6419  
6 **KEVIN T. STRONG, ESQ.**  
7 Nevada Bar No. 12107  
8 **EGLET PRINCE**  
9 400 South Seventh Street, #400  
10 Las Vegas, Nevada 89101  
11 Tel.: 702-450-5400  
12 Fax: 702-450-5451  
13 Email: [eservice@egletlaw.com](mailto:eservice@egletlaw.com)  
14 Attorneys for Plaintiff  
15 *Diane Sanchez*

16 **DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 **DIANE SANCHEZ,**

19 **Plaintiff,**

20 **vs.**

21 **BLAS BON, individually; JOSEPH ACOSTA,**  
22 **individually; WILFREDO ACOSTA,**  
23 **individually; DOES I-X and ROE**  
24 **CORPORATIONS I-X, inclusive,**

25 **Defendants.**

CASE NO.: A-15-722815-C  
DEPT. NO.: XXV

**PLAINTIFF DIANE SANCHEZ'S  
APPLICATION FOR ENTRY OF  
DEFAULT JUDGMENT**

**HEARING REQUESTED**

26 Plaintiff DIANE SANCHEZ, by and through her attorneys of record, DENNIS M.  
27 PRINCE, ESQ., TRACY A. EGLET, ESQ., and KEVIN T. STRONG, ESQ. of **EGLET**  
28 **PRINCE**, hereby moves this Honorable Court for Entry of Default Judgment pursuant to NRCP  
55(b)(2), in favor of Plaintiff DIANE SANCHEZ and against Defendant BLAS BON, jointly  
and severally, as set forth herein.

This Application is made on the grounds that a Default has been entered against said  
Defendant for failure to answer or otherwise respond to the Complaint after being properly  
served with the Summons and Complaint and that said Defendant is not in the military service of  
the United States, nor is he an infant or incompetent person.

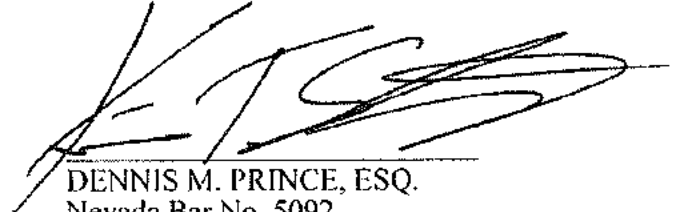
NBIS 000497



1 This Application is based upon the following Memorandum of Points and Authorities,  
2 the affidavit of Dennis M. Prince, Esq., attached hereto, the Exhibits attached hereto, the  
3 pleadings on file in this matter, and any further information this Court deems necessary.

4 Dated this 29<sup>th</sup> day of March, 2019.

6 **EGLET PRINCE**

7  
8  
9  
10 

DENNIS M. PRINCE, ESQ.  
Nevada Bar No. 5092  
TRACY A. EGLET, ESQ.  
Nevada Bar No. 6419  
KEVIN T. STRONG, ESQ.  
Nevada Bar No. 12107  
400 South 7th Street, 4th Floor  
Las Vegas, NV 89101  
Attorneys for Plaintiff  
*Diane Sanchez*

# MEMORANDUM OF POINTS AND AUTHORITIES

## I.

### FACTUAL BACKGROUND

This case stems from a motor vehicle collision involving four cars that occurred on April 28, 2015 on Interstate 15 in Las Vegas, Nevada. Plaintiff Diane Sanchez ("Sanchez") traveled northbound on Interstate 15 in a 1995 BMW 325i sedan behind non-party Donna Evans ("Evans") in the #5 travel lane. See Traffic Accident Report, at pp. 1, 5, attached as **Exhibit "1."** Defendant Blas Bon ("Bon") drove a 1997 Dodge Ram 2500 pickup truck directly behind Diane. *Id.* at pp. 1, 3. Bon hauled two wheelbarrows in the back of the truck at the time. See color photographs of Bon's truck, collectively attached as **Exhibit "2."** Sanchez slowed her vehicle down for traffic that was ahead. See **Exhibit "1,"** at p. 1. In response, Bon veered hard to the left to avoid striking the back of Sanchez's vehicle, but still struck the left side portion of Sanchez's rear bumper with the right front end of his truck. *Id.* Bon's truck eventually came to a rest in the #4 travel lane. Former Defendant Joseph Acosta ("Acosta"), who drove a 1997 BMW528i directly behind Bon, was unable to slow his vehicle down and also struck the rear-end of Diane's car. *Id.* at pp. 1, 7. As a result of the second impact, Sanchez's vehicle struck the rear-end of non-party Evans's vehicle. *Id.* at p. 1. Sanchez's vehicle sustained substantial damage to both the front end and back end as a result of the subject collision. See color photographs of Sanchez's vehicle damage, collectively attached as **Exhibit "3."**

#### A. Procedural History

On August 7, 2015, Sanchez filed her Complaint against Bon and Acosta. On October 20, 2015, Sanchez filed her Affidavit of Due Diligence wherein her process server describes his failed efforts to personally serve Bon with the Summons and Complaint at his last known address on September 22, 2015. See 10/20/15 Affidavit of Due Diligence, attached as **Exhibit "4."** On March 29, 2016, Sanchez filed her Amended Affidavit of Compliance wherein she confirms that Bon was served with the Summons and Complaint through the Nevada Department of Motor Vehicles pursuant to NRS 14.070 on November 2, 2015. See 3/29/16 Amended Affidavit of Compliance, attached as **Exhibit "5;"** see also, Nev. Rev. Stat. 14.070. On November 9, 2015, Sanchez sent, via certified mail, copies of the Summons, Complaint, traffic

1 accident report, and DMV letter confirming proof of service, to Bon's last known address: 3900  
2 Cambridge Street, Suite 106, Las Vegas, Nevada 89119. *Id.* at p. 2. This package was returned  
3 to Sanchez on November 12, 2015 because it went unclaimed. *Id.* On April 1, 2016, the district  
4 court entered Default against Bon resulting from his failure to file an answer to Sanchez's  
5 Complaint or to otherwise appear in the action within twenty days of service. *See* 4/1/16  
6 Default, attached as Exhibit "6." On October 16, 2018, Sanchez and Acosta filed their  
7 Stipulation and Order for Dismissal with Prejudice following their confidential settlement of  
8 Sanchez's claims.

9 **B. Liability**

10 Bon failed to file his Answer to Sanchez's Complaint. Accordingly, there is no factual or  
11 legal dispute that Bon breached the duty of care owed to Sanchez when he caused his pickup  
12 truck to strike her vehicle from behind. Bon also does not dispute that his negligence caused  
13 Sanchez to suffer severe and debilitating injuries as described below.

14 **C. Nature and Extent of Sanchez's Injuries**

15 ***1. Align Chiropractic***

16 On April 29, 2015, Sanchez presented to Ryan Kissling, D.C. with complaints of neck  
17 pain, mid-back pain, low back pain, and hand pain. Sanchez also later complained of numbness  
18 in her neck and mid-back that radiated down to both arms and headaches. Sanchez underwent a  
19 course of chiropractic care through May 22, 2015. At the time of her last visit, Sanchez's  
20 diagnoses were: (1) Cervical disc displacement with myelopathy, (2) Pain in her hand; (3)  
21 Thoracic sprain, (4) Lumbar sprain; and (5) Myalgia and myositis.

22 ***2. Family Doctors of Green Valley***

23 On May 6, 2015, Sanchez presented to Ravi Ramanathan, M.D. with complaints of  
24 headaches, neck pain, shoulder pain, mid-back pain, low back pain, and numbness and tingling  
25 in both of her hands. Dr. Ramanathan physically examined Sanchez and reached the following  
26 diagnoses: (1) Concussion with no loss of consciousness, (2) Cervicalgia, (3) Post-Concussion  
27 syndrome, (4) Acute pain due to trauma, (5) Headache, (6) Insomnia, (7) Lumbago, (8) Mixed  
28 disorders as reaction to stress, (8) Muscle spasms, (9) Unspecified backache, and (10)  
Unspecified myalgia and myositis. Dr. Ramanathan prescribed Flexeril and Celexa to Sanchez,

1 advised that she continue with her chiropractic care, and to follow up in three weeks.

2 On May 19, 2015, Sanchez followed up with Dr. Ramanathan. She made the same pain  
3 complaints as of the date of her last visit and reported new complaints that her lumbar pain  
4 radiated into both of her legs. Dr. Ramanathan included radiculopathy of Sanchez's arms and  
5 legs to his diagnoses. Dr. Ramathan prescribed Soma, Prednisone, and Norco to Sanchez,  
6 recommended that she continue to undergo chiropractic care, and to follow up with him. Dr.  
7 Ramanathan also referred Sanchez to Yevgeniy Khavkin, M.D., a neurosurgeon.

8 On July 21, 2015, Sanchez returned to Family Doctors of Green Valley and treated with  
9 Yaakov David Kotlarsky, PA-C. At this visit, she received clearance for her scheduled cervical  
10 spine surgery.

11 On August 6, 2015, Sanchez returned to Family Doctors of Green Valley and treated with  
12 Beraldo Vazquez, M.D. This was Sanchez's first follow-up visit since her July 27, 2015 cervical  
13 spine surgery. Sanchez's main complaint was pain in her right forearm radiating up to her right  
14 shoulder. She also complained of pain in her cervical spine related to her cervical spine surgery.  
15 Dr. Vazquez prescribed pain medications and muscle relaxants to Sanchez. He also prescribed  
16 Sanchez with a refill of Celexa to help manage her stress. He recommended that she follow up  
17 in one month.

18 On August 21, 2015, Sanchez followed up with Dr. Vazquez and complained of neck  
19 pain and mid-back pain. He noted that Sanchez's neck pain was improving and that her  
20 symptoms of radiculopathy resolved. He refilled her pain medication prescription, Celexa  
21 prescription, and advised that she follow up for a reassessment.

22 **3. Clifford Tao, M.D.**

23 On June 2, 2015, Dr. Tao performed a second opinion interpretation of Sanchez's lumbar  
24 spine MRI. Dr. Tao concluded the MRI revealed mild facet osteoarthritis at L5-S1 and A  
25 degenerated disc at L1-2.

26 **4. Khavkin Clinic**

27 On June 4, 2015, Sanchez began treatment with Yevgeniy Khavkin, M.D. for a  
28 neurosurgical evaluation to address her ongoing cervical spine pain. Dr. Khavkin performed a  
physical examination of Sanchez and reviewed her cervical spine MRI that she underwent on

May 9, 2015. Dr. Khavkin concluded that Sanchez was developing cervical myelopathy due to a large cervical disc herniation with spinal cord compression. Based on Sanchez's symptoms and the significant findings on her MRI, Dr. Khavkin recommended Sanchez undergo surgery consisting of anterior cervical decompression and fusion at C6-7.

On July 2, 2015, Sanchez returned to Dr. Khavkin to inform him that she wished to proceed with the surgery. Dr. Khavkin referred Sanchez to undergo surgical clearance.

On July 23, 2015, Dr. Khavkin performed a pre-op evaluation of Sanchez. He recommended the implantation of a bone growth stimulator to achieve a better clinical outcome and to improve the fusion rate.

On July 27, 2015, Sanchez underwent cervical spine surgery with Dr. Khavkin. Sanchez's pre-operative diagnoses were: (1) cervical stenosis and (2) cervical myeloradiculopathy. Dr. Khavkin performed the following cervical surgery: (1) Anterior approach to the partial C6 and partial C7 corpectomies with a decompression of spinal cord and the nerve roots, (2) Placement of the biomechanical device using Alphatec peek cage at the C6-7 level interbody arthrodesis at the C6-7 level using spinal using Grafton mixed with autograft, and (3) Placement of the anterior cervical plate using spinal USA cervical plate to the C6-7 level. Sanchez underwent this surgery at Centennial Hills Hospital and was discharged on July 28, 2015.

On August 27, 2015; and October 8, 2015, Sanchez followed up with Ippei Takagi, M.D. of Dr. Khavkin's office. She reported improvement in her neck pain symptoms, but Dr. Takagi recommended she start physical therapy. Sanchez reported some lumbar spine pain complaints and Dr. Takagi recommended she undergo a lumbar spine MRI.

On November 17, 2015, Sanchez followed up with Dr. Takagi. Dr. Takagi informed her that there may be a pars defect at L5-S1 and recommended she undergo a CT scan to confirm. He recommended that she continue with nonoperative treatments for her low back including physical therapy and injections.

On December 8, 2015, Sanchez followed up with Dr. Takagi. Dr. Takagi noted that Sanchez's pre-operative pain complaints on the right side of her neck resolved, but she still experienced residual pain on the left side of her neck. Sanchez told Dr. Takagi she may undergo

possible pain injections to her cervical spine. Dr. Takagi reiterated his desire for a lumbar spine CT scan. He advised Sanchez to undergo the procedure and to follow up with him in three months.

On January 7, 2016, Sanchez followed up with Dr. Khavkin. She reported her neck pain and right arm pain essentially resolved, but that she had pain in her left forearm. She also reported significant pain in her low back. Dr. Khavkin recommended repeat radiological imaging and a nerve conduction study of the upper extremities.

On March 31, 2016, Sanchez returned to Dr. Khavkin with continued complaints of discomfort in her left arm. Dr. Khavkin recommended she continue with physical therapy.

On September 1, 2016, Sanchez returned to Dr. Khavkin with complaints of left-sided neck pain and upper extremity complaints. Dr. Khavkin recommended Sanchez undergo new imaging of her cervical spine and an EMG nerve conduction study of her upper extremities.

On October 13, 2016, Sanchez returned to Dr. Khavkin and continued to complain of pain in her left arm. Dr. Khavkin recommended Sanchez continue with conservative care.

##### **5. Centennial Hills Hospital Medical Center**

On July 27, 2015, Sanchez underwent her cervical spine surgery with Dr. Khavkin at Centennial Hills Hospital Medical Center. She remained hospitalized for a day and was discharged on July 28, 2015.

##### **6. Monitoring Associates/Neuromonitoring Associates**

Simon Farrow, M.D. monitored Sanchez's sensory system during the cervical spine surgery that Dr. Khavkin performed on July 28, 2015.

##### **7. Wellhealth Life and Wellness Center**

This entity provided Dr. Khavkin with the hardware that was placed in Sanchez's cervical spine during her surgery.

##### **8. Orthopedic Motion**

Orthopedic Motion provided medical services in relation to Sanchez's cervical spine surgery.

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9. *Interventional Pain & Spine Institute*

On September 3, 2015, Sanchez began treatment with Hans Jorg Rosler, M.D. She presented with chief complaints of neck pain and headaches. Dr. Rosler's diagnoses were post-operative neck pain and headaches and mechanical lumbar discomfort. He prescribed Sanchez with Norco and Robaxin for the pain and advised her to follow up with him in two to three weeks.

On September 24, 2015, Sanchez returned to Dr. Rosler with primary complaints of neck pain and low back pain. Based on her complaints, Dr. Rosler determined the Robaxin was not providing adequate antispasmodic therapy. In response, he prescribed her Soma and refilled her Norco prescription. He advised that she return to his care in four weeks.

On October 29, 2015, Sanchez returned to Dr. Rosler's office and treated with his PA, Steve Olenchak. She complained of continued neck and interscapular pain with numbness to her left upper extremity and hand and low back pain with intermittent left lower extremity numbness and tingling. Mr. Olenchak switched Sanchez's Norco prescription to Dilaudid and advised she follow up in two to three weeks for re-evaluation.

On November 17, 2015, Sanchez followed up with Annemarie Gallagher, M.D. of Dr. Rosler's office. She made the same pain complaints, was prescribed a new pain medication, advised to continue with physical therapy, and to follow up in three weeks for reevaluation.

On December 9, 2015, Sanchez returned to Dr. Gallagher and complained of left-sided cervical spine pain with numbness and tingling radiating into her left hand, particularly the third through fifth digits. Dr. Gallagher recommended that Sanchez undergo a left C7 nerve block injection.

On January 7, 2016, Sanchez returned to PA Olenchak for re-evaluation. PA Olenchak switched Sanchez back to Dilaudid, refilled her Soma prescription and advised that she take stool softeners.

On February 2, 2016, Sanchez returned to Dr. Gallagher, who discontinued Sanchez's prescription for Dilaudid and switched her back to Norco.

On March 3, 2016, Sanchez returned to Dr. Gallagher. Dr. Gallagher refilled Sanchez's prescriptions for Norco and Soma, recommended she take stool softeners, and advised that she

1 continue with physical therapy.

2 On April 4, 2016, Sanchez returned to Dr. Gallagher. She complained of ongoing left-  
3 sided neck pain radiating into her left hand, particularly the fourth digit. Dr. Gallagher  
4 recommended Sanchez undergo the C7 nerve block injection.

5 On April 19, 2016, Sanchez returned to Dr. Gallagher and underwent a left C7 selective  
6 nerve root block injection at Surgical Arts Center. Sanchez's reported pain level of 7/10  
7 changed to 0/10 immediately after the procedure.

8 On May 5, 2016, Sanchez returned to Dr. Gallagher and rated her neck pain and left  
9 upper extremity pain at 4/10 on the pain scale. She also complained of increased low back pain.  
10 Dr. Gallagher recommended Sanchez continue with her medication management and physical  
11 therapy and to follow up with her in four weeks.

12 On June 16, 2016, Sanchez returned to Dr. Gallagher with complaints of increased left-  
13 sided low back pain that radiated down into her left lower extremity. Sanchez reported her neck  
14 and left upper extremity symptoms continued to improve. Dr. Gallagher recommended Sanchez  
15 continue with her medication management and to return for further care.

16 On July 5, 2016, Sanchez underwent a left-sided transforaminal epidural steroid injection  
17 at L4-5 with Dr. Gallagher at Surgical Arts Center. Sanchez's reported pain level changed from  
18 4/10 to 0/10 immediately after the procedure.

19 On July 13, 2016, Sanchez returned to Dr. Gallagher's care and reported 60% pain relief in  
20 her lumbar spine after the previous injection procedure. However, Sanchez complained of  
21 bilateral upper and lower extremity pain associated with heaviness. Dr. Gallagher made the same  
22 recommendations to Sanchez regarding medication management.

23 On July 21, 2016, Sanchez returned to Dr. Gallagher's care and complained of weakness  
24 along the left side of her body that she especially felt during exercises. Sanchez denied any new  
25 symptoms since her last visit. Dr. Gallagher recommended Sanchez continue with the same pain  
26 medications and also administered a Toradol injection for improved pain relief.

27 On August 16, 2016, Sanchez presented to Carrie Dardine, PA-C, of Dr. Rosler's office.  
28 Sanchez complained of neck pain, left arm pain, mid-back pain, and low back pain. Sanchez  
experienced relief in her low back for approximately two weeks after the injection, but the pain



1 later returned with greater intensity. PA Dunham recommended Sanchez continue with her  
2 course of pain medications and physical therapy. She also referred Sanchez back to Dr. Khavkin  
3 for evaluation of cervical discogenic pain and discogenic low back pain.

4 On September 13, 2016, Sanchez returned to PA Olenchak with complaints of neck pain,  
5 left arm pain, mid-back pain, and low back pain. PA Olenchak recommended she continue  
6 physical therapy and medication management.

7 On October 11, 2016, Sanchez returned to Dr. Rosler with complaints of neck pain that  
8 radiated into her left arm, mid-back pain, and low back pain. Dr. Rosler refilled Sanchez's  
9 prescriptions for Norco, Soma, and Cymbalta. He also asked her to return in four weeks  
10 following her repeat electrodiagnostic testing with Dr. Oliveri.

11 On October 19, 2016, Sanchez returned to Dr. Rosler with complaints of neck pain, left  
12 upper extremity pain, and low back pain. Sanchez reported that her surgeon, Dr. Khavkin,  
13 recommended repeat cervical and lumbar injections. Dr. Rosler recommended Sanchez undergo  
14 a second left C7 selective nerve root block and a separate left L4-5 transforaminal epidural  
15 steroid injection. Dr. Rosler also recommended Sanchez continue with her medication  
16 management.

17 On October 26, 2016, Sanchez underwent her repeat left C7 selective nerve root block  
18 with Dr. Rosler. Sanchez's reported pain level went from 7/10 before the procedure to 0/10  
19 immediately after the procedure.

20 On November 7, 2016, Sanchez underwent her repeat left L4-5 transforaminal epidural  
21 steroid injection with Dr. Rosler. Sanchez's reported pain score went from 6/10 before the  
22 procedure to 0/10 immediately after the procedure.

23 On November 15, 2016, Sanchez returned to Dr. Rosler for follow-up after her injections.  
24 Sanchez reported neck pain complaints that she rated at 3/10 on the pain scale and low back pain  
25 that she also rated at 3/10 on the pain scale. She felt that her pain improved after the injections.  
26 Dr. Rosler recommended she continue with her medications for pain and to follow up in four  
27 weeks.

28 On December 14, 2016, Sanchez returned to Dr. Rosler with continued improved pain  
complaints in her cervical spine and lumbar spine. She was concerned that her lumbar

1 discogenic pain might return as it happened previously. She reported Dr. Oliveri recommended  
2 she undergo implantation of a lumbar trial spinal cord stimulator. Dr. Rosler also recommended  
3 a trial lumbar spinal cord stimulator if the lumbar pain symptoms returned. He requested  
4 Sanchez receive a psychological evaluation prior to implantation of the trial stimulator.

5 On January 10, 2017, Sanchez returned to Dr. Rosler with complaints of increased lower  
6 back pain with bilateral radiating pain in her lower extremities. She also complained of neck  
7 pain and left upper extremity radiating pain. Sanchez was psychologically cleared to undergo  
8 her trial lumbar spinal cord stimulator, which was scheduled. Dr. Rosler also recommended  
9 Sanchez continue to manage her pain with medications.

10 On February 7, 2017, Sanchez returned to Dr. Rosler with complaints of neck pain  
11 radiating down to her left arm and hand and low back pain. Dr. Rosler recommended that  
12 Sanchez proceed with cervical spinal cord stimulator trial after following up with Dr. Khavkin.  
13 Dr. Rosler also refilled her medications for Norco, Flexeril, and Cymbalta.

14 On March 7, 2017, Sanchez returned to Dr. Rosler. She complained of neck pain  
15 radiating into her left arm and low back pain. Dr. Rosler planned to schedule an epidural steroid  
16 injection at L4-5, but he decided to delay that injection and proceed with a discogram of the  
17 lumbar spine at the recommendation of Jason E. Garber, M.D.

18 On March 20, 2017, Sanchez returned to Dr. Rosler and underwent a lumbar discogram  
19 at L3-S1. Sanchez's preoperative diagnoses included mechanical lumbar pain with discogenic  
20 mediated symptomatology. The discogram revealed positive provocation at L4-5 with  
21 concordant pain upon stimulation and a negative study at L3-4 and L5-S1.

22 On March 28, 2017, Sanchez returned to Dr. Rosler with complaints of neck pain that  
23 radiated into her left hand with numbness and low back pain radiating down to her buttocks.  
24 Sanchez reported that Dr. Garber recommended she undergo lumbar surgery. Dr. Rosler  
25 recommended Sanchez to follow up with Dr. Garber.

26 On April 6, 2017, Sanchez returned to Dr. Rosler with complaints of neck pain radiating  
27 into her left upper extremity and low back pain with numbness in both legs while using the  
28 restroom. Dr. Rosler refilled Sanchez's prescriptions for Norco, Flexeril, and Cymbalta and  
advised that she follow up with him in four weeks.

On May 4, 2017, Sanchez followed up with Andrew Hall, M.D. of Dr. Rosler's office with complaints of neck and low back pain. Dr. Hall refilled Sanchez's prescriptions and gave her a sample of Lorazone. He recommended she follow up with him in four weeks.

On June 1, 2017, Sanchez followed up with Dr. Hall. She complained of neck and low back pain. She told Dr. Hall that her lumbar disc replacement surgery was scheduled for June 22, 2017. Dr. Hall refilled her prescriptions and advised she follow up in four weeks.

On June 20, 2017, Sanchez returned to Dr. Hall with complaints of neck pain and low back pain. Dr. Hall refilled her prescriptions and advised she follow up in four weeks.

On July 18, 2017, Sanchez followed up with Dr. Hall. She complained of neck pain and low back pain. She reported gradual improvement of her low back pain following her L4-5 fusion surgery with Dr. Garber. Dr. Hall refilled her prescriptions and advised she follow up in four weeks.

On August 17, 2017, Sanchez returned to Dr. Hall and complained of decreased neck pain and intermittent low back pain with constant left hip pain. She reported that Dr. Garber referred her to an orthopedic specialist to address the left hip pain. Dr. Hall decreased the frequency of Sanchez's dosage for Norco, refilled her remaining prescriptions, and advised that she follow up in four weeks.

On September 14, 2017, Sanchez returned to Dr. Hall with complaints of neck pain rated at 3-4/10 on the pain scale, intermittent low back pain rated at 5/10 on the pain scale, and constant left hip pain. Dr. Hall continued with the decreased dosage frequency for Sanchez's Norco prescription, refilled her Flexeril, and Cymbalta prescriptions, and prescribed Meloxicam. He advised that she follow up in four weeks.

On October 19, 2017, Sanchez returned to Dr. Rosler with neck pain rated at 2/10 on the pain scale and intermittent low back pain rated at 4/10 on the pain scale with left hip tightness. She reported that her start date for physical therapy was soon. Dr. Rosler refilled Sanchez's prescriptions, awaited her response to physical therapy, and advised that she follow up in four weeks.

On November 17, 2017, Sanchez returned to Dr. Hall with complaints of neck pain rated at 2/10 on the pain scale and low back pain rated at 4/10 on the pain scale with left hip region

1 tightness. Sanchez continued with her physical therapy at the time of this visit. Dr. Hall refilled  
2 Sanchez's prescriptions, recommended she continue with physical therapy, and advised that she  
3 follow up in one to two months.

4 On January 4, 2018, Sanchez returned to Dr. Rosler. She complained of neck discomfort  
5 rated at 2-3/10 on the pain scale and intermittent low back pain rated at 2-3/10 on the pain scale.  
6 She also continued to feel left hip region tightness. Sanchez felt that her pain improved, and she  
7 weaned herself off Norco. Dr. Rosler filled Sanchez's prescriptions for Flexeril, Cymbalta, and  
8 Meloxicam and advised her to follow up as needed.

9 On April 24, 2018, Sanchez returned to Dr. Hall and reported neck pain rated at 1-2/10  
10 on the pain scale and low back pain rated at 4-5/10 on the pain scale. Dr. Hall refilled Sanchez's  
11 prescription for Flexeril, he started a prescription for Robaxin, and increased her Cymbalta  
12 dosage. Sanchez also continued to take Meloxicam. He advised that she follow up with Dr.  
13 Garber if low back symptoms persist or worsen and to follow up with him in two to three  
14 months.

15 ***10. PBS Anesthesia***

16 PBS Anesthesia provided the anesthesia services for various interventional pain  
17 management injections Sanchez underwent with Dr. Rosler on April 19, 2016; and July 5, 2016.

18 ***11. Surgical Arts Center***

19 Sanchez underwent her interventional pain management injections and lumbar  
20 discography procedure with Dr. Rosler at Surgical Arts Center.

21 ***12. Rapid Rehab***

22 On November 11, 2015, Sanchez presented to Rapid Rehab for physical therapy. She  
23 complained of pain in her thoracic region, intermittent cervical spine pain, and numbness and  
24 tingling in her left upper extremity and left lower extremity. Sanchez received various physical  
25 therapy treatments to the areas of her body that were painful. She was formally discharged from  
26 care on February 13, 2016.

27 ***13. David J. Oliveri, M.D.***

28 On January 25, 2016, Sanchez underwent electrodiagnostic testing for her upper  
extremity with Dr. Oliveri. The testing came back normal.

On October 12, 2016, Sanchez underwent repeat electrodiagnostic testing for her upper extremity with Dr. Oliveri. The testing came revealed no evidence for a left cervical radiculopathy, neuropathy, plexopathy, or polyneuropathy.

***14. Louis Mortillaro, Ph.D.***

On January 3, 2017, Sanchez underwent clinical pre-surgical psychological testing with Dr. Mortillaro. Dr. Mortillaro confirmed that Sanchez was psychologically allowed to undergo the trial spinal cord stimulator procedure so long as she received a better understanding of the surgical details.

***15. Jason E. Garber, M.D. – Western Regional Center for Brain & Spine Surgery***

On March 11, 2017, Sanchez presented to Jason E. Garber, M.D. with complaints of neck pain and low back pain with intermittent lower extremity radiculopathy. Dr. Garber diagnosed Sanchez with a bulge of her cervical disc without myelopathy and ordered a CAT scan of her cervical spine. He also noted that Sanchez was a candidate for bilateral nerve root block injections at L4-5.

On March 23, 2017, Sanchez followed up with Dr. Garber following her discogram. She complained of ongoing low back pain with intermittent lower extremity radiculopathy. Dr. Garber recommended that Sanchez undergo either total disc replacement surgery at L4-5 or anterior lumbar interbody fusion at L4-5 because she failed conservative care and the results of her discogram justified her need for surgery.

On March 7, 2017. Sanchez followed up with Dr. Garber with additional questions regarding lumbar surgery. She expressed her desire to proceed with surgery.

On June 22, 2017, Sanchez underwent artificial disc replacement surgery at L4-5 with Dr. Garber. Sanchez's preoperative diagnoses were: (1) L4-5 herniated disc; (2) internally disrupted disc; (3) axial mechanical back pain, and (4) lower extremity radiculopathy. There were no complications during surgery.

On July 11, 2017, Sanchez followed up with Dr. Garber. Dr. Garber noted that the incision remained intact without any erythema or drainage. He recommended Sanchez obtain x-rays of her lumbar spine and then return to his care.

On August 17, 2017, Sanchez returned to Dr. Garber for her second post-operative appointment. Sanchez reported nearly 100% improvement in her pain compared to her preoperative state but noted some pain with external rotation of her left hip. Dr. Garber recommended she follow up with him in two months.

On October 12, 2017, Sanchez followed up with Dr. Garber. She reported a new onset of low back pain with intermittent left lower extremity radiculopathy during exercise and stretching. She was previously 80% improved from her preoperative state. Dr. Garber prescribed Sanchez a Medrol Dosepack for inflammation, recommended physical therapy and Pilates, and advised she follow up in six weeks.

#### ***16. MML Physical Therapy***

On November 2, 2017, Sanchez began physical therapy following her lumbar spine surgery at the recommendation of Dr. Garber. She underwent various manual intervention therapies including soft tissue mobilization, electrical stimulation, moist hot packs, and exercise activities. Sanchez underwent ten physical therapy sessions from November 2, 2017 through December 21, 2017.

#### ***17. Dura Medic, LLC***

Following Sanchez's lumbar spine surgery, she was prescribed a lumbar sacral corset through Dura Medic, LLC.

#### ***18. Surgical Anesthesia Services***

This provider administered the necessary anesthesia services for Sanchez's lumbar spine surgery with Dr. Garber on June 22, 2017.

#### ***19. General Vascular Specialists***

On June 22, 2017, Earl Cottrell, M.D. provided vascular surgical treatment associated with Sanchez's lumbar spine surgery with Dr. Garber.

#### ***20. Valley Hospital Medical Center***

On June 22, 2017, Sanchez underwent her lumbar spine surgery with Dr. Garber at Valley Hospital Medical Center. She remained hospitalized for a couple of days and was discharged on June 24, 2017.

**21. Pay Later Pharmacy**

Sanchez filled her various medications that Dr. Rosler's office prescribed during the duration of her treatment with Pay Later Pharmacy.

**22. Las Vegas Radiology, Pueblo Medical Imaging, and Steinberg Diagnostic**

Sanchez underwent a variety of radiological scans to determine the extent of her injuries suffered as a result of the subject collision. These imaging studies include x-rays and MRI scans of her cervical spine and lumbar spine, a CT scan of her cervical spine, and a left hip x-ray.

**D. Past Medical Expenses Incurred**

As a result of the collision, Sanchez incurred the following medical expenses:

	Medical Provider	Dates of Service	Charges
1.	Align Med Chiropractic	4/29/15 – 8/02/16	\$6,300.00
2.	Align Med MRI	5/20/15	\$1,600.00
3.	Centennial Hills Hospital	7/27/15 – 7/28/15	\$74,559.00
4.	DuraMedic	6/24/17	\$2,684.00
5.	Family Doctors of Green Valley	5/06/15 – 8/21/15	\$2,174.70 <sup>1</sup>
6.	General Vascular Specialists	6/22/17	\$10,045.00
7.	Interventional Pain & Spine Specialists	9/13/15 – 7/16/18	\$27,060.00
8.	Khavkin Clinic	6/04/15 – 10/13/16	\$54,881.20 <sup>2</sup>
9.	Las Vegas Radiology	5/09/15 – 3/20/17	\$3,850.00
10.	MML Physical Therapy	11/02/17 – 12/21/17	\$2,420.00
11.	Monitoring Associates	7/27/15 – 6/22/17	\$15,475.28
12.	Mortillaro, Louis, Ph.D.	1/03/17	\$1,075.00
13.	Neuromonitoring Associates	7/27/15 – 6/22/17	\$19,100.28
14.	Oliveri David, M.D.	1/25/16 – 10/12/16	\$5,518.00
15.	Orthopedic Motion	7/24/15	\$447.66
16.	PayLater Pharmacy	11/02/15 – 8/17/17	\$6,339.85 <sup>3</sup>

<sup>1</sup> Family Doctors of Green Valley's original billed amount is \$3,014.00. Sanchez's retained medical expert, David J. Oliveri, M.D., notes that this provider dispensed name brand medications to Sanchez that cost \$1,199.00. See Exhibit "8," at 11/11/16 report, pp. 16-17. He opines that if these medications were dispensed as generics, the usual and customary cost is approximately 30% of the billed amount. *Id.* The \$2,684.00 figure above reflects this opinion.

<sup>2</sup> Khavkin Clinic's original billed amount is \$73,486.00. Dr. Oliveri opines that Dr. Khavkin's assistant surgeon, Ippei Takagi, M.D.'s charges for his services are seventy-five percent of the primary surgeon, Dr. Khavkin's charges. See Exhibit "8," at 11/11/16 report, p. 17. The usual and customary cost ranges from twenty to twenty-five percent of the primary surgeon's fee. *Id.* The \$54,881.20 figure above reflects that Dr. Takagi's charges are twenty percent of Dr. Khavkin's charges for the cervical spine surgery.

<sup>3</sup> PayLater Pharmacy's original billed amount is \$25,359.40. Dr. Oliveri opines that the usual and customary cost for the medications dispensed is approximately twenty-five percent of the total amount. See Exhibit "8," at 9/21/17 report, p. 5; and 4/6/18 report, pp. 3-4. The \$6,339.85 figure above reflects this opinion.

17.	PBS Anesthesia	4/19/16 7/05/16	\$1,250.00
18.	Pueblo Medical Imaging	10/27/15 – 2/03/17	\$10,650.00
19.	Rapid Rehab Physical Therapy	11/11/15 – 12/16/15	\$2,915.00
20.	Steinberg Diagnostic	7/22/15 – 10/22/17	\$820.00
21.	Surgical Anesthesia Services	6/22/17	\$7,500.00
22.	Surgical Arts Center	4/19/16 – 3/20/17	\$20,444.96
23.	Tao, Clifford	6/02/15	\$285.00
24.	Valley Hospital	6/22/17 – 6/24/17	\$141,925.08
25.	Wellhealth Life and Wellness Center	7/27/15	\$1,675.00
26.	Western Regional Center for Brain & Spine	3/11/17 – 10/12/17	\$44,290.00
	<b>TOTAL</b>		<b>\$465,285.01</b>

See Affidavit of Dennis M. Prince, Esq. confirming that Sanchez incurred past medical expenses of \$465,285.01 to treat the injuries suffered because of the underlying motor vehicle collision, attached as Exhibit “7.”

**E. Future Medical Treatment/Expenses**

Sanchez’s retained physical medicine and rehabilitation physician and life care planner, David J. Oliveri, M.D., performed a physical evaluation of Sanchez, reviewed her medical treatment records, and outlined his opinions in numerous reports. See 11/11/16, 1/28/17, 5/11/17, 9/21/17, 4/6/18, and 3/15/19 Oliveri reports, collectively attached as Exhibit “8.”<sup>4</sup> Dr. Oliveri recommends that Sanchez undergo medical treatment in the future consisting of: (1) pain management care; (2) spine surgeon consult for future adjacent segment cervical spine and lumbar spine surgeries; (3) physical therapy; (4) various prescription medications; (5) preoperative radiographic studies; (6) trial and permanent implantation of cervical spine neurostimulator; (7) periodic replacement of neurostimulator’s implantable pulse generator; (8) preoperative medical clearance for cervical spine and lumbar spine surgeries; (9) future cervical spine fusion surgery for adjacent segment breakdown; and (10) future lumbar spine surgery for adjacent segment breakdown. See Exhibit “8,” at 3/15/19 report, life care plan, pp. 1-13. Dr. Oliveri estimates the total cost for Sanchez’s future medical treatment ranges from \$742,399.00 to \$885,106.00. *Id.*

<sup>4</sup> Sanchez intends to supplement her Application with an affidavit from Dr. Oliveri that confirms the opinions in his March 15, 2019 report and life care plan regarding her need for future medical treatment and the associated costs for that treatment. This affidavit will also confirm his opinions regarding the usual and customary billing rates in his November 11, 2016; September 21, 2017; and April 6, 2018 reports.



1 Sanchez's retained economist, Stan V. Smith, Ph.D., authored a report in which he  
2 provides the present value of the costs for Sanchez's future medical treatment recommendations  
3 outlined in Dr. Oliveri's life care plan. The present value of Sanchez's future medical treatment  
4 is \$827,038.00. See 3/18/19 Smith report, at p. 7, attached as **Exhibit "9."**

5 **F. Economic Damages**

6 Sanchez's retained economist, Stan V. Smith, Ph.D., also concludes in his report that  
7 Sanchez sustained economic damages as a result of her injuries from the subject collision: (1)  
8 past and future loss of wages and employee benefits; (2) loss of past and future housekeeping  
9 and household management services; and (3) reduction in the value of life. See generally,  
10 **Exhibit "9."**<sup>5</sup>

11 **1. *Loss of past and future wages and employee benefits***

12 At the time of the subject collision, Sanchez worked as a taxi cab driver for Western Cab  
13 Company. See **Exhibit "9,"** at pp. 3-4. She generally worked twelve hours per day as a cab  
14 driver five or six days per week. Sanchez earned upwards of \$50,000.00 per year as a cab driver.  
15 *Id.* Before working as a cab driver, Sanchez worked for Kaiser Permanente hospital in  
16 California as a pharmacy technician. *Id.* Sanchez intended to forego working as a cab driver  
17 and resume her work as a pharmacy technician at a hospital in Las Vegas. *Id.*

18 Dr. Smith provides estimates for Sanchez's loss of wages and employee benefits under  
19 two distinct scenarios. *Id.* at p. 4. Under Scenario 1, Sanchez's wage loss begins at \$26,900.00  
20 in year 2017 dollars, which represents the average earnings of a taxi driver in Las Vegas. *Id.*  
21 Sanchez's wages are grown at an estimated wage growth rate of 3 percent in 2018, 2019, and  
22 2020. *Id.* Wages past 2020 are grown at a real rate of 1 percent. Under Scenario 1, the present  
23 value of Sanchez's total past and future loss of wages and employee benefits totals \$694,708.00,  
24 assuming she works to age 67. *Id.*; see also, Table 7U of Dr. Smith's report.

25 Under Scenario 2, Sanchez's wage loss begins at \$26,900 in year 2017 dollars. *Id.* at p.  
26 4. In 2020, Sanchez's wages grow to \$39,740.00 in 2017 dollars, which represents the 7th  
27 percentile for wages earned by pharmacy technicians in Las Vegas. *Id.* at p. 4. Dr. Smith  
28

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<sup>5</sup> Sanchez intends to supplement her Application with an affidavit from Dr. Smith that confirms the opinions in his March 18, 2019 report regarding her economic losses that she suffered as a result of the subject collision.

1 assumes that Sanchez would have worked as a pharmacy technician by 2020 had she not  
2 suffered her injuries from the subject collision. *Id.* Once again, wages are grown at an estimated  
3 wage growth rate of 3 percent in 2018, 2019, and 2020. *Id.* Wages past 2020 are grown at a real  
4 rate of 1 percent. Under Scenario 2, the present value of Sanchez's total past and future loss of  
5 wages and employee benefits totals \$985,812.00, assuming she works to age 67. *Id.*; *see also*,  
6 Table 14U of Dr. Smith's report.

### 7 **2. Loss of past and future household services**

8 Dr. Smith interviewed Sanchez regarding her inability to perform household chores. *See*  
9 **Exhibit "9,"** at p. 5. Based on that interview, Sanchez's loss of her ability to perform household  
10 services is 80 percent. *Id.* Dr. Smith utilizes an average hourly rate of \$14.99 for various  
11 workers who provide various household services to estimate Sanchez's loss. *Id.* Based on these  
12 assumptions and Sanchez's life expectancy of 83.5 years, Dr. Smith opines that her total loss of  
13 past and future household services is \$446,334.00. *Id.*; *see also* Table 17U of Dr. Smith's report.

### 14 **3. Reduction in the value of life**

15 Sanchez's reduction in the value of her life reflects how her injuries have impacted her  
16 ability to lead a normal life by performing daily living activities and career, social, and leisure  
17 activities. *See Exhibit "9,"* at p. 8. Based on his interview with Sanchez, Dr. Smith opines that  
18 Sanchez will suffer a 50 percent to 70 percent reduction in the value of her life. *Id.* Given  
19 Sanchez's life expectancy of 83.5 years, Dr. Smith opines that Sanchez's damages in the  
20 reduction of the value of her life is \$2,685,877.00. *Id.* at p. 9; *see also*, Tables 21U to 24U of Dr.  
21 Smith's report.

## 22 **II.**

### 23 **LEGAL ARGUMENT**

24 NRCP 55(b)(2) states, in pertinent part:

25 **(b) Judgment.** Judgment by default may be entered as follows:

26 ...

27  
28 **(2) By the Court.** In all other cases the party entitled to a judgment by  
default shall apply to the court therefor; but no judgment by default shall be  
entered against an infant or incompetent person unless represented in the action  
by a general guardian, guardian ad litem, conservator, or other such representative

1 who has appeared therein. If the party against whom judgment by default is  
2 sought has appeared in the action, the party (or, if appearing by representative, the  
3 party's representative) shall be served with written notice of the application for  
4 judgment at least 3 days prior to the hearing on such application. If, in order to  
5 enable the court to enter judgment or to carry it into effect, it is necessary to take  
6 an account or to determine the amount of damages or to establish the truth of any  
7 averment by evidence or to make an investigation of any other matter, the court  
8 may conduct such hearings or order such references as it deems necessary and  
9 proper and shall accord a right of trial by jury to the parties when and as required  
10 by any statute of the State.

11 On November 2, 2015, Bon was served with Sanchez's Summons and Complaint through  
12 the Nevada Department of Motor Vehicles because she was unable to personally serve him at his  
13 last known address. See Exhibit "4," at p. 2, Exhibit "5," at p. 2. Sanchez mailed proof of  
14 service through the Nevada Department of Motor Vehicles along with the Summons and  
15 Complaint, via certified mail, to Bon's last known address, which went unclaimed. See Exhibit  
16 "5," at p. 2. There is no evidence to suggest that Bon is an infant or otherwise incompetent. See  
17 Nev. R. Civ. P. 55(b)(2). As a result of Bon's failure to file his Answer to Plaintiff's Complaint  
18 within 20 days of service, this Court entered a default against him on April 1, 2016. See Exhibit  
19 "6." As a result of Bon's default stemming from his failure to answer Sanchez's Complaint,  
20 Sanchez is permitted to proceed with her application for judgment regarding the extent of her  
21 damages pursuant to NRCp 55(b)(2). *Id.*; see also *Foster v. Dingwall*, 126 Nev. 56, 65 (2010)  
(The Nevada Supreme Court has upheld entries of default where litigants are unresponsive).  
22 Therefore, Sanchez respectfully moves this Honorable Court for Entry of Default Judgment as  
23 Sanchez is entitled to recover the following amounts from Defendant Blas Bon:

- 24 1. Past medical damages in the amount of \$465,285.01;
- 25 2. Future medical damages in the amount of \$827,038.00;
- 26 3. Past and future lost wages and employee benefits in the amount of \$840,260.00;<sup>6</sup>
- 27 4. Past and future lost household services in the amount of \$446,334.00;
- 28 5. Future reduction in the value of life damages in the amount of \$2,685,877.00
6. Past pain and suffering damages in the amount of \$2,000,000.00;

<sup>6</sup> This figure represents the average value of the two figures that Dr. Smith provides for Sanchez's loss of past and future wages and employee benefits under two distinct scenarios.

- 1 7. Future pain and suffering damages in the amount of \$3,000,000.00; and
- 2 8. Prejudgment interest accruing at the statutory rate from August 7, 2015, the date of the
- 3 filing of the Complaint, until the full judgment amount is paid to Sanchez; and
- 4 9. Attorney's fees based on a contingency fee agreement pursuant to *O'Connell v. Wynn*
- 5 *Las Vegas, LLC*, 134 Nev. \_\_\_, 429 P.3d 664 (Nev. Ct. App. 2018) and costs incurred herein.

6 **III.**

7 **CONCLUSION**

8 Based on the foregoing, Plaintiff DIANE SANCHEZ respectfully requests that this

9 Honorable Court enter Default Judgment against Defendant BLAS BON, jointly and severally,

10 in the amount of **\$10,264,794.01**, plus attorney's fees based on a contingency fee agreement

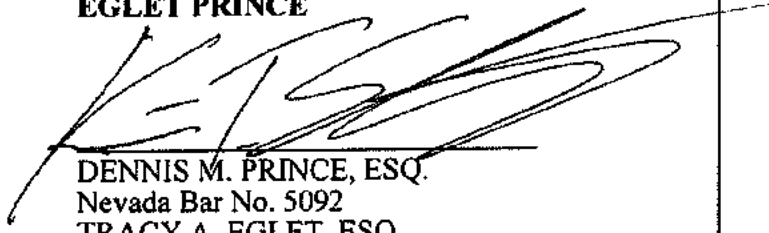
11 pursuant to *O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. \_\_\_, 429 P.3d 664 (Nev. Ct. App.

12 2018), costs, and interest incurred herein.

13 Dated this 21 day of March, 2019.

14 Respectfully submitted,

15 **EGLET PRINCE**

16 

17 DENNIS M. PRINCE, ESQ.  
Nevada Bar No. 5092

18 TRACY A. EGLET, ESQ.  
Nevada Bar No. 6419

19 KEVIN T. STRONG, ESQ.  
Nevada Bar No. 12107

20 400 South 7th Street, 4th Floor  
Las Vegas, Nevada 89101

21 Attorneys for Plaintiff  
Diane Sanchez

22

23

24

25

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27

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**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET PRINCE, and that on the 29th day of March, 2019, I caused the foregoing document entitled **PLAINTIFF DIANE SANCHEZ'S APPLICATION FOR ENTRY OF DEFAULT JUDGMENT** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules and by U.S. Postal Service, postage prepaid, to Defendant Blas Bon's last known address as stated below:

Blas Bon  
3900 Cambridge Street, Suite 106,  
Las Vegas, Nevada 89119  
*Defendant*



\_\_\_\_\_  
An employee of Eglet Prince

# **EXHIBIT 1**

# **EXHIBIT 1**

Event Number:		<b>STATE OF NEVADA TRAFFIC ACCIDENT REPORT SCENE INFORMATION SHEET</b> <small>Revised 1/14/84</small>				Accident Number: NHP150402417 REDACTED COPY			
Code Revision: 01/01/2011						<input type="checkbox"/> 1) Property <input checked="" type="checkbox"/> 2) Injury <input type="checkbox"/> 3) Fatal			
<input checked="" type="checkbox"/> 1) Urban <input type="checkbox"/> 1) Emergency Use <input type="checkbox"/> 1) Preliminary Report <input type="checkbox"/> 3) Resubmission <input type="checkbox"/> 1) Hit and Run <input type="checkbox"/> 2) Rural <input type="checkbox"/> 2) Office Report <input checked="" type="checkbox"/> 2) Initial Report <input type="checkbox"/> 4) Supplement Report <input type="checkbox"/> 2) Private Property		Agency Name: NEVADA HIGHWAY PATROL							
Collision Date: 4 / 28 / 2015		Time: 1200		Day: TUE		Beat / Sector: HLC30 <input checked="" type="checkbox"/> 1) County <input type="checkbox"/> 2) City			
Mile Marker: 40		# Vehicles: 4		# Non Motorists: 0		# Occupants: 6			
		# Fatalities: 0		# Injured: 1		# Restrained: 6			
Occurred On: (Highway # or Street Name) <input type="checkbox"/> 1) Parking Lot IR15									
<input type="checkbox"/> 1) At Intersection With: <input checked="" type="checkbox"/> 2) Or 324 <input checked="" type="checkbox"/> 3) Foot <input type="checkbox"/> 4) Miles <input checked="" type="checkbox"/> 5) Approximate NORTH    Of (Cross Street) SAHARA N/B ON RAMP									
<b>Roadway Character</b> <input type="checkbox"/> 1) Curve & Grade <input type="checkbox"/> 2) Curve & Hillcrest <input type="checkbox"/> 3) Curve & Level <input type="checkbox"/> 4) Straight & Grade <input type="checkbox"/> 5) Straight & Hillcrest <input checked="" type="checkbox"/> 6) Straight & Level <input type="checkbox"/> 7) Unknown <input type="checkbox"/> 8) Other		<b>Roadway Conditions</b> <input checked="" type="checkbox"/> 1) Dry <input type="checkbox"/> 7) Slush <input type="checkbox"/> 2) Ice <input type="checkbox"/> 8) Standing Water <input type="checkbox"/> 3) Wet <input type="checkbox"/> 9) Moving Water <input type="checkbox"/> 4) Snow <input type="checkbox"/> 10) Unknown <input type="checkbox"/> 5) Sand / Mud / Oil / Dirt / Gravel <input type="checkbox"/> 6) Other		<b>Total Thru Lanes</b> Main Road: <input type="checkbox"/> 1) One <input type="checkbox"/> 2) Two <input type="checkbox"/> 3) Three <input type="checkbox"/> 4) Four <input checked="" type="checkbox"/> 5) Five <input type="checkbox"/> 6) > 5 Total All Lanes: 5		<b>Average Roadway Widths</b> Travel Lane: 12 Ft Storage / Turn Lane: 0 Ft Median: 4 Ft <b>Paved Shoulder</b> Inside: 3    Outside: 7		<b>Roadway Grade</b> <input checked="" type="checkbox"/> 1) Not Determined <input type="checkbox"/> 2) Boldly Level Roadway <input type="checkbox"/> 3) Up Slope (+) <input type="checkbox"/> 4) Down Slope (-) Relative To: Grade %	
<b>Pavement Markings and Type</b> 1) Centerline, Broken Yellow    6) No Paving, Either Direction <input type="checkbox"/> 12) None 2) Centerline, Solid Yellow    7) Turn Arrow Symbols <input type="checkbox"/> 13) Unknown 3) Centerline, Double Yellow    8) Center Turn Lane Line 4) Lane Line, Broken White    9) Edge Line, Left, Yellow 5) Lane Line, Solid White    10) Edge Line, Right, White <input type="checkbox"/> 11) Other				<b>Highway Description</b> <input type="checkbox"/> 1) Two-Way, Not Divided <input type="checkbox"/> 2) Two-Way, Divided, Unpro, Median <input checked="" type="checkbox"/> 3) Two-Way, Divided, Median Barrier <input type="checkbox"/> 4) One-Way, Not Divided <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 6) Off Road		<b>Weather Conditions</b> <input checked="" type="checkbox"/> 1) Clear <input type="checkbox"/> 7) Fog, Smog, Smoke, Ash <input type="checkbox"/> 2) Cloudy <input type="checkbox"/> 8) Severe Crosswinds <input type="checkbox"/> 3) Snow <input type="checkbox"/> 9) Sleet / Hail <input type="checkbox"/> 4) Rain <input type="checkbox"/> 10) Unknown <input type="checkbox"/> 5) Blowing Sand, Dirt, Soil, Snow <input type="checkbox"/> 6) Other			
<b>Light Conditions</b> <input type="checkbox"/> 1) Dark <input type="checkbox"/> 6) Dark - No Roadway Lighting <input type="checkbox"/> 2) Dawn <input type="checkbox"/> 7) Dark - Spot Roadway Lighting <input checked="" type="checkbox"/> 3) Daylight <input type="checkbox"/> 8) Dark - Continuous Roadway Lighting <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 9) Dark - Unknown Roadway Lighting <input type="checkbox"/> 5) Other		<b>Vehicle Collision Type</b> <input type="checkbox"/> 1) Head On <input type="checkbox"/> 5) Rear to Rear <input checked="" type="checkbox"/> 2) Rear End <input type="checkbox"/> 6) Sideswipe - Meeting <input type="checkbox"/> 3) Backing <input type="checkbox"/> 7) Sideswipe - Overtaking <input type="checkbox"/> 4) Angle <input type="checkbox"/> 8) Non - Collision <input type="checkbox"/> 9) Unknown		<b>Location of First Event</b> <input checked="" type="checkbox"/> 1) Travel Lane 5 <input type="checkbox"/> 6) Outside Shoulder <input type="checkbox"/> 11) Ramp <input type="checkbox"/> 2) Turn Lane <input type="checkbox"/> 7) Intersection <input type="checkbox"/> 12) Unknown <input type="checkbox"/> 3) Goro <input type="checkbox"/> 8) Private Property <input type="checkbox"/> 4) Median <input type="checkbox"/> 9) Roadside <input type="checkbox"/> 5) Inside Shoulder <input type="checkbox"/> 10) Other					
<b>Highway / Environment Factors</b> <input checked="" type="checkbox"/> 1) None <input type="checkbox"/> 7) Shoulders <input type="checkbox"/> 11) Ruts, Holes, Bumps <input type="checkbox"/> 2) Weather <input type="checkbox"/> 8) Road Obstruction <input type="checkbox"/> 12) Active Work Zone <input type="checkbox"/> 3) Debris <input type="checkbox"/> 9) Worn Traffic Surface <input type="checkbox"/> 13) Inactive Work Zone <input type="checkbox"/> 4) Glare <input type="checkbox"/> 10) Wet Ice, Snow, Slush <input type="checkbox"/> 14) Animal in Roadway <input type="checkbox"/> 5) Other Highway <input type="checkbox"/> 15) Unknown <input type="checkbox"/> 6) Other Environmental				<b>Property Damage To Other Than Vehicle</b> Describe Property Damage: Owner's Name: _____ <input type="checkbox"/> 1) Owner Notified Owner's Address: (Street Address City, State Zip) NV					
<b>First Harmful Event</b>									
Code #: 217		Description: SLOW/STOPPED VEHICLE							
<b>Description of Accident / Narrative</b>									
V1, V2, V3 AND V4 WERE TRAVELING N/B ON IR15 IN THE NUMBER 5 TRAVEL LANE. V1 WAS DIRECTLY BEHIND V2. V2 WAS DIRECTLY BEHIND V4. V3 WAS DIRECTLY BEHIND V1. V2 AND V4 SLOWED DOWN FOR TRAFFIC AHEAD. D1 TO AVOID STRIKING V2, VEERED HARD LEFT WHILE STRIKING THE LEFT REAR OF V2 WITH V1'S RIGHT FRONT. V1 CONTINUED LEFT COMING TO REST IN THE NUMBER 4 TRAVEL LANE. V3									
<input checked="" type="checkbox"/> 1) Continued On Back of Scene Information Sheet									
Investigation Complete <input checked="" type="checkbox"/> 1) Yes <input type="checkbox"/> 2) No		Photos Taken <input checked="" type="checkbox"/> 1) Yes <input type="checkbox"/> 2) No		Scene Diagram <input type="checkbox"/> 1) Yes <input checked="" type="checkbox"/> 2) No		Statements <input checked="" type="checkbox"/> 1) Yes <input type="checkbox"/> 2) No # 4			
Date Notified: 4 / 28 / 2015		Time Notified: 1209		Arrival Date: 4 / 28 / 2015		Arrival Time: 1212			
Investigator(s): Diaz		ID Number: H6143		Date: 4 / 28 / 2015		Reviewed By: Kevin Kelley			
Date Reviewed: 4 / 29 / 2015		Page: 1 of 10							

Scene Information

NBIS 000520

Event Number:

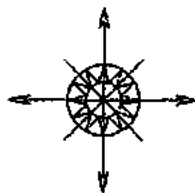
**STATE OF NEVADA**  
**TRAFFIC ACCIDENT REPORT**  
SCENE INFORMATION SHEET  
Revised 1/14/04

Accident Number:  
NHP150402417

Agency Name:  
NEVADA HIGHWAY PATROL

**Description of Accident / Narrative Continuation**

FOLLOWING TOO CLOSELY, ALSO STRUCK THE REAR OF V2 WITH V3'S FRONT. THIS CAUSED V2 TO MOVE FORWARD STRIKING THE REAR OF V4 WITH V2'S FRONT. ALL VEHICLES WERE MOVED PRIOR TO THIS TROOPERS ARRIVAL.



Indicate North

A.I.C.: \_\_\_\_\_

Page  
2 of 10

**Scene Information**

NBIS 000521



Event Number:		<b>STATE OF NEVADA TRAFFIC ACCIDENT REPORT VEHICLE INFORMATION SHEET</b> <small>Revised 1/14/04</small>				Accident Number: NHP150402417																									
Vehicle # V1	# Occupants 3	<input checked="" type="checkbox"/> 1) At Fault <input type="checkbox"/> 2) Non Contact Vehicle		Agency Name: NEVADA HIGHWAY PATROL																											
Direction of Travel: <input checked="" type="checkbox"/> 1) North <input type="checkbox"/> 3) East <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 2) South <input type="checkbox"/> 4) West		Highway / Street Name: IR15				Travel Lane #: 5																									
Vehicle <input checked="" type="checkbox"/> 1) Straight <input type="checkbox"/> 3) Left Turn <input type="checkbox"/> 5) U-Turn <input type="checkbox"/> 7) Wrong Way <input type="checkbox"/> 9) Passing <input type="checkbox"/> 11) Leaving Parked <input type="checkbox"/> 13) Leaving Lane <input type="checkbox"/> 15) Enter Parked (B) <input type="checkbox"/> 17) Lane Change <input type="checkbox"/> 19) Unknown Action: <input type="checkbox"/> 2) Backing <input type="checkbox"/> 4) Right Turn <input type="checkbox"/> 6) Parked <input type="checkbox"/> 8) Stopped (C) <input type="checkbox"/> 10) Backing <input type="checkbox"/> 12) Entering Lane <input type="checkbox"/> 14) Other Turning <input type="checkbox"/> 16) Driverless Vehicle <input type="checkbox"/> 18) Other																															
Driver: (Last Name, First Name, Middle Name - Suffix) BON, BLAS T				Transported By: <input checked="" type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other																											
Street Address: 3900 CAMBRIDGE ST STE 106				Transported To:																											
City: LAS VEGAS		State / Country <input checked="" type="checkbox"/> 1) NV		Zip Code: 89119		Person Type: 1	Seating Position: 1																								
<input checked="" type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB: 2 / 3 / 1983		Phone Number: 7027083017		Injury Severity: 0 Injury Location:																									
DLN:		State: <input checked="" type="checkbox"/> 1) NV NV		Class: <input type="checkbox"/> 1) EPL <input checked="" type="checkbox"/> 2) DL		License Status: 6																									
Compliance: <input type="checkbox"/> 1) Restrict <input type="checkbox"/> 2) Endorse		Endorsements:		Restrictions:		Airbags: 2 Airbag Switch:																									
Alcohol/Drug Involvement <input checked="" type="checkbox"/> 1) Not Involved <input type="checkbox"/> 2) Suspected Impairment <input type="checkbox"/> 3) Alcohol <input type="checkbox"/> 4) Drugs <input type="checkbox"/> 5) Unknown		Method of Determination (check up to 2) <input type="checkbox"/> 1) Field Sobriety Test <input type="checkbox"/> 4) Urine Test <input type="checkbox"/> 2) Evidentiary Breath <input type="checkbox"/> 5) Blood Test <input type="checkbox"/> 3) Driver Admission <input type="checkbox"/> 6) Preliminary Breath Test		Test Results:		Driver Factors <input checked="" type="checkbox"/> 1) Apparently Normal <input type="checkbox"/> 6) Driver Ill / Injured <input type="checkbox"/> 2) Had Been Drinking <input type="checkbox"/> 7) Other Improper Driving <input type="checkbox"/> 3) Drug Involvement <input type="checkbox"/> 8) Driver Inattention / Distracted <input type="checkbox"/> 4) Apparently Fatigued / Asleep <input type="checkbox"/> 9) Physical Impairment <input type="checkbox"/> 5) Obstructed View <input type="checkbox"/> 10) Unknown																									
Vehicle Year: 1997	Vehicle Make: DODGE	Vehicle Model: RAM 2500	Vehicle Type: SEDAN 4-DOOR																												
Plate / Permit No.: 257LVB	State: <input checked="" type="checkbox"/> 1) NV NV	Expiration Date: 5 / 14 / 2015	Vehicle Color: GRY																												
Vehicle Identification Number: 3B7KC2325VM536338																															
Registered Owner Name: <input type="checkbox"/> 1) Same As Driver CRUZ, HIPOLITO FELIPE																															
Registered Owner Address: 4000 ABRAMS AVE, LAS VEGAS, NV 89110																															
Insurance Company Name: <input checked="" type="checkbox"/> 1) Insured JACINTO INS																															
Policy Number: ANVD0003087		Effective: 12 / 16 / 2014	To: 6 / 16 / 2015																												
Insurance Company Address or Phone Number: 702-450-2222																															
<input type="checkbox"/> 1) Vehicle Towed		Towed By: RETAINED BY DRIVER																													
Removed To:																															
<b>Traffic Control</b> F <input type="checkbox"/> 1) Speed Zone <input type="checkbox"/> 11) Stop Sign <input type="checkbox"/> 2) Signal Light <input type="checkbox"/> 12) Yield Sign <input type="checkbox"/> 3) Flashing Light <input type="checkbox"/> 13) L. R. Sign <input type="checkbox"/> 4) School Zone <input type="checkbox"/> 14) R. R. Gate <input type="checkbox"/> 5) Ped. Signal <input type="checkbox"/> 15) R. R. Signal (B) <input type="checkbox"/> 6) No Passing <input type="checkbox"/> 16) Marked Lanes <input type="checkbox"/> 7) No Controls <input type="checkbox"/> 17) Tire Chains/Snow Req. <input type="checkbox"/> 8) Warning Sign <input type="checkbox"/> 18) Permissive Green <input type="checkbox"/> 9) Turn Signal <input type="checkbox"/> 19) Unknown <input type="checkbox"/> 10) Other		<b>Distance Traveled After Impact</b> MOVED		<b>Speed Estimate</b> From 40 To 45 Lmph		<b>Extent Of Damage</b> <input type="checkbox"/> 1) Minor <input type="checkbox"/> 4) Total <input checked="" type="checkbox"/> 2) Moderate <input type="checkbox"/> 5) None <input type="checkbox"/> 3) Major <input type="checkbox"/> 6) Unknown																									
<b>Sequence Of Events</b> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Code #</th> <th>Description</th> <th>Collision With Fixed Object</th> <th>Most Harmful Event</th> </tr> </thead> <tbody> <tr> <td>1st 214</td> <td>MOTOR VEHICLE IN TRANSPORT</td> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>2nd</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>3rd</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>4th</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>5th</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>								Code #	Description	Collision With Fixed Object	Most Harmful Event	1st 214	MOTOR VEHICLE IN TRANSPORT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2nd		<input type="checkbox"/>	<input type="checkbox"/>	3rd		<input type="checkbox"/>	<input type="checkbox"/>	4th		<input type="checkbox"/>	<input type="checkbox"/>	5th		<input type="checkbox"/>	<input type="checkbox"/>
Code #	Description	Collision With Fixed Object	Most Harmful Event																												
1st 214	MOTOR VEHICLE IN TRANSPORT	<input type="checkbox"/>	<input checked="" type="checkbox"/>																												
2nd		<input type="checkbox"/>	<input type="checkbox"/>																												
3rd		<input type="checkbox"/>	<input type="checkbox"/>																												
4th		<input type="checkbox"/>	<input type="checkbox"/>																												
5th		<input type="checkbox"/>	<input type="checkbox"/>																												
<input checked="" type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC / MC <input type="checkbox"/> 4) Pending (1) 484B.127		Violation FOLLOWING TOO CLOSELY		NOC 53794		Citation Number X01313227																									
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC / MC (2)		Violation		NOC		Citation Number																									
Investigator(s) Diaz		ID Number H6143	Date 4 / 28 / 2015	Reviewed By Kevin Kelley	Date Reviewed 4 / 29 / 2015	Page 3 of 10																									

**Vehicle Information**

NBIS 000522

Event Number:		<b>STATE OF NEVADA</b> <b>TRAFFIC ACCIDENT REPORT</b> VEHICLE INFORMATION SHEET <small>Revised 1/12/04</small>			Accident Number: NHP150402417  Agency Name: NEVADA HIGHWAY PATROL	
Name: (Last Name, First Name, Middle Name, Suffix) MONTERROSAS-MONTERROSAS, ANTONIO FLORENCIO					Transported By: <input checked="" type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other	
Street Address: 3317 WINNING AVE					Transported To:	
City: NORTH LAS VEGAS		State / Country: <input checked="" type="checkbox"/> 1) NV		Zip Code: 89030		
Person 2 Type: 2		Seating Position: 3		Occupant Restraints: 7		
<input checked="" type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB: 4 / 28 / 1989		Phone Number: 7025951718		
Injury Severity: 0		Injury Location:				
Airbags: 2		Airbag Switch: 1		Ejected: 0		
Trapped: 0						
Name: (Last Name, First Name, Middle Name, Suffix) MENESES-GOMEZ, ALEJANDRO					Transported By: <input checked="" type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other	
Street Address: 4000 ABRAMS APT# 34					Transported To:	
City: NORTH LAS VEGAS		State / Country: <input checked="" type="checkbox"/> 1) NV		Zip Code: 89030		
Person 2 Type: 2		Seating Position: 5		Occupant Restraints: 7		
<input checked="" type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB: 4 / 12 / 1962		Phone Number: 7024901320		
Injury Severity: 0		Injury Location:				
Airbags: 2		Airbag Switch: 1		Ejected: 0		
Trapped: 0						
Name: (Last Name, First Name, Middle Name, Suffix)					Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other	
Street Address:					Transported To:	
City:		State / Country: <input type="checkbox"/> 1) NV		Zip Code:		
Person Type:		Seating Position:		Occupant Restraints:		
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB:		Phone Number:		
Injury Severity:		Injury Location:				
Airbags:		Airbag Switch:		Ejected:		
Trapped:						
<input type="checkbox"/> 1) Trailing Unit 1 VIN:					Plate: State: <input type="checkbox"/> 1) NV Type:	
<input type="checkbox"/> 1) Trailing Unit 2 VIN:					Plate: State: <input type="checkbox"/> 1) NV Type:	
<input type="checkbox"/> 1) Trailing Unit 3 VIN:					Plate: State: <input type="checkbox"/> 1) NV Type:	
<b>Commercial Vehicle Configuration</b>						
<input type="checkbox"/> 1) Commercial Vehicle <input type="checkbox"/> 2) School Bus						
<input type="checkbox"/> 1) Bus, 9 - 15 Occupants <input type="checkbox"/> 2) Bus, > 15 Occupants <input type="checkbox"/> 3) Single 2 Axle and 6 Tire <input type="checkbox"/> 4) Single > 3 Axle <input type="checkbox"/> 5) Any 4 Tire Vehicle				<input type="checkbox"/> 6) Tractor Only <input type="checkbox"/> 7) Tractor / Trailer <input type="checkbox"/> 8) Tractor / Doubles <input type="checkbox"/> 9) Tractor / Triples <input type="checkbox"/> 10) Truck with Trailer		
<input type="checkbox"/> 11) Tractor / Semi Trailer <input type="checkbox"/> 12) Passenger Vehicle, (Haz-Mat) <input type="checkbox"/> 13) Light Truck, (Haz-Mat) <input type="checkbox"/> 14) Other Heavy Vehicle				<b>Source</b> <input type="checkbox"/> 1) Driver <input type="checkbox"/> 2) Log Book <input type="checkbox"/> 3) Shipping Papers / Trip Manifest		
<input type="checkbox"/> 4) State Reg. <input type="checkbox"/> 5) Side of Vehicle <input type="checkbox"/> 6) Other						
Carrier Name:					<b>Power Unit GVWR</b> <input type="checkbox"/> 1) ≤ 10,000 Lbs <input type="checkbox"/> 2) 10,000 - 26,000 Lbs <input type="checkbox"/> 3) ≥ 26,000 Lbs	
Carrier Street Address:					City: State: <input type="checkbox"/> 1) NV Zip:	
<b>Cargo Body Type</b> <input type="checkbox"/> 1) Pole <input type="checkbox"/> 6) Van / Box <input type="checkbox"/> 11) Grain, Gravel Chpts <input type="checkbox"/> 2) Tank <input type="checkbox"/> 7) Concrete Mixer <input type="checkbox"/> 12) Bus, 9 - 15 Occupants <input type="checkbox"/> 3) Flatbed <input type="checkbox"/> 8) Auto Carrier <input type="checkbox"/> 13) Bus, > 15 Occupants <input type="checkbox"/> 4) Dump <input type="checkbox"/> 9) Garbage/Refuse <input type="checkbox"/> 14) Other <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 10) Not Applicable				Haz-Mat ID #:		
Type of Carrier <input type="checkbox"/> 1) Single State <input type="checkbox"/> 2) USDOT <input type="checkbox"/> 3) Canada <input type="checkbox"/> 4) Mexico <input type="checkbox"/> 5) None				Haz-Mat Classification #:		
NAS Safety Report #:				Carrier Number:		
Page 4 of 10						

Vehicle Information

NBIS 000523

Event Number:		<b>STATE OF NEVADA TRAFFIC ACCIDENT REPORT VEHICLE INFORMATION SHEET</b> <small>Revised 1/14/04</small>		Accident Number: NHP150402417																									
Vehicle # V2	# Occupants 1	<input type="checkbox"/> 1) At Fault <input type="checkbox"/> 2) Non Contact Vehicle		Agency Name: NEVADA HIGHWAY PATROL																									
Direction of Travel: <input checked="" type="checkbox"/> 1) North <input type="checkbox"/> 3) East <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 2) South <input type="checkbox"/> 4) West		Highway / Street Name: IR15			Travel Lane #: 5																								
Vehicle: <input type="checkbox"/> 1) Straight <input type="checkbox"/> 3) Left Turn <input type="checkbox"/> 5) U-Turn <input type="checkbox"/> 7) Wrong Way <input type="checkbox"/> 9) Passing <input type="checkbox"/> 11) Leaving Parked <input type="checkbox"/> 13) Leaving Lane <input type="checkbox"/> 15) Enter Parked (B) <input type="checkbox"/> 17) Lane Change <input type="checkbox"/> 19) Unknown Action: <input type="checkbox"/> 2) Backing <input type="checkbox"/> 4) Right Turn <input type="checkbox"/> 6) Parked <input checked="" type="checkbox"/> 8) Stopped (A) <input type="checkbox"/> 10) Backing <input type="checkbox"/> 12) Entering Lane <input type="checkbox"/> 14) Other Turning <input type="checkbox"/> 16) Driverless Vehicle <input type="checkbox"/> 18) Other																													
Driver: (Last Name, First Name, Middle Name Suffix) SANCHEZ-LAZO, DIANE MARIA			Transported By: <input checked="" type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other																										
Street Address: 2551 STURROCK DR			Transported To:																										
City: HENDERSON		State / Country: <input checked="" type="checkbox"/> 1) NV	Zip Code: 89044	Person Type: 1	Seating Position: 1																								
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input checked="" type="checkbox"/> 2) Female		DOB: 4 / 11 / 1968	Phone Number: 7024608036	Injury Severity: C	Injury Location: 1 3																								
OLN:		State: <input checked="" type="checkbox"/> 1) NV	Class: <input type="checkbox"/> 1) DL <input checked="" type="checkbox"/> 2) BL	License Status: 0	Airbags: 2 Airbag Switch: Ejected: 0 Trapped: 0																								
Compliance: <input checked="" type="checkbox"/> 1) Restrict <input type="checkbox"/> 2) Endorse		Endorsements:		Restrictions: 1																									
Alcohol/Drug Involvement: <input checked="" type="checkbox"/> 1) Not Involved <input type="checkbox"/> 2) Suspected Impairment <input type="checkbox"/> 3) Alcohol <input type="checkbox"/> 4) Drugs <input type="checkbox"/> 5) Unknown		Method of Determination (check up to 2): <input type="checkbox"/> 1) Field Sobriety Test <input type="checkbox"/> 4) Urine Test <input type="checkbox"/> 2) Evidentiary Breath <input type="checkbox"/> 5) Blood Test <input type="checkbox"/> 3) Driver Admission <input type="checkbox"/> 6) Preliminary Breath Test		Test Results:																									
<b>Driver Factors</b> <input checked="" type="checkbox"/> 1) Apparently Normal <input type="checkbox"/> 5) Driver Ill / Injured <input type="checkbox"/> 2) Had Been Drinking <input type="checkbox"/> 7) Other Improper Driving <input type="checkbox"/> 3) Drug Involvement <input type="checkbox"/> 8) Driver Inattention / Distracted <input type="checkbox"/> 4) Apparently Fatigued / Asleep <input type="checkbox"/> 9) Physical Impairment <input type="checkbox"/> 5) Obstructed View <input type="checkbox"/> 10) Unknown																													
Vehicle Year: 1995		Vehicle Make: BMW	Vehicle Model: 325i	Vehicle Type: SEDAN 4-DOOR																									
Plate / Permit No.: UNR08502		State: <input checked="" type="checkbox"/> 1) NV	Expiration Date: 5 / 10 / 2015	Vehicle Color: WHI																									
Vehicle Identification Number: WBACB4329SFM21272																													
Registered Owner Name: <input checked="" type="checkbox"/> 1) Same As Driver SANCHEZ-LAZO, DIANE MARIA																													
Registered Owner Address: 2551 STURROCK DR. HENDERSON, NV 89044																													
Insurance Company Name: <input checked="" type="checkbox"/> 1) Insured MENDAKOTA INSURANCE CO.																													
Policy Number: PA1992072		Effective: 12 / 20 / 2014	To: 6 / 20 / 2015																										
Insurance Company Address or Phone Number: 1-800-422-0792																													
<input type="checkbox"/> 1) Vehicle Towed		Towed By: FAST TOW (AAA)																											
Removed To: TOW YARD																													
<b>Traffic Control</b> F <input type="checkbox"/> 1) Speed Zone <input type="checkbox"/> 11) Stop Sign <input type="checkbox"/> 2) Signal Light <input type="checkbox"/> 12) Yield Sign <input type="checkbox"/> 3) Flashing Light <input type="checkbox"/> 13) G. R. Sign <input type="checkbox"/> 4) School Zone <input type="checkbox"/> 14) R. R. Gate <input type="checkbox"/> 5) Red Signal <input type="checkbox"/> 15) R. R. Signal (B) <input type="checkbox"/> 6) No Passing <input type="checkbox"/> 16) Marked Lanes <input type="checkbox"/> 7) No Controls <input type="checkbox"/> 17) Tire Chains/Snow Req. <input type="checkbox"/> 8) Warning Sign <input type="checkbox"/> 18) Permissive Green <input type="checkbox"/> 9) Turn Signal <input type="checkbox"/> 19) Unknown <input type="checkbox"/> 10) Other		Distance Traveled After Impact: 5 FEET		Speed Estimate: From: 0 To: 0 Limit: 65																									
				Extent Of Damage: <input type="checkbox"/> 1) Minor <input type="checkbox"/> 4) Total <input checked="" type="checkbox"/> 2) Moderate <input type="checkbox"/> 5) None <input type="checkbox"/> 3) Major <input type="checkbox"/> 6) Unknown																									
<b>Sequence Of Events</b> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Code #</th> <th>Description</th> <th>Collision With Fixed Object</th> <th>Most Harmful Event</th> </tr> </thead> <tbody> <tr> <td>1st 214</td> <td>MOTOR VEHICLE IN TRANSPORT</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>2nd 217</td> <td>SLOW/STOPPED VEHICLE</td> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>3rd</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>4th</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>5th</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>						Code #	Description	Collision With Fixed Object	Most Harmful Event	1st 214	MOTOR VEHICLE IN TRANSPORT	<input type="checkbox"/>	<input type="checkbox"/>	2nd 217	SLOW/STOPPED VEHICLE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3rd		<input type="checkbox"/>	<input type="checkbox"/>	4th		<input type="checkbox"/>	<input type="checkbox"/>	5th		<input type="checkbox"/>	<input type="checkbox"/>
Code #	Description	Collision With Fixed Object	Most Harmful Event																										
1st 214	MOTOR VEHICLE IN TRANSPORT	<input type="checkbox"/>	<input type="checkbox"/>																										
2nd 217	SLOW/STOPPED VEHICLE	<input type="checkbox"/>	<input checked="" type="checkbox"/>																										
3rd		<input type="checkbox"/>	<input type="checkbox"/>																										
4th		<input type="checkbox"/>	<input type="checkbox"/>																										
5th		<input type="checkbox"/>	<input type="checkbox"/>																										
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC / MC <input type="checkbox"/> 4) Pending (1)		Violation		NOC	Citation Number																								
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC / MC (2)		Violation		NOC	Citation Number																								
Investigator(s): Diaz		ID Number: H6143	Date: 4 / 28 / 2015	Reviewed By: Kevin Kelley	Date Reviewed: 4 / 29 / 2015																								
					Page 5 of 10																								

Vehicle Information

NBIS 000524

Event Number:		<b>STATE OF NEVADA</b> <b>TRAFFIC ACCIDENT REPORT</b> VEHICLE INFORMATION SHEET <small>Revised 1/14/04</small>		Accident Number: NHP150402417 Agency Name: NEVADA HIGHWAY PATROL	
Name: (Last Name, First Name, Middle Name, Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other	
Street Address:				Transported To:	
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB: / /		Phone Number:	
Person Type:		Seating Position:		Occupant Restraints:	
Injury Severity:		Injury Location:			
Airbag:		Airbag Switch:		Ejected:	
Trapped:					
Name: (Last Name, First Name, Middle Name, Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other	
Street Address:				Transported To:	
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB: / /		Phone Number:	
Person Type:		Seating Position:		Occupant Restraints:	
Injury Severity:		Injury Location:			
Airbags:		Airbag Switch:		Ejected:	
Trapped:					
Name: (Last Name, First Name, Middle Name, Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other	
Street Address:				Transported To:	
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female		DOB: / /		Phone Number:	
Person Type:		Seating Position:		Occupant Restraints:	
Injury Severity:		Injury Location:			
Airbags:		Airbag Switch:		Ejected:	
Trapped:					
<input type="checkbox"/> 1) Trailing Unit 1 VIN:				Plate: State: <input type="checkbox"/> 1) NV Type:	
<input type="checkbox"/> 1) Trailing Unit 2 VIN:				Plate: State: <input type="checkbox"/> 1) NV Type:	
<input type="checkbox"/> 1) Trailing Unit 3 VIN:				Plate: State: <input type="checkbox"/> 1) NV Type:	
<b>Commercial Vehicle Configuration</b>					
<input type="checkbox"/> 1) Commercial Vehicle <input type="checkbox"/> 2) School Bus					
<input type="checkbox"/> 1) Bus, 9 - 15 Occupants <input type="checkbox"/> 2) Bus, > 15 Occupants <input type="checkbox"/> 3) Single 2 Axle and 6 Tire <input type="checkbox"/> 4) Single > 3 Axle <input type="checkbox"/> 5) Any 4 Tire Vehicle			<input type="checkbox"/> 6) Tractor Only <input type="checkbox"/> 7) Tractor / Trailer <input type="checkbox"/> 8) Tractor / Doubles <input type="checkbox"/> 9) Tractor / Triples <input type="checkbox"/> 10) Tractor with Trailer		
<input type="checkbox"/> 11) Tractor / Semi Trailer <input type="checkbox"/> 12) Passenger Vehicle, (Haz-Mat) <input type="checkbox"/> 13) Light Truck, (Haz-Mat) <input type="checkbox"/> 14) Other Heavy Vehicle			<b>Source</b> <input type="checkbox"/> 1) Driver <input type="checkbox"/> 2) Log Book <input type="checkbox"/> 3) Shipping Papers / Trip Manifest <input type="checkbox"/> 4) State Reg. <input type="checkbox"/> 5) Side of Vehicle <input type="checkbox"/> 6) Other		
Carrier Name:			<b>Power Unit GVWR</b> <input type="checkbox"/> 1) ≤ 10,000 Lbs <input type="checkbox"/> 2) 10,000 - 25,000 Lbs <input type="checkbox"/> 3) ≥ 25,000 Lbs		
Carrier Street Address:			<input type="checkbox"/> 1) Haz-Mat <input type="checkbox"/> 2) Released		
City:			State: <input type="checkbox"/> 1) NV Zip:		
<b>Cargo Body Type</b> <input type="checkbox"/> 1) Bulk <input type="checkbox"/> 5) Van / Box <input type="checkbox"/> 11) Grain, Gravel Chpts <input type="checkbox"/> 2) Tank <input type="checkbox"/> 7) Concrete Mixer <input type="checkbox"/> 12) Bus, 9 - 15 Occupants <input type="checkbox"/> 3) Flatbed <input type="checkbox"/> 8) Auto Carrier <input type="checkbox"/> 13) Bus, > 15 Occupants <input type="checkbox"/> 4) Dump <input type="checkbox"/> 9) Garbage/Refuse <input type="checkbox"/> 14) Other <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 10) Not Applicable			Haz-Mat ID #: Hazard Classification #:		
Type of Carrier <input type="checkbox"/> 1) Single State <input type="checkbox"/> 2) USDOT <input type="checkbox"/> 3) Canada <input type="checkbox"/> 4) Mexico <input type="checkbox"/> 5) None			<b>NAS Safety Report #:</b> Carrier Number:		
			Page 6 of 10		

**Vehicle Information**

NBIS 000525

Event Number:		<b>STATE OF NEVADA TRAFFIC ACCIDENT REPORT VEHICLE INFORMATION SHEET</b> <small>Revised 1/14/04</small>				Accident Number: NHP150402417																									
Vehicle # V3	# Occupants 1	<input checked="" type="checkbox"/> 1) At Fault <input type="checkbox"/> 2) Non Contact Vehicle		Agency Name: NEVADA HIGHWAY PATROL																											
Direction of Travel: <input checked="" type="checkbox"/> 1) North <input type="checkbox"/> 3) East <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 2) South <input type="checkbox"/> 4) West		Highway / Street Name: IR15				Travel Lane #: 5																									
Vehicle <input checked="" type="checkbox"/> 1) Straight <input type="checkbox"/> 3) Left Turn <input type="checkbox"/> 6) U-Turn <input type="checkbox"/> 7) Wrong Way <input type="checkbox"/> 9) Passing <input type="checkbox"/> 11) Leaving Parked <input type="checkbox"/> 13) Leaving Lane <input type="checkbox"/> 16) Enter Parked (B) <input type="checkbox"/> 17) Lane Change <input type="checkbox"/> 18) Unknown Action: <input type="checkbox"/> 2) Backing <input type="checkbox"/> 4) Right Turn <input type="checkbox"/> 6) Parked <input type="checkbox"/> 8) Stopped (C) <input type="checkbox"/> 10) Backing <input type="checkbox"/> 12) Entering Lane <input type="checkbox"/> 14) Other Turning <input type="checkbox"/> 15) Driverless Vehicle <input type="checkbox"/> 16) Other																															
Driver: (Last Name, First Name, Middle Name, Suffix) ACOSTA, JOSEPH ALEXANDER				Transported By: <input checked="" type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other																											
Street Address: 2356 MYSTIC STAR ST				Transported To:																											
City: HENDERSON		State / Country: <input checked="" type="checkbox"/> 1) NV		Zip Code: 89044		Person Type: 1      Seating Position: 1      Occupant Restraints: 7																									
<input checked="" type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input type="checkbox"/> 2) Female DOB: 12 / 4 / 1993		Phone Number: 7027226949		Injury Severity: 0		Injury Location:																									
CLN:		State: <input checked="" type="checkbox"/> 1) NV		Class: <input type="checkbox"/> 1) CDL <input checked="" type="checkbox"/> 2) DL		License Status: 0																									
Airbags: 2		Airbag Switch:		Ejected: 0		Trapped: 0																									
Compliance: <input type="checkbox"/> 1) Restrict <input type="checkbox"/> 2) Endorse		Endorsements:		Restrictions:																											
Alcohol/Drug Involvement: <input checked="" type="checkbox"/> 1) Not Involved <input type="checkbox"/> 2) Suspected Impairment <input type="checkbox"/> 3) Alcohol <input type="checkbox"/> 4) Drugs <input type="checkbox"/> 5) Unknown		Method of Determination (check up to 2): <input type="checkbox"/> 1) Field Sobriety Test <input type="checkbox"/> 4) Urine Test <input type="checkbox"/> 2) Evidentiary Breath <input type="checkbox"/> 5) Blood Test <input type="checkbox"/> 3) Driver Admission <input type="checkbox"/> 6) Preliminary Breath Test		Driver Factors: <input checked="" type="checkbox"/> 1) Apparently Normal <input type="checkbox"/> 6) Driver Ill / Injured <input type="checkbox"/> 2) Had Been Drinking <input type="checkbox"/> 7) Other Improper Driving <input type="checkbox"/> 3) Drug Involvement <input type="checkbox"/> 8) Driver Inattention / Distracted <input type="checkbox"/> 4) Apparently Fatigued / Asleep <input type="checkbox"/> 9) Physical Impairment <input type="checkbox"/> 5) Obstructed View <input type="checkbox"/> 10) Unknown																											
Vehicle Year: 1997		Vehicle Make: BMW		Vehicle Model: 528i AUTOMATIC		Vehicle Type: SEDAN 4-DOOR																									
Plate / Permit No.: 361LKK		State: <input checked="" type="checkbox"/> 1) NV		Expiration Date: 12 / 13 / 2015		Vehicle Color: SIL																									
Vehicle Identification Number: WBADD6321VBW19396																															
Registered Owner Name: <input type="checkbox"/> 1) Same As Driver ACOSTA, WILFRED STAR ST R																															
Registered Owner Address: 2356 MYSTIC STAR ST, HENDERSON, NV 89044																															
Insurance Company Name: <input checked="" type="checkbox"/> 1) Insured STATE FARM																															
Policy Number: 0957130E2128B		Effective: 11 / 21 / 2014		To: 5 / 21 / 2015																											
Insurance Company Address or Phone Number: 1-800-782-8332																															
<input type="checkbox"/> 1) Vehicle Towed		Towed By: ABC TOWING [AAA]																													
Removed To: OWNERS RESIDENCE/REQUEST																															
<b>Traffic Control</b> F 1) Speed Zone 11) Stop Sign 2) Signal Light 12) Yield Sign 3) Flashing Light 13) R. R. Sign 4) School Zone 14) R. R. Gate 5) Ped. Signal 15) R. R. Signal (B) 6) No Passing 16) Marked Lanes 7) No Controls 17) Tire Chains/Snow Req. 8) Warning Sign 18) Permissive Green 9) Turn Signal 19) Unknown 10) Other				<b>Distance Traveled After Impact</b> MOVED		<b>Speed Estimate</b> From 40 To 45 Limit 65																									
				<b>Extent Of Damage</b> <input type="checkbox"/> 1) Minor <input type="checkbox"/> 4) Total <input checked="" type="checkbox"/> 2) Moderate <input type="checkbox"/> 5) None <input type="checkbox"/> 3) Major <input type="checkbox"/> 6) Unknown																											
<b>Sequence Of Events</b> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Code #</th> <th>Description</th> <th>Collision With Fixed Object</th> <th>Most Harmful Event</th> </tr> </thead> <tbody> <tr> <td>1st 214</td> <td>MOTOR VEHICLE IN TRANSPORT</td> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>2nd</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>3rd</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>4th</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>5th</td> <td></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table>								Code #	Description	Collision With Fixed Object	Most Harmful Event	1st 214	MOTOR VEHICLE IN TRANSPORT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2nd		<input type="checkbox"/>	<input type="checkbox"/>	3rd		<input type="checkbox"/>	<input type="checkbox"/>	4th		<input type="checkbox"/>	<input type="checkbox"/>	5th		<input type="checkbox"/>	<input type="checkbox"/>
Code #	Description	Collision With Fixed Object	Most Harmful Event																												
1st 214	MOTOR VEHICLE IN TRANSPORT	<input type="checkbox"/>	<input checked="" type="checkbox"/>																												
2nd		<input type="checkbox"/>	<input type="checkbox"/>																												
3rd		<input type="checkbox"/>	<input type="checkbox"/>																												
4th		<input type="checkbox"/>	<input type="checkbox"/>																												
5th		<input type="checkbox"/>	<input type="checkbox"/>																												
<input checked="" type="checkbox"/> 1) NRS <input type="checkbox"/> 2) EPR <input type="checkbox"/> 3) CC / MC <input type="checkbox"/> 4) Pending (1) 484B.127		Violation FOLLOWING TOO CLOSELY		NOC 53794		Citation Number X01313228																									
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) EPR <input type="checkbox"/> 3) CC / MC (2)		Violation		NOC		Citation Number																									
Investigator(s) Diaz		ID Number H6143	Date 4 / 28 / 2015	Reviewed By Kevin Kelley		Date Reviewed 4 / 29 / 2015	Page 7 of 10																								

**Vehicle Information**

NBIS 000526

Event Number:		<b>STATE OF NEVADA</b> <b>TRAFFIC ACCIDENT REPORT</b> <b>VEHICLE INFORMATION SHEET</b> <small>Revised 1/14/04</small>		Accident Number: NHP150402417		Agency Name: NEVADA HIGHWAY PATROL	
Name: (Last Name, First Name, Middle Name - Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other _____			
Street Address:				Transported To:			
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:		Person Type:      Seating Position:      Occupant Restraints:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Unknown <input type="checkbox"/> 3) Female		DOB:      /      /		Phone Number:		Injury Severity:      Injury Location:	
				Airbags:		Airbag Switch:      Ejected:      Trapped:	
Name: (Last Name, First Name, Middle Name - Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other _____			
Street Address:				Transported To:			
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:		Person Type:      Seating Position:      Occupant Restraints:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Unknown <input type="checkbox"/> 3) Female		DOB:      /      /		Phone Number:		Injury Severity:      Injury Location:	
				Airbags:		Airbag Switch:      Ejected:      Trapped:	
Name: (Last Name, First Name, Middle Name - Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other _____			
Street Address:				Transported To:			
City:		State / Country <input type="checkbox"/> 1) NV		Zip Code:		Person Type:      Seating Position:      Occupant Restraints:	
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Unknown <input type="checkbox"/> 3) Female		DOB:      /      /		Phone Number:		Injury Severity:      Injury Location:	
				Airbags:		Airbag Switch:      Ejected:      Trapped:	
<input type="checkbox"/> 1) Trailing Unit 1   VIN:				Plate:		State: <input type="checkbox"/> 1) NV      Type:	
<input type="checkbox"/> 1) Trailing Unit 2   VIN:				Plate:		State: <input type="checkbox"/> 1) NV      Type:	
<input type="checkbox"/> 1) Trailing Unit 3   VIN:				Plate:		State: <input type="checkbox"/> 1) NV      Type:	
<b>Commercial Vehicle Configuration</b>							
<input type="checkbox"/> 1) Commercial Vehicle <input type="checkbox"/> 2) School Bus							
<input type="checkbox"/> 1) Bus, 9 - 15 Occupants <input type="checkbox"/> 6) Tractor Only <input type="checkbox"/> 11) Tractor / Semi Trailer <input type="checkbox"/> 2) Bus, > 15 Occupants <input type="checkbox"/> 7) Tractor / Trailer <input type="checkbox"/> 12) Passenger Vehicle, (Haz-Mat) <input type="checkbox"/> 3) Single 2 Axle and 5 Tire <input type="checkbox"/> 8) Tractor / Doubles <input type="checkbox"/> 13) Light Truck, (Haz-Mat) <input type="checkbox"/> 4) Single > 3 Axle <input type="checkbox"/> 9) Tractor / Triples <input type="checkbox"/> 14) Other Heavy Vehicle <input type="checkbox"/> 5) Agv 4 Tire Vehicle <input type="checkbox"/> 10) Truck with Trailer				<b>Source</b> <input type="checkbox"/> 1) Driver <input type="checkbox"/> 4) State Reg. <input type="checkbox"/> 2) Log Book <input type="checkbox"/> 5) Side Of Vehicle <input type="checkbox"/> 3) Shipping Papers / Trip Manifest <input type="checkbox"/> 6) Other _____			
Carrier Name:				<b>Power Unit GVWR</b> <input type="checkbox"/> 1) ≤ 10,000 Lbs <input type="checkbox"/> 2) 10,000 - 26,000 Lbs <input type="checkbox"/> 3) ≥ 26,000 Lbs <input type="checkbox"/> 1) Haz-Mat <input type="checkbox"/> 2) Released			
Carrier Street Address:				City:		State: <input type="checkbox"/> 1) NV      Zip:	
<b>Cargo Body Type</b> <input type="checkbox"/> 1) Box <input type="checkbox"/> 6) Van / Box <input type="checkbox"/> 11) Grain, Gravel Chpts <input type="checkbox"/> 2) Tank <input type="checkbox"/> 7) Concrete Mixer <input type="checkbox"/> 12) Bus, 9 - 15 Occupants <input type="checkbox"/> 3) Flatbed <input type="checkbox"/> 8) Auto Carrier <input type="checkbox"/> 13) Bus, > 15 Occupants <input type="checkbox"/> 4) Dump <input type="checkbox"/> 9) Garbage/Refuse <input type="checkbox"/> 14) Other <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 10) Not Applicable				Haz-Mat ID #: _____ Hazard Classification #: _____		<b>Type of Carrier</b> <input type="checkbox"/> 1) Single State <input type="checkbox"/> 2) USDOT <input type="checkbox"/> 3) Canada <input type="checkbox"/> 4) Mexico <input type="checkbox"/> 5) None	
				<b>NAS Safety Report #:</b> Carrier Number: _____			
				Page 8 of 10			

**Vehicle Information**

NBIS 000527

Event Number:		<b>STATE OF NEVADA</b>		Accident Number: NHP150402417	
<b>TRAFFIC ACCIDENT REPORT</b>		<b>VEHICLE INFORMATION SHEET</b>			
Revised 1/14/04					
Vehicle # V4	# Occupants 1	<input type="checkbox"/> 1) At Fault <input type="checkbox"/> 2) Non Contact Vehicle		Agency Name: NEVADA HIGHWAY PATROL	
Direction of Travel: <input checked="" type="checkbox"/> 1) North <input type="checkbox"/> 3) East <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 2) South <input type="checkbox"/> 4) West		Highway / Street Name: IR15			Travel Lane #: 5
Vehicle: <input type="checkbox"/> 1) Straight <input type="checkbox"/> 3) Left Turn <input type="checkbox"/> 5) U-Turn <input type="checkbox"/> 7) Wrong Way <input type="checkbox"/> 9) Passing <input type="checkbox"/> 11) Leaving Parked <input type="checkbox"/> 13) Leaving Lane <input type="checkbox"/> 15) Enter Parked (d) <input type="checkbox"/> 17) Lane Change <input type="checkbox"/> 19) Unknown Action: <input type="checkbox"/> 2) Backing <input type="checkbox"/> 4) Right Turn <input type="checkbox"/> 6) Parked <input checked="" type="checkbox"/> 8) Stopped (s) <input type="checkbox"/> 10) Backing <input type="checkbox"/> 12) Entering Lane <input type="checkbox"/> 14) Other Turning <input type="checkbox"/> 16) Driverless Vehicle <input type="checkbox"/> 18) Other					
Driver: (Last Name, First Name, Middle Name, Suffix) EVANS, DONNA MAE			Transported By: <input checked="" type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other		
Street Address: 2323 NW 188TH AVE Apt# 926			Transported To:		
City: HILLSBORO	State / Country: <input type="checkbox"/> 1) NV OR	Zip Code: 97124	Person Type: 1	Seating Position: 1	Occupant Restraints: 7
<input type="checkbox"/> 1) Male <input type="checkbox"/> 3) Unknown <input checked="" type="checkbox"/> 2) Female	DOB: 9 / 7 / 1971	Phone Number: 5034599186	Injury Severity: 0	Injury Location:	
OLN:	State: <input checked="" type="checkbox"/> 1) NV NV	Class: C	License Status: <input type="checkbox"/> 1) CDL <input checked="" type="checkbox"/> 2) DL 0	Airbags: 2	Airbag Switch: Ejected: 0 Trapped: 0
Compliance: <input type="checkbox"/> 1) Restricted <input type="checkbox"/> 2) Endorse		Endorsements:		Restrictions:	
Alcohol/Drug Involvement: <input checked="" type="checkbox"/> 1) Not Involved <input type="checkbox"/> 2) Suspected Impairment <input type="checkbox"/> 3) Alcohol <input type="checkbox"/> 4) Drugs <input type="checkbox"/> 5) Unknown		Method of Determination (check up to 2): <input type="checkbox"/> 1) Field Sobriety Test <input type="checkbox"/> 4) Urine Test <input type="checkbox"/> 2) Evidentiary Breath <input type="checkbox"/> 5) Blood Test <input type="checkbox"/> 3) Driver Admission <input type="checkbox"/> 6) Preliminary Breath Test		Test Results:	
Driver Factors: <input checked="" type="checkbox"/> 1) Apparently Normal <input type="checkbox"/> 5) Driver Ill / Injured <input type="checkbox"/> 2) Had Been Drinking <input type="checkbox"/> 7) Other Improper Driving <input type="checkbox"/> 3) Drug Involvement <input type="checkbox"/> 8) Driver Distraction / Distracted <input type="checkbox"/> 4) Apparently Fatigued / Asleep <input type="checkbox"/> 9) Physical Impairment <input type="checkbox"/> 6) Obstructed View <input type="checkbox"/> 10) Unknown					
Vehicle Year: 2015	Vehicle Make: KIA	Vehicle Model: SOL	Vehicle Type: HATCHBACK 4-DOOR		
Plate / Permit No.: 7JRZ583	State: <input type="checkbox"/> 1) NV CA	Expiration Date: 2 / 2 / 2016	Vehicle Color: BLK		
Vehicle Identification Number: KNDJP3A50F7159001					
Registered Owner Name: <input type="checkbox"/> 1) Same As Driver PV HOLDING CORP, PV HOLDING					
Registered Owner Address: 5721 W 96TH ST, LOS ANGELES, CA 90045					
Insurance Company Name: <input checked="" type="checkbox"/> 1) Insured SELF INSURED AVIS RENT A CAR					
Policy Number: #77		Effective: 7 / 1 / 2014	To: 6 / 30 / 2015		
Insurance Company Address or Phone Number: 6 SYLVAN WAY, PARSIPPANY, NEW JERSEY 07054					
<input type="checkbox"/> 1) Vehicle Towed	Towed By: *RETAINED BY DRIVER				
Removed To:					
Traffic Control: F 1) Speed Zone 11) Stop Sign 2) Signal Light 12) Yield Sign 3) Flashing Light 13) R. R. Sign 4) School Zone 14) R. R. Gate 5) Ped. Signal 15) R. R. Signal (d) 6) No Passing F 16) Marked Lanes 7) No Controls 17) Tire Chains/Snow Req. 8) Warning Sign 18) Permissive Green 9) Turn Signal <input type="checkbox"/> 19) Unknown 10) Other		Distance Traveled After Impact: MOVED		Speed Estimate: From 0 To 65 Limit	
				Extent Of Damage: <input type="checkbox"/> 1) Minor <input type="checkbox"/> 4) Total <input checked="" type="checkbox"/> 2) Moderate <input type="checkbox"/> 5) None <input type="checkbox"/> 3) Major <input type="checkbox"/> 6) Unknown	
Sequence Of Events:					
Code #		Description		Collision With Fixed Object	Most Harmful Event
1st	217	SLOW/STOPPED VEHICLE		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2nd				<input type="checkbox"/>	<input type="checkbox"/>
3rd				<input type="checkbox"/>	<input type="checkbox"/>
4th				<input type="checkbox"/>	<input type="checkbox"/>
5th				<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC / MC <input type="checkbox"/> 4) Pending (1)		Violation		NOC	Citation Number
<input type="checkbox"/> 1) NRS <input type="checkbox"/> 2) CFR <input type="checkbox"/> 3) CC / MC (2)		Violation		NOC	Citation Number
Investigator(s): Diaz		ID Number: H6143	Date: 4 / 28 / 2015	Reviewed By: Kevin Kelley	Date Reviewed: 4 / 29 / 2015 Page 9 of 10

**Vehicle Information**

NBIS 000528

Event Number:		<b>STATE OF NEVADA</b> <b>TRAFFIC ACCIDENT REPORT</b> <b>VEHICLE INFORMATION SHEET</b> <small>Revised 1/14/04</small>			Accident Number: NHP150402417 Agency Name: NEVADA HIGHWAY PATROL		
Name: (Last Name, First Name, Middle Name - Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other			
Street Address:				Transported To:			
City:	State / Country <input type="checkbox"/> 1) NV	Zip Code:	Person Type:	Seating Position:	Occupant Restraints:		
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Unknown <input type="checkbox"/> 3) Female	DOB: / /	Phone Number:	Injury Severity:	Injury Location:			
			Airbags:	Airbag Switch:	Ejected:	Trapped:	
Name: (Last Name, First Name, Middle Name - Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other			
Street Address:				Transported To:			
City:	State / Country <input type="checkbox"/> 1) NV	Zip Code:	Person Type:	Seating Position:	Occupant Restraints:		
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Unknown <input type="checkbox"/> 3) Female	DOB: / /	Phone Number:	Injury Severity:	Injury Location:			
			Airbags:	Airbag Switch:	Ejected:	Trapped:	
Name: (Last Name, First Name, Middle Name - Suffix)				Transported By: <input type="checkbox"/> 1) Not Transported <input type="checkbox"/> 2) EMS <input type="checkbox"/> 3) Police <input type="checkbox"/> 4) Unknown <input type="checkbox"/> 5) Other			
Street Address:				Transported To:			
City:	State / Country <input type="checkbox"/> 1) NV	Zip Code:	Person Type:	Seating Position:	Occupant Restraints:		
<input type="checkbox"/> 1) Male <input type="checkbox"/> 2) Unknown <input type="checkbox"/> 3) Female	DOB: / /	Phone Number:	Injury Severity:	Injury Location:			
			Airbags:	Airbag Switch:	Ejected:	Trapped:	
<input type="checkbox"/> 1) Trailing Unit 1 VIN:			Plate:	State: <input type="checkbox"/> 1) NV	Type:		
<input type="checkbox"/> 1) Trailing Unit 2 VIN:			Plate:	State: <input type="checkbox"/> 1) NV	Type:		
<input type="checkbox"/> 1) Trailing Unit 3 VIN:			Plate:	State: <input type="checkbox"/> 1) NV	Type:		
<b>Commercial Vehicle Configuration</b> <input type="checkbox"/> 1) Commercial Vehicle <input type="checkbox"/> 2) School Bus							
<input type="checkbox"/> 1) Bus, 9 - 16 Occupants <input type="checkbox"/> 2) Bus, > 16 Occupants <input type="checkbox"/> 3) Single 2 Axle and 6 Tire <input type="checkbox"/> 4) Single > 3 Axle <input type="checkbox"/> 5) Any 4 Tire Vehicle			<input type="checkbox"/> 6) Tractor Only <input type="checkbox"/> 7) Tractor / Trailer <input type="checkbox"/> 8) Tractor / Doubles <input type="checkbox"/> 9) Tractor / Triples <input type="checkbox"/> 10) Truck with Trailer			<b>Source</b> <input type="checkbox"/> 1) Driver <input type="checkbox"/> 2) Log Book <input type="checkbox"/> 3) Shipping Papers / Trip Manifest <input type="checkbox"/> 4) State Reg. <input type="checkbox"/> 5) Side of Vehicle <input type="checkbox"/> 6) Other	
Carrier Name:			Power Unit GVWR <input type="checkbox"/> 1) ≤ 10,000 Lbs <input type="checkbox"/> 2) 10,000 - 20,000 Lbs <input type="checkbox"/> 3) ≥ 20,000 Lbs			<input type="checkbox"/> 1) Haz-Mat <input type="checkbox"/> 2) Released	
Carrier Street Address:			City:	State: <input type="checkbox"/> 1) NV	Zip:		
<b>Cargo Body Type</b> <input type="checkbox"/> 1) Pole <input type="checkbox"/> 2) Tank <input type="checkbox"/> 3) Flatbed <input type="checkbox"/> 4) Dump <input type="checkbox"/> 5) Unknown <input type="checkbox"/> 6) Van / Box <input type="checkbox"/> 7) Concrete Mixer <input type="checkbox"/> 8) Auto Carrier <input type="checkbox"/> 9) Garbage/Refuse <input type="checkbox"/> 10) Not Applicable <input type="checkbox"/> 11) Grain, Gravel Chpts <input type="checkbox"/> 12) Bus, 9 - 15 Occupants <input type="checkbox"/> 13) Bus, > 15 Occupants <input type="checkbox"/> 14) Other			Haz-Mat ID #: Hazard Classification #:		Type of Carrier <input type="checkbox"/> 1) Single State <input type="checkbox"/> 2) USDOT <input type="checkbox"/> 3) Canada <input type="checkbox"/> 4) Mexico <input type="checkbox"/> 5) None		
			NAS Safety Report #:		Carrier Number:		
					Page 10 of 10		

**Vehicle Information**

NBIS 000529






**PASSENGER INFORMATION (OTHER THAN DRIVER)**

**PLEASE WRITE BELOW WHAT HAPPENED:**

2025 RELEASE UNDER E.O. 14176

You are (Please circle one) <input checked="" type="radio"/> Driver <input type="radio"/> Passenger <input type="radio"/> Witness <input type="radio"/> Victim <input type="radio"/> Other				<b>VOLUNTARY STATEMENT</b>		Event / Case # CAD# Citation #	
Date & Time of Statement 4/28 12:25		Date & Time of Accident / Event 4/28 12:15		Your current Location 15 North, Schen		Are you injured? Yes <input type="radio"/> No <input checked="" type="radio"/> N/A	
Your Name (Last / First / Middle) Acosta / Joseph / Alexander				Date of Birth 12/04/93		If yes, please describe the injuries:	
Residence Address: (Number, Street & Bldg./Apt#) 2356 Mystic Star Street Henderson				City NV		State Zip Code NV 89044	
Work Address: (Number & Street) 2356 Mystic Star Street Henderson				City NV		State Zip Code NV 89044	
Additional or Emergency Contact, Name(s) & Number(s):				Work Schedule (Hours) Days Off		Occupation:	
Best Place & Time of day to contact you: Anytime				Vehicle; Year & Make BMW, 1997		License # State 361-44 NV	
Did you use your Seat belt? <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A				Depart Date (if visitor):			

**PASSENGER INFORMATION (OTHER THAN DRIVER)**

Seating Position	Full Name	Address	Date of Birth	Phone Number	Restraints S/B A/B Injured

**PLEASE WRITE BELOW WHAT HAPPENED:**

The car in front of me clipped the car ahead of him and he got out of the way so I ran into the car he clipped. I was about a full car length behind the truck and then I slammed on my brakes into the white BMW.

This Statement is given Voluntarily and I affirm the Truth and Accuracy of the facts contained herein:

Witnessed by:

☐ Continued on back

You are? (Please circle one) <input checked="" type="radio"/> Driver <input type="radio"/> Passenger <input type="radio"/> Witness <input type="radio"/> Other		Nevada Department of <b>Public Safety</b>		<b>VOLUNTARY STATEMENT</b>		Event / Case # CAD# Citation #	
Date & Time of Statement 4/28/2015 12:10 PM		Date & Time of Accident / Event 4/28/2015 2:10 PM		Your current Location Las Vegas		Are you injured? Yes <input type="radio"/> No <input checked="" type="radio"/> N/A	
Your Name (Last / First / Middle) Evans, Donna Mae				Date of Birth 9/1/71		If yes, please describe the injuries:	
Residence Address: (Number, Street & Bldg./Apt#) 2323 W 188th Ave Apt 926, Hillsboro, OR 97124				City Hillsboro		State Zip Code OR 97124	
Work Address: (Number & Street) 2230 W Pettygrove Suite 30, Portland, OR				City Portland		State Zip Code OR 97201	
Additional or Emergency Contact, Name(s) & Number(s):				Work Schedule (Hours) 8-5		Days Off S/S	
Best Place & Time of day to contact you: Anytime				Vehicle; Year & Make 2015 KIA Soul		License # State 7JKL583 CA	
Home Phone: 503 459 9186				Work/Cell Phone:		Business / School / Agency Name:	
Occupation: Ship				Depart Date (if visitor):		Did you use your Seat belt? Yes <input checked="" type="radio"/> No <input type="radio"/> N/A <input type="radio"/>	

**PASSENGER INFORMATION (OTHER THAN DRIVER)**

Seating Position	Full Name	Address	Date of Birth	Phone Number	Restraints S/B A/B Injured
driver					

**PLEASE WRITE BELOW WHAT HAPPENED:**

All traffic in lane stopped. Cars behind ~~same~~  
 moving forward, truck appeared to change  
 lanes to pass or maybe to avoid hitting  
 someone, kept my foot on the brake + closed  
 my eyes. The white BMW hit me.

☐ Continued  
 on back

This Statement is given Voluntarily and I affirm the Truth and Accuracy of the facts contained herein:  
 X *Donna*

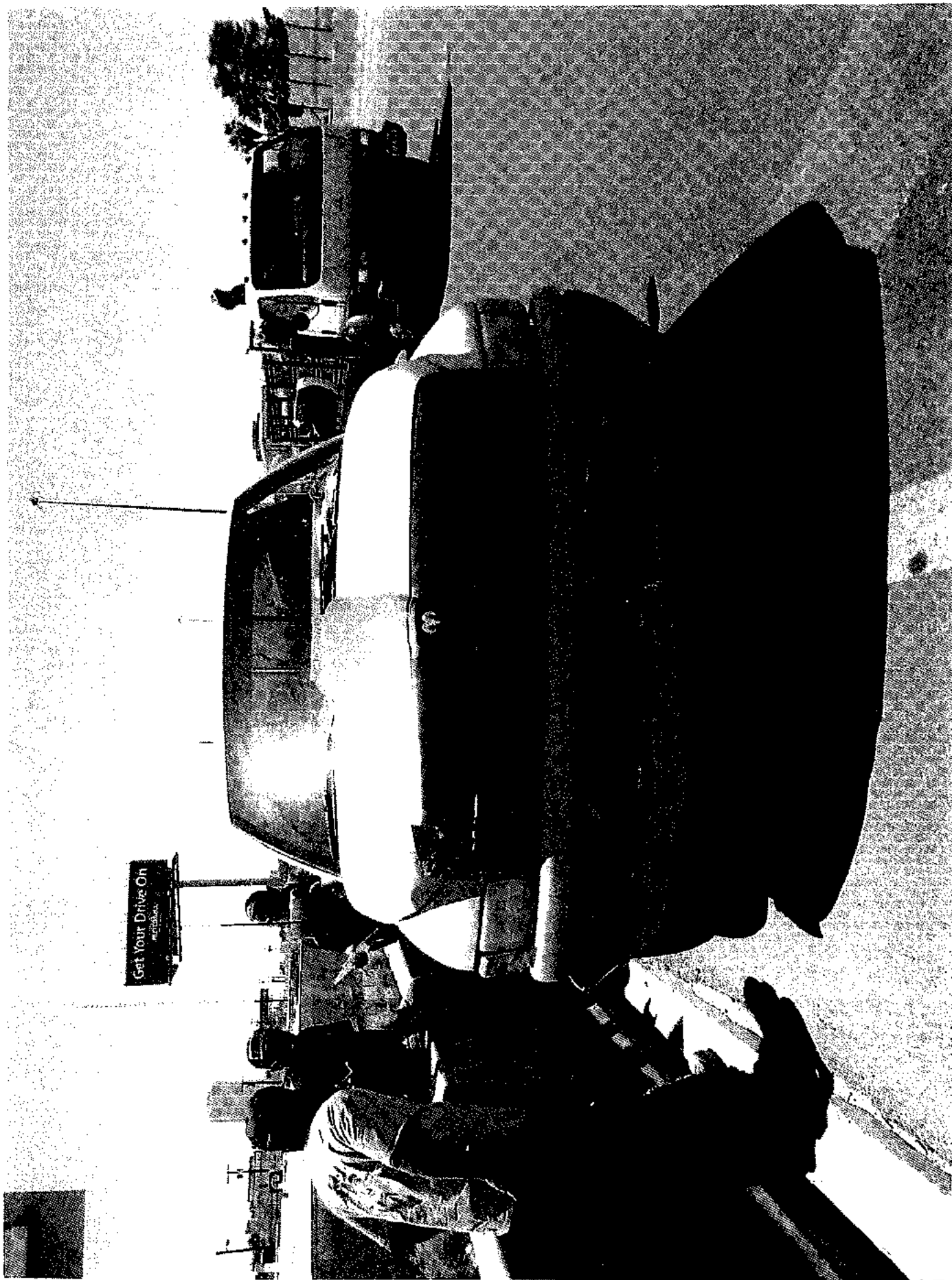
Witnessed by: P#

# **EXHIBIT 2**

# **EXHIBIT 2**



NBIS 000535



NBIS 000536

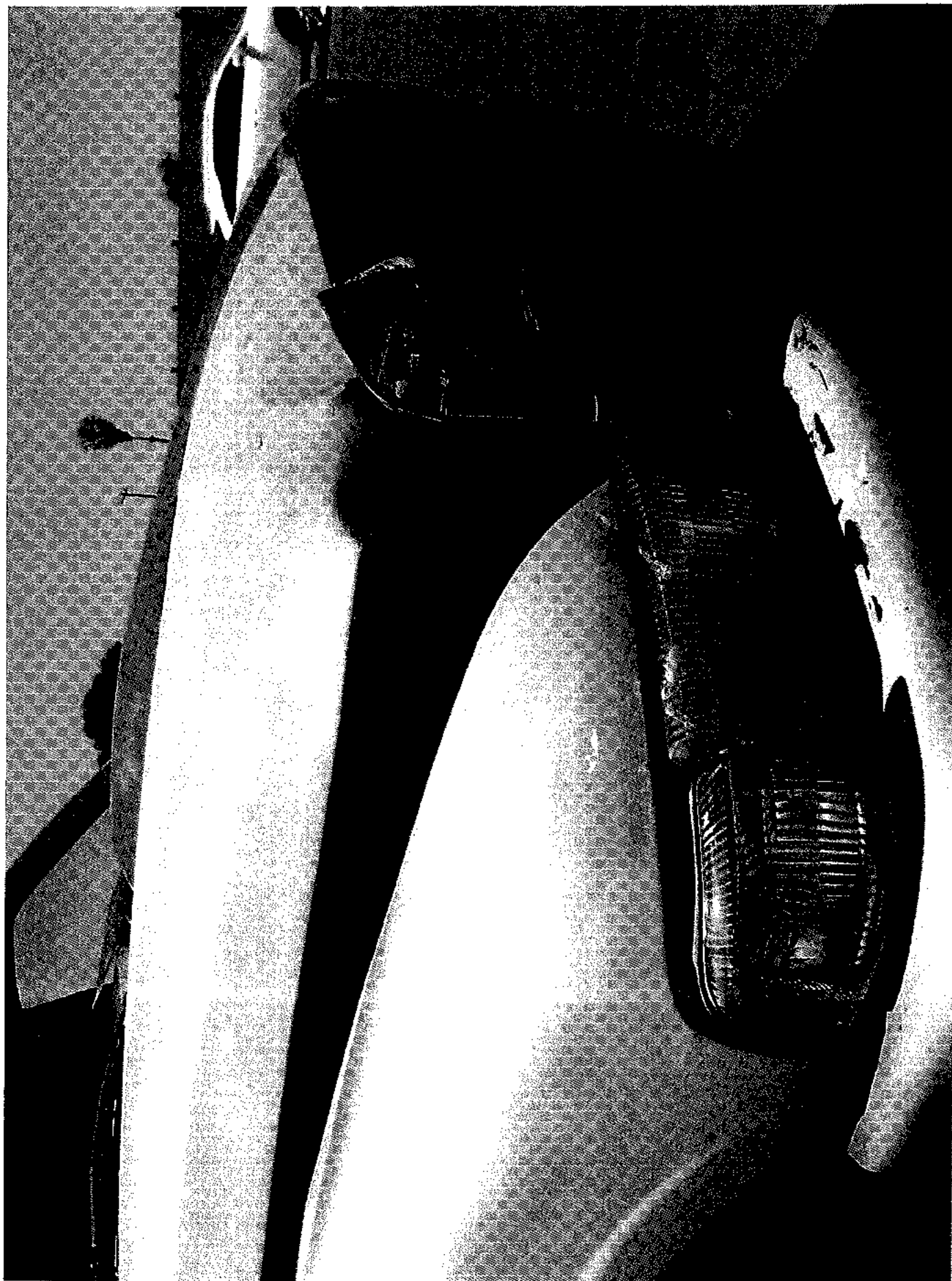


NBIS 000537





NBIS 000538



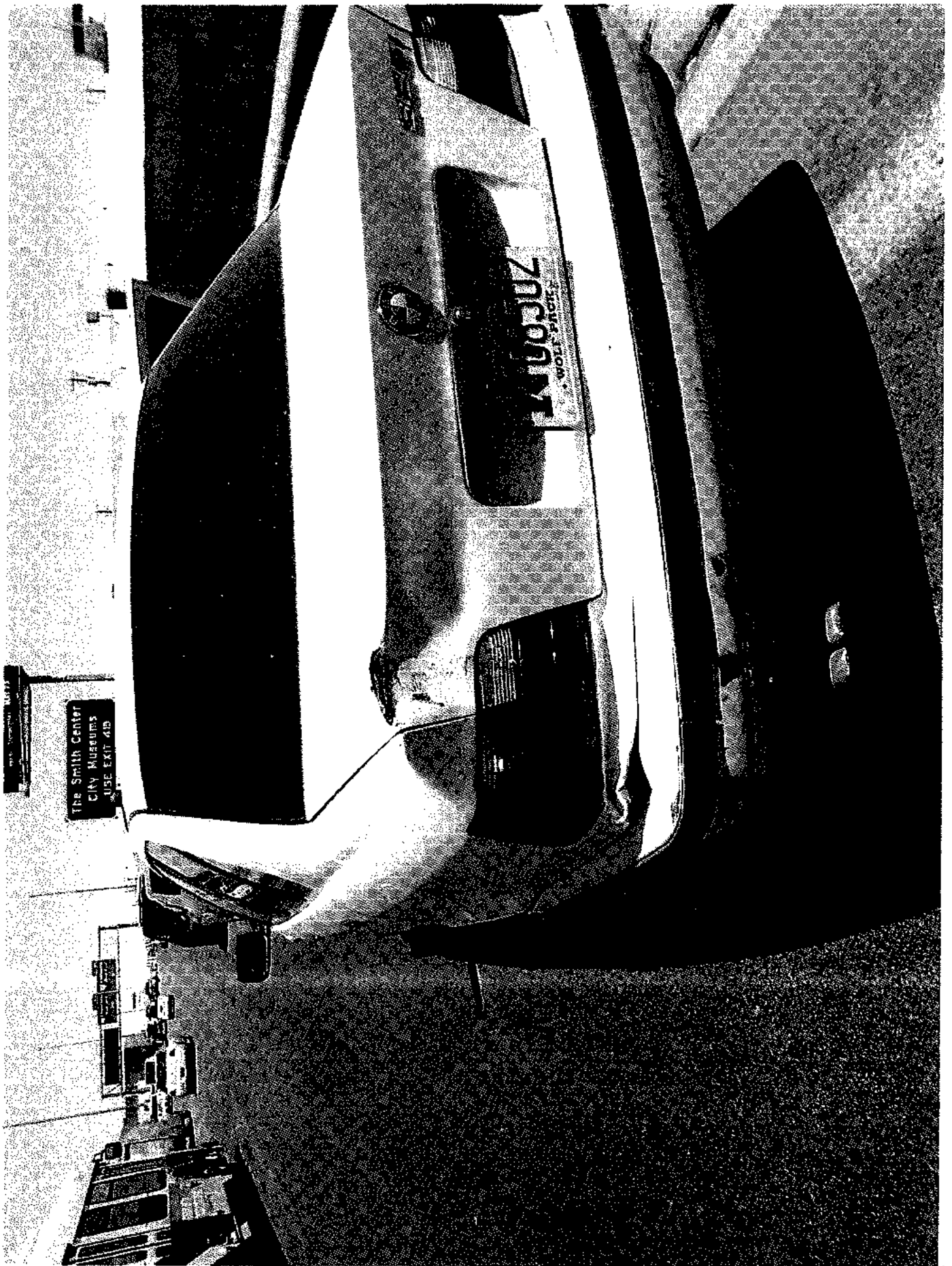
NBIS 000539



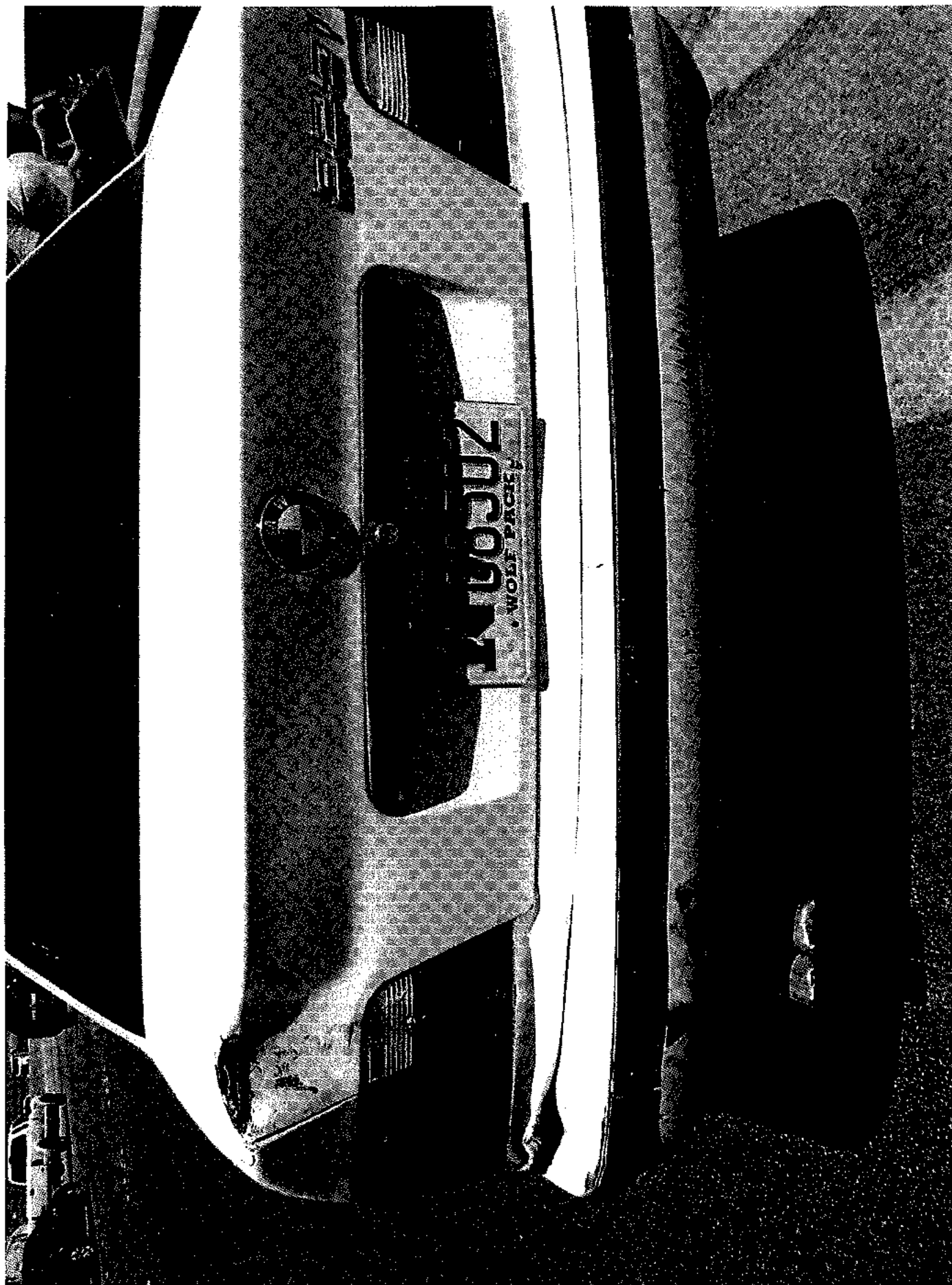
NBIS 000540

# **EXHIBIT 3**

# **EXHIBIT 3**



NBIS 000542



NBIS 000543





NBIS 000545

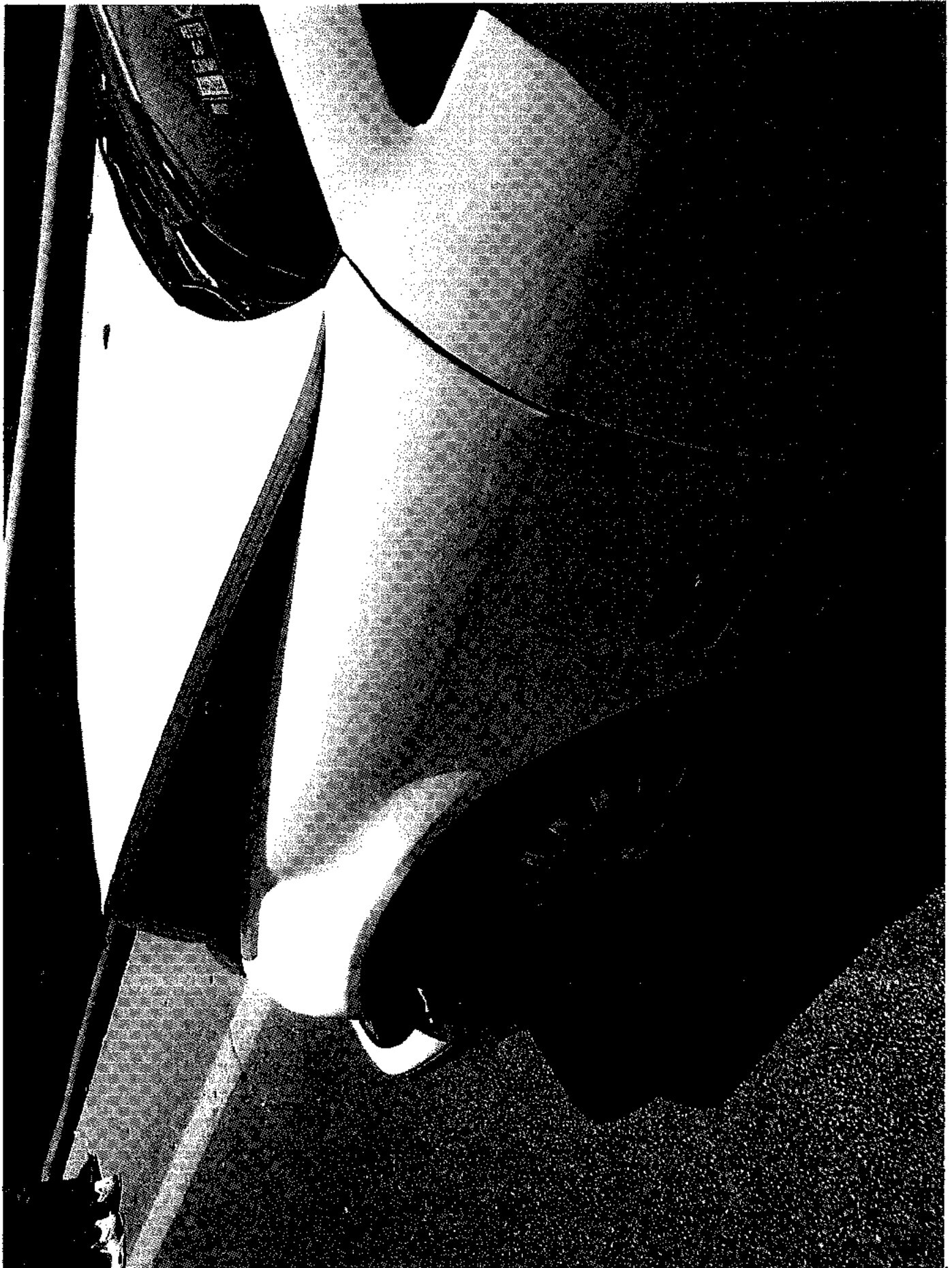




NBIS 000546



NB 000547



NBIS 000548



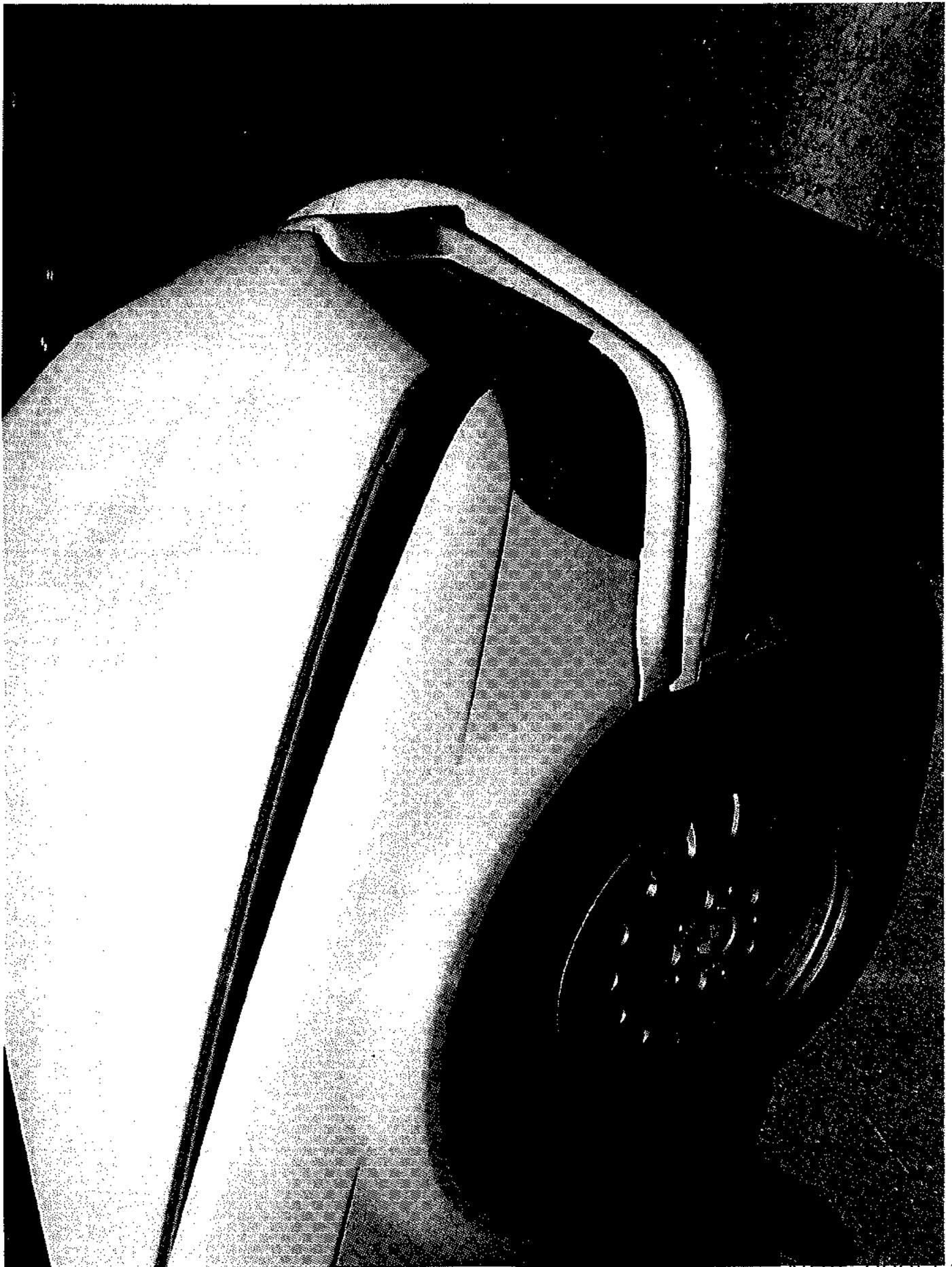
NBIS 000549



NBIS 000550



NBIS 000551




NBIS 000552

# **EXHIBIT 4**

# **EXHIBIT 4**





CLERK OF THE COURT

1 Paul D. Powell, Esq.  
2 Nevada Bar No. 7488  
3 THE POWELL LAW FIRM  
4 6785 West Russell Road, Suite 210  
5 Las Vegas, Nevada 89118  
6 paul@TPLF.com  
7 Phone: (702) 728-5500  
8 Facsimile: (702) 728-5501  
9 Attorneys for DIANE SANCHEZ

DISTRICT COURT

CLARK COUNTY, NEVADA

DIANE SANCHEZ,

Plaintiff,

vs.

BLAS BON, individually; JOSEPH ACOSTA,  
individually; DOES I - X, and ROE  
CORPORATIONS I - X, inclusive,

Defendants.

CASE NO. A722815

DEPT. NO. XXV

AFFIDAVIT OF DUE DILIGENCE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Title, Bar number, and address) <b>Paul Powell</b> <b>Powell Law Firm</b> <b>8705 West Russell Road Las Vegas, NV 89118</b> TELEPHONE NO.: (702) 728-5501 FAX NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff Case: Fil # Sanchez v. Bon		FOR COURT USE ONLY
DISTRICT COURT STREET ADDRESS: 200 LEWIS AVENUE CITY AND ZIP CODE: LAS VEGAS, NV 89116		
PLAINTIFF/PETITIONER: <b>Diano Sanchez</b> DEFENDANT/RESPONDENT: <b>Bias Bon</b>		
DECLARATION OF DILIGENCE		CASE NUMBER: A722815

I received the within assignment for filing and/or service on September 22, 2015 and that after due and diligent effort I have not been able to serve said person. I attempted service on this servee on the following dates and times:

Servee: **Bias Bon**

Documents: **Summons & Complaint;**

Address: **3900 Cambridge Street Suite 106**  
**Las Vegas, NV 89118**

As enumerated below:

10/19/2015 -- 8:36 AM Attempted to serve defendant at last known address of 3900 Cambridge Street Suite 106, Las Vegas Nevada. This address is a Clark County neighborhood community center where the defendant had his mail sent; his current whereabouts are now unknown to them. A record search with the Clark County Assessor's Office reveals no records found. A search with Clark County voters registration reveals no records found. A local phone search for defendants phone number reveals no records found. A registered vehicle search with Nevada DMV and Premium Finder search reveals no records found.



Registration No.: #R-003972  
 Clark County Process Service LLC dba CCPS LV  
 720 E Charleston Blvd, Suite 135  
 Las Vegas, NV 89104  
 State License #2031C



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

Signature: \_\_\_\_\_

Michael E. Clarke

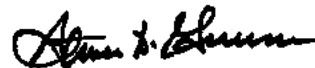
DECLARATION OF DILIGENCE

Order#: CC9#17/DilFormaL.mdi

NBIS 000555

# **EXHIBIT 5**

# **EXHIBIT 5**



CLERK OF THE COURT

1 **AFFT**  
2 Paul D. Powell, Esq.  
3 Nevada Bar No. 7488  
4 **THE POWELL LAW FIRM**  
5 6785 West Russell Road, Suite 210  
6 Las Vegas, Nevada 89118  
7 paul@TPLF.com  
8 Phone: (702) 728-5500  
9 Facsimile: (702) 728-5501  
10 Attorneys for DIANE SANCHEZ

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 **DIANE SANCHEZ,**

10 Plaintiff,

11 vs.

12 **BLAS BON, individually; JOSEPH ACOSTA,**  
13 **individually; DOES I - X, and ROE**  
14 **CORPORATIONS I - X, inclusive,**

15 **Defendants.**

)  
) **CASE NO. A722815**

) **DEPT. NO. XXV**

)  
) **AMENDED AFFIDAVIT OF**  
) **COMPLIANCE**

16 **STATE OF NEVADA**

17 **COUNTY OF CLARK**

)  
) ss.  
)

19  
20 **PAUL D. POWELL, ESQ.,** being duly sworn on oath, deposes and says:

21 That I am an attorney at THE POWELL LAW FIRM maintaining offices at 6785 W. Russell  
22 Road, Suite 210, Las Vegas, Nevada 89118 and the firm has been retained by Plaintiff DIANE  
23 SANCHEZ to represent her in an action against Defendant BLAS BON.

24 That on October 19, 2015 service of the Complaint on file herein and a copy of the  
25 Summons issued following the filing of said Complaint was attempted on BLAS BON at his best  
26 known address of 3900 Cambridge Street, Suite 106, Las Vegas, Nevada 89119. Said best known  
27  
28

1 address was found not to be current for BLAS BON as evidenced by the Declaration of Diligence  
2 attached hereto as Exhibit 1.

3  
4 That on or about October 27, 2015 I caused to be served upon the Director of the  
5 Department of Motor Vehicles of the State of Nevada at Carson City, Nevada, via United States  
6 Mail, a copy of the Complaint on file herein, a copy of the Summons issued following the filing of  
7 the Complaint, a copy of the Declaration of Diligence, together with the statutory fee of \$5.00, all in  
8 accordance with N.R.S. 14.070. Said documents were received by the Department of Motor  
9 Vehicles on November 2, 2015 as evidenced by the letter from the Department of Motor Vehicles  
10 attached hereto as Exhibit 2, acknowledging receipt of said Complaint and Summons.

11  
12 That on or about November 9, 2015 I caused to be deposited in the United States Mail at Las  
13 Vegas, Nevada, certified mail return receipt requested, with postage fully prepaid thereon, a copy of  
14 the Complaint and Summons, the traffic accident report and a copy of the DMV letter evidencing  
15 proof of service on Defendant BLAS BON at the Defendant's last known address of 3900  
16 Cambridge Street, Suite 106, Las Vegas, Nevada 89119. The package was returned to sender on  
17 November 12, 2015 as unclaimed. A copy is attached hereto as Exhibit 3.

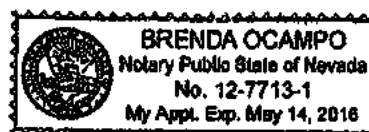
18  
19 DATED this 29<sup>th</sup> day of March, 2015.

20  
21 THE POWELL LAW FIRM

22  
23 Paul D. Powell, Esq.  
24 Nevada Bar No. 7488  
25 6785 W. Russell Road, Suite 210  
26 Las Vegas, NV 89118

27  
28 SUBSCRIBED AND SWORN TO before me  
this 29 day of March, 2016.

NOTARY PUBLIC



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**CERTIFICATE OF SERVICE**

Pursuant to Nevada Rules of Civil Procedure 5 (b), I hereby certify that on the 29<sup>th</sup>  
day of March, 2015, the **AMENDED AFFIDAVIT OF COMPLIANCE** was served via  
electronic service to the following counsel of record:

Marissa Temple, Esq.  
MESSNER REEVES LLP  
5556 S. Fort Apache Road, Suite 100  
Las Vegas, Nevada 89148  
Attorneys for Defendant

*/s/ Lauren Pellino*

---

An Employee of THE POWELL LAW FIRM

# **EXHIBIT 1**

1 **AFFT**  
2 Paul D. Powell, Esq.  
3 Nevada Bar No. 7488  
4 **THE POWELL LAW FIRM**  
5 6785 West Russell Road, Suite 210  
6 Las Vegas, Nevada 89118  
7 paul@TPLF.com  
8 Phone: (702) 728-5500  
9 Facsimile: (702) 728-5501  
10 Attorneys for DIANE SANCHEZ

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 **DIANE SANCHEZ,**

14 **Plaintiff,**

15 **vs.**

16 **BLAS BON, individually; JOSEPH ACOSTA,**  
17 **individually; DOES I - X, and ROE**  
18 **CORPORATIONS I - X, inclusive,**

19 **Defendants.**

) **CASE NO. A722815**

) **DEPT. NO. XXV**

) **AFFIDAVIT OF COMPLIANCE**

20 **STATE OF NEVADA**

21 **COUNTY OF CLARK**

)  
) ss.  
)

22 **PAUL D. POWELL, ESQ., being duly sworn on oath, deposes and says:**

23 **That I am an attorney at THE POWELL LAW FIRM maintaining offices at 6785 W. Russell**  
24 **Road, Suite 210, Las Vegas, Nevada 89118 and the firm has been retained by Plaintiff DIANE**  
25 **SANCHEZ to represent her in an action against Defendant BLAS BON.**

26 **That on October 19, 2015 service of the Complaint on file herein and a copy of the**  
27 **Summons issued following the filing of said Complaint was attempted on BLAS BON at his best**  
28 **known address of 3900 Cambridge Street, Suite 106, Las Vegas, Nevada 89119. Said best known**



1 address was found not to be current for BLAS BON as evidenced by the Declaration of Diligence  
2 attached hereto as Exhibit 1.

3  
4 That on or about October 27, 2015 I caused to be served upon the Director of the  
5 Department of Motor Vehicles of the State of Nevada at Carson City, Nevada, via United States  
6 Mail, a copy of the Complaint on file herein, a copy of the Summons issued following the filing of  
7 the Complaint, a copy of the Declaration of Diligence, together with the statutory fee of \$5.00, all in  
8 accordance with N.R.S. 14.070. Said documents were received by the Department of Motor  
9 Vehicles on November 2, 2015 as evidenced by the letter from the Department of Motor Vehicles  
10 attached hereto as Exhibit 2, acknowledging receipt of said Complaint and Summons.

11  
12 That on or about November 9, 2015 I caused to be deposited in the United States Mail at Las  
13 Vegas, Nevada, certified mail return receipt requested, with postage fully prepaid thereon, a copy of  
14 the Complaint and Summons, the traffic accident report and a copy of the DMV letter evidencing  
15 proof of service on Defendant BLAS BON at the Defendant's last known address of 3900  
16 Cambridge Street, Suite 106, Las Vegas, Nevada 89119.

17  
18 To date, return receipt (Article Number 7015 0640 0004 9496 0326) has not been returned.

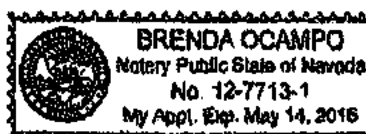
19 DATED this 13<sup>th</sup> day of November, 2015.

20 THE POWELL LAW FIRM

21  
22 Paul D. Powell, Esq.  
23 Nevada Bar No. 7488  
24 6785 W. Russell Road, Suite 210  
25 Las Vegas, NV 89118

26 SUBSCRIBED AND SWORN TO before me  
27 this 13<sup>th</sup> day of November, 2015.

28 NOTARY PUBLIC



# **EXHIBIT 2**

**Brian Sandoval**  
Governor



555 Wright Way  
Carson City, Nevada 89711  
Telephone (775) 684-4368  
www.dmvnv.com

**Troy L. Dillard**  
Director

November 2, 2015

Mr. Paul D Powell Esq  
6785 W. Russell Rd., Ste. 210  
Las Vegas Nevada 89118

**Re: Diane Sanchez vs. Blas Bon; Joseph Acosta**  
**CASE NO: A-15-722815-C**  
**SERVICE DATE: 11/2/15**  
**DELIVERY METHOD: USPS**

Dear Mr. Powell Esq,

This letter acknowledges service of a Summons Complaint received in the Director's office of the State of Nevada, Department of Motor Vehicles for the above referenced case, along with \$5.00 as provided for in the NRS 14.070.

Sincerely,

Tina Springer  
Administrative Assistant  
Director's Office

**CERTIFIED MAIL**

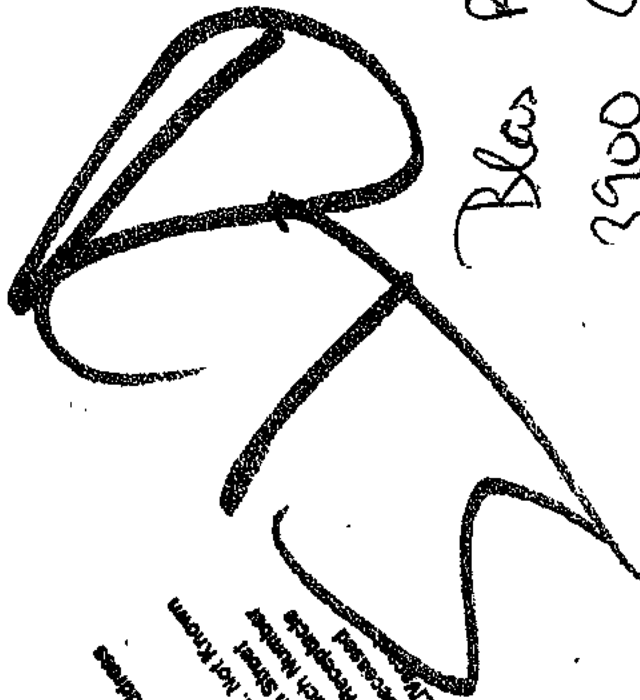


9260 9646 4000 0490 5102

The Parents Law Firm  
6785 W. Russell Rd. #210  
Las Vegas, NV 89118



☒ Not Deliverable as Directed  
☐ Unclaimed  
☒ Returned, Not Known  
☐ Attempted No Address  
☐ No Such Number  
☐ No Recipients  
☐ Mailed  
☐ No Postage



26

3900 Cambridge Street #1

Las Vegas, NV 89119

NBIS 000565

# **EXHIBIT 6**

# **EXHIBIT 6**

  
CLERK OF THE COURT

1 NOTC  
2 Paul D. Powell, Esq.  
3 Nevada Bar No. 7488  
4 THE POWELL LAW FIRM  
5 6785 West Russell Road, Suite 210  
6 Las Vegas, Nevada 89118  
7 paul@TPLF.com  
8 Phone: (702) 728-5500  
9 Facsimile: (702) 728-5501  
10 Attorneys for DIANE SANCHEZ

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 DIANE SANCHEZ, )  
10 ) CASE NO. A722815  
11 Plaintiff, ) DEPT. NO. XXV  
12 vs. )  
13 )  
14 BLAS BON, individually; JOSEPH ACOSTA, ) NOTICE OF ENTRY OF DEFAULT  
15 individually; DOES I - X, and ROE )  
16 CORPORATIONS I - X, inclusive, )  
17 Defendants. )

18 PLEASE TAKE NOTICE that a Default of Defendant Blas Bon was entered on March 31,  
19 2016.

20 A copy of said Default is attached hereto as Exhibit 1.

21 DATED this 22<sup>nd</sup> day of June, 2016.

22 THE POWELL LAW FIRM

23 /s/ Paul Powell  
24 Paul D. Powell, Esq.  
25 Nevada Bar No. 7488  
26 6785 W. Russell Road, Suite 210  
27 Las Vegas, NV 89118  
28

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**CERTIFICATE OF SERVICE**

Pursuant to Nevada Rules of Civil Procedure 5 (b), I hereby certify that on the 22<sup>nd</sup> day of June, 2016, the **NOTICE OF ENTRY OF DEFAULT** was served via electronic and U.S. Mail service to the following counsel of record:

Marissa Temple, Esq.  
MESSNER REEVES LLP  
5556 S. Fort Apache Road, Suite 100  
Las Vegas, Nevada 89148  
Attorneys for Defendant

Blas Bon  
3900 Cambridge Street, #106  
Las Vegas, Nevada 89119  
*Via Certified Mail: 7015 0640 0004*  
*9496 4218*

DeLawrence Templeton  
DMA Claims Services  
PO Box 142768  
Irving, Texas 75014  
*Via Certified Mail: 7015 0640 0004*  
*9496 0395*

*/s/ Lauren Pellino*

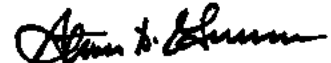
---

An Employee of THE POWELL LAW FIRM

# EXHIBIT 1



 ORIGINAL



CLERK OF THE COURT

**DFLT**  
Paul D. Powell, Esq.  
Nevada Bar No. 7488  
**THE POWELL LAW FIRM**  
6785 West Russell Road, Suite 210  
Las Vegas, Nevada 89118  
paul@TPLF.com  
Phone: (702) 728-5500  
Facsimile: (702) 728-5501  
Attorneys for DIANE SANCHEZ

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIANE SANCHEZ,

Plaintiff,

vs.

BLAS BON, individually; JOSEPH ACOSTA,  
individually; DOES I - X, and ROE  
CORPORATIONS I - X, inclusive,

Defendants.

) CASE NO. A722815

) DEPT. NO. XXV

) **DEFAULT ON DEFENDANT BLAS BON**

It appearing from the files and records in the above-entitled action that BLAS BON, Defendant herein, being duly served with a copy of the Summons and Complaint through the Department of Motor of Vehicles on November 2, 2015; that more than twenty (20) days, exclusive of the day of service, having expired since service upon the Defendant; that no answer or other appearance having been filed and no further time having been granted, the default of the above-named Defendant for failing to answer or otherwise plead to Plaintiff's Complaint is hereby entered.

**THE POWELL LAW FIRM**

Paul D. Powell, Esq.  
Nevada Bar No. 7488  
6785 W. Russell Road, Suite 210  
Las Vegas, NV 89118

**CLERK OF THE COURT**

By: 

Deputy Clerk Date  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, NV 89155

**PATRICIA AZUCENA**

**MAR 31 2016**

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**CERTIFICATE OF SERVICE**

Pursuant to Nevada Rules of Civil Procedure 5 (b), I hereby certify that on the 22<sup>nd</sup>  
day of March, 2016, the **DEFAULT ON DEFENDANT, BLAS BON** was served via  
electronic service to the following counsel of record:

Marissa Temple, Esq.  
MESSNER REEVES LLP  
5556 S. Fort Apache Road, Suite 100  
Las Vegas, Nevada 89148  
Attorneys for Defendant

  
An Employee of THE POWELL LAW FIRM

# **EXHIBIT 7**

# **EXHIBIT 7**

**AFFIDAVIT OF DENNIS M. PRINCE, ESQ. IN SUPPORT OF PLAINTIFF DIANE SANCHEZ'S APPLICATION FOR ENTRY OF DEFAULT JUDGMENT**

STATE OF NEVADA       )  
  ) ss.:  
COUNTY OF CLARK       )

I, DENNIS M. PRINCE, ESQ. being first duly sworn, under oath, depose and say that:

1. I am an attorney licensed to practice law in the state of Nevada and a Partner at the law firm of **EGLET PRINCE**, counsel for Plaintiff Diane Sanchez in this matter.

2. I have personal knowledge of the facts within and if called to testify, I will competently testify to the matters stated herein.

3. I have been informed and believe that Defendant Blas Bon is not in the military service of the United States, nor is Mr. Bon an infant or incompetent person.

4. On April 28, 2015, Plaintiff Diane Sanchez suffered severe and debilitating injuries in a motor vehicle collision. On August 7, 2015, Sanchez filed her Complaint for personal injuries against Defendant Blas Bon and former Defendant Joseph Acosta.

5. On October 20, 2015, Sanchez filed her Affidavit of Due Diligence wherein her process server describes the efforts made to effectuate service of the Summons and Complaint on Bon on September 22, 2015. *See Exhibit "4."*

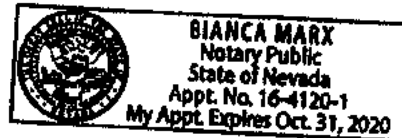
6. On March 29, 2016, Sanchez filed her Amended Affidavit of Compliance wherein she confirms that Bon was served with the Summons and Complaint through the Nevada Department of Motor Vehicles pursuant to NRS 14.070 on November 2, 2015. *See Exhibit "5," at p. 2.*

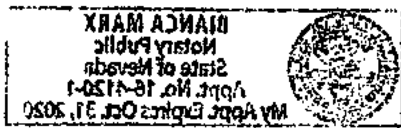
7. On November 9, 2015, Sanchez mailed a copy of the Summons and Complaint, traffic accident report, and Nevada Department of Motor Vehicles letter confirming proof of service to Bon, via certified mail, to Bon's last known address. *Id.* at p. 2. Bon never filed his Answer or otherwise responded to Sanchez's Complaint.

8. On April 1, 2016, the district court entered a default against Bon for failing to answer Sanchez's Complaint. *See Exhibit "6."*

DENNIS M. PRINCE, ESQ.

Amay  
NOTARY PUBLIC





# **Exhibit B**

**(Plaintiff's Supplement  
to Application for Entry  
of Default Judgment)**

*Steven D. Grierson*

1 **SUPP**  
2 **DENNIS M. PRINCE**  
3 Nevada Bar No. 5092  
4 **KEVIN T. STRONG**  
5 Nevada Bar No. 12107  
6 **PRINCE LAW GROUP**  
7 8816 Spanish Ridge Ave.  
8 Las Vegas, NV 89148  
9 Telephone: (702) 534-7600  
10 Facsimile: (702) 534-7601  
11 Email: [dprince@thedplg.com](mailto:dprince@thedplg.com)  
12 Email: [kstrong@thedplg.com](mailto:kstrong@thedplg.com)  
13 Attorneys for Plaintiff  
14 *Diane Sanchez*

9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11 **DIANE SANCHEZ,**

12 **Plaintiff,**

13 **vs.**

14 **BLAS BON, individually; JOSEPH**  
15 **ACOSTA, individually; WILFREDO**  
16 **ACOSTA, individually; DOES I-X and ROE**  
17 **CORPORATIONS I-X, inclusive,**

18 **Defendants.**

Case No. A-15-722815-C  
Dept. No. XXV

**PLAINTIFF'S SUPPLEMENT TO  
APPLICATION FOR ENTRY OF  
DEFAULT JUDGMENT**

18 Plaintiff DIANE SANCHEZ, by and through her attorneys of record, Dennis M. Prince and  
19 Kevin T. Strong of PRINCE LAW GROUP, hereby supplements her Application for Entry of Default  
20 Judgment with the following Exhibits:

21 Unsworn Declaration in lieu of Affidavit Pursuant to NRS 53.045 of David J. Oliveri, M.D.,  
22 attached as Exhibit "1."

23 ...

24 ...

25 ...

26 ...

27 ...


28 ...



1 Unsworn Declaration in lieu of Affidavit Pursuant to NRS 53.045 of Stan V. Smith, Ph.D.,  
2 Exhibit "2."

3 DATED this 9th day of July, 2019.

4  
5 **PRINCE LAW GROUP**

6  
7   
8 DENNIS M. PRINCE  
9 Nevada Bar No. 5092  
10 KEVIN T. STRONG  
11 Nevada Bar No. 12107  
12 8816 Spanish Ridge Ave.  
13 Las Vegas, NV 89148  
14 Attorneys for Plaintiff  
15 Diane Sanchez  
16  
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of PRINCE LAW GROUP, and that  
3 on the 9<sup>th</sup> day of July, 2019, I caused the foregoing document entitled **PLAINTIFF'S**  
4 **SUPPLEMENT TO APPLICATION FOR ENTRY OF DEFAULT JUDGMENT** to be served  
5 upon those persons designated by the parties in the E-Service Master List for the above-referenced  
6 matter in the Eighth Judicial District Court E-Filing System in accordance with the mandatory  
7 electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and  
8 Conversion Rules and by U.S. Postal Service, postage prepaid, to Defendant Blas Bon's last known  
9 address as stated below:  
10  
11

12 Blas Bon  
13 3900 Cambridge Street, Suite 106  
14 Las Vegas, NV 89119  
15 Defendant  
16  
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An Employee of Prince Law Group

# **EXHIBIT “1”**

**UNSWORN DECLARATION IN LIEU OF AFFIDAVIT PURSUANT TO NRS 53.045 OF**  
**DAVID J. OLIVERI, M.D.**

STATE OF NEVADA       )  
   ) ss.:  
 COUNTY OF CLARK       )

I, David J. Oliveri, M.D., declare under penalty of perjury that the foregoing is true and correct.

1. I am a medical doctor who is Board Certified by the American Board of Physical Medicine and Rehabilitation. I am also Board Certified by the American Board of Electrodiagnostic Medicine.

2. I am an Independent Medical Examiner who is certified by the American Board of Independent Medical Examiners.

3. I am a Certified Life Care Planner.

4. My scope of medical practice consists of treatment for patients with musculoskeletal, neuromuscular, and spine injuries or disorders.

5. I also perform forensic medical evaluations, medical record reviews, and prepare life care plans as part of my practice as a retained medical expert. I have been qualified as a medical expert in the federal and state courts of Nevada, Arizona, Utah, and California.

6. My scope of practice includes providing permanent impairment rating evaluations for worker's compensation claims and personal injury lawsuits.

7. I am a Fellow of the American Academy of Physical Medicine and Rehabilitation (AAPMR), the American Association of Neuromuscular & Electrodiagnostic Medicine (AANEM), and the North American Spine Society (NASS). I am also a member of the Spine Intervention Society (SIS), the American Medical Association (AMA), the Nevada State Medical Association, and the Clark County Medical Society.

8. On November 11, 2016, I performed a comprehensive medical record review and preliminary life care plan for Plaintiff Diane Sanchez ("Diane") as part of my retention as a medical expert for the matter of *Sanchez v. Bon et al.*, Case No. A-15-722815-C. Prior to that date, I evaluated Diane on two occasions for electrodiagnostic testing. The scope of my medical record review concerned the injuries she sustained following an April 28, 2015 motor vehicle

1 collision. I also spoke with Diane, via telephone, on the same date I prepared my report to  
2 discuss her recent medical treatment

3 9. All of my medical opinions regarding Diane are outlined in six reports that I  
4 authored on November 11, 2016; January 28, 2017; May 11, 2017; September 21, 2017; April 6,  
5 2018; and March 15, 2019, respectively. I hereby declare that all of the findings, opinions, and  
6 statements stated in my November 11, 2016; January 28, 2017; May 11, 2017; September 21,  
7 2017; April 6, 2018; and March 15, 2019 reports are true and correct under penalty of perjury. I  
8 hereby fully incorporate my November 11, 2016; January 28, 2017; May 11, 2017; September  
9 21, 2017; April 6, 2018; and March 15, 2019 reports by reference as though fully set forth  
10 herein. My reports are attached to this unsworn declaration as Exhibit "1," "Exhibit "2,"  
11 Exhibit "3," Exhibit "4," Exhibit "5," and Exhibit "6."

12 10. I have diagnosed Diane with various injuries that are directly and causally related  
13 to the April 28, 2015 collision consisting of:

- 14 1. Traumatically-induced C6-7 disc extrusion with cord compression and upper  
15 extremity symptomatology status post C6-7 anterior cervical discectomy and fusion on July 27,  
16 2015;
- 17 2. Postoperative recurrence of left upper extremity symptomatology representing  
18 radiculitis versus neuropathic pain;
- 19 3. Traumatically-induced L4-5 disc injury status post anterior L4-5 artificial disc  
20 replacement on June 22, 2017;
- 21 4. Wrist/hand pain; resolved; and
- 22 5. Initial post-accident confusion; resolved.

23 11. All of Diane's medical treatment for the above diagnoses has been reasonable,  
24 medically necessary, and directly and causally related to the April 28, 2015 motor vehicle  
25 collision.

26 12. I also reviewed and evaluated Diane's medical bills outlining the treatment she  
27 received for the injuries and diagnoses listed above to determine whether those charges are usual  
28 and customary. Although there is no universal definition for "usual and customary," I consider  
up to the 95th percentile to be usual and customary for procedural ("CPT") codes. The usual and

1 customary rate for office visits with highly specialized physicians falls outside of the 95th  
2 percentile because office visit CPT codes are used by all physicians, including those with  
3 minimal postgraduate training. This causes average office charges to be skewed at a lower rate,  
4 even for physicians who have substantial postgraduate training and experience.

5 13. I analyzed Diane's medical bills based on my experience of reviewing medical  
6 bills over the last two decades and through the use of reliable database information. Specifically,  
7 I relied upon the OPTUM FeeAnalyzer.com Professional Database to spot check medical billing  
8 rates associated with specific CPT codes. The OPTUM database also provides specific data on  
9 charges for individual CPT codes based on geography. This data is updated on a monthly basis.  
10 As to the evaluation of hospital charges, I utilized my subscription to the American Hospital  
11 Directory to determine whether Diane's hospital charges are usual and customary.

12 14. Based upon this methodology, all of the charges for Diane's medical treatment for  
13 the above injuries and diagnoses are usual and customary for the Las Vegas community, except  
14 for the following:

15 1. Family Doctors of Green Valley's original billed amount is \$3,014.00. This  
16 provider dispensed name brand medications to Diane that cost \$1,199.00. See Exhibit "1," at  
17 pp. 16-17. If these medications were dispensed as generics, the usual and customary cost is  
18 approximately 30% of the billed amount. *Id.*

19 2. Khavkin Clinic's original billed amount is \$73,486.00. Dr. Khavkin's assistant  
20 surgeon, Ippei Takagi, M.D.'s charges for his services are seventy-five percent of the primary  
21 surgeon, Dr. Khavkin's charges. See Exhibit "1," at p. 17. The usual and customary cost  
22 ranges from twenty to twenty-five percent of the primary surgeon's fee. *Id.*

23 3. PayLater Pharmacy's original billed amount is \$25,359.40. The usual and  
24 customary cost for the medications dispensed is approximately twenty-five percent of the total  
25 amount. See Exhibit "4," at p. 5; and Exhibit "5," at pp. 3-4.

26 15. All of Diane's charges for her medical treatment, including the adjusted charges  
27 outlined above, are directly and causally related to the April 28, 2015 motor vehicle collision.

1 16. As to Diane's prognosis and need for future medical care, I expect that she will  
2 continue to experience residual chronic pain and other symptoms related to her cervical spine  
3 and lumbar spine that will necessitate future treatment.

4 17. Diane will require future medical treatment to manage these conditions that  
5 consists of: (1) pain management care; (2) spine surgeon consults for future adjacent segment  
6 cervical spine and lumbar spine surgeries; (3) physical therapy; (4) various prescription  
7 medications; (5) preoperative radiographic studies; (6) trial implantation of cervical spine  
8 neurostimulator; (7) potential permanent implantation of cervical spine neurostimulator and  
9 periodic IPG replacement depending on response; (8) preoperative medical clearance for cervical  
10 spine and lumbar spine surgeries; (9) future cervical spine fusion surgery for adjacent segment  
11 breakdown; and (10) future lumbar spine surgery for adjacent segment breakdown.

12 18. The total estimated costs for Diane's future medical treatment are: (1) \$41,316.00  
13 to \$123,948.00 for pain management care; (2) \$43,016.00 to \$125,648.00 for spine surgeon  
14 consults for future adjacent segment cervical spine and lumbar spine surgeries; (3) \$79,200.00  
15 for physical therapy; (4) \$127,809.00 for various prescription medications; (5) \$3,991.00 for  
16 preoperative radiographic studies; (6) \$26,131.00 to \$36,131.00 for trial implantation of cervical  
17 spine neurostimulator; (7) \$1,539.00 for preoperative medical clearance for cervical spine  
18 surgery; (8) \$168,263.00 to \$218,338.00 for future cervical spine fusion surgery for adjacent  
19 segment breakdown; (9) \$1,539.00 for preoperative medical clearance for future lumbar spine  
20 surgery; and (10) \$290,911.00 for future lumbar spine surgery for adjacent segment breakdown.

21 19. The total estimated cost for Diane's future medical treatment is ranges from  
22 \$742,399.00 to \$885,106.00.

23 20. All of my opinions outlined in this declaration are made to a reasonable degree of  
24 medical probability.



DAVID J. OLIVERI, M.D.

25  
26  
27 EXECUTED on this 10<sup>th</sup> day of June, 2019.  
28

# **EXHIBIT “2”**



**UNSWORN DECLARATION IN LIEU OF AFFIDAVIT PURSUANT TO NRS 53.045 OF**  
**STAN V. SMITH, Ph.D.**

STATE OF NEVADA            )  
   ) ss.:  
 COUNTY OF CLARK         )

I, Stan V. Smith, Ph.D., declare under penalty of perjury under the law of the State of Nevada, that the foregoing is true and correct.

1. I am an economist and President of Smith Economics Group, Ltd. Smith Economics Group, Ltd. provides economic and financial consulting and economic legal analysis in federal and state courts on damages of every sort, including personal injury and wrongful death losses such as lost wages, benefits, services, and hedonic damages.

2. I graduated from Cornell University with a Bachelor of Science Degree in Operations Research in 1968. In 1972, I graduated from the University of Chicago, Chicago, Illinois, with a Master's Degree in Economics. In 1997, I received a Ph.D. in Economics from the University of Chicago, Chicago, Illinois.

3. I am a board certified by the American College of Forensic Examiners.

4. I am a member and diplomat of the American Board of Disability Analysts, a member of the American Economics Association, a member of the American Finance Association, and a member of the National Association of Forensic Economics.

5. I have authored or co-authored over fifty articles that were published by various journals and periodicals including Forensic Rehabilitation & Economics and Journal of Forensic Economics.

6. I have performed forensic economic work in the litigation arena since 1985.

7. On December 21, 2016, I performed a comprehensive economic analysis and calculation of the value of economic losses sustained by Plaintiff Diane Sanchez ("Ms. Sanchez") as part of my retention as an economist in the matter of *Sanchez v. Bon et al.*, Eighth Judicial District Court Case No. A-15-722815-C. The scope of my analysis and calculations consisted of the following categories of economic damages: (1) the loss of wages and employee benefits; (2) the loss of housekeeping and household management services; (3) the cost of a future life care plan for Ms. Sanchez as determined by her retained physical medicine and

1 rehabilitation physician, David J. Oliveri, M.D.; and (4) the reduction in value of life, also  
2 known as loss of enjoyment of life. On March 18, 2019, I authored a second report wherein I  
3 updated the present value calculations of Ms. Sanchez's economic damages.

4 8. All of my economic opinions regarding Ms. Sanchez are outlined in two reports  
5 that I authored on December 21, 2016 and March 18, 2019, respectively. I hereby declare that  
6 all of the findings, opinions, and statements stated in my December 21, 2016 and March 18,  
7 2019 reports are true and correct under penalty of perjury under the law of the State of Nevada.  
8 I hereby fully incorporate my December 21, 2016 and March 18, 2019 reports by reference as  
9 though fully set forth herein. My reports are attached to this unsworn declaration as Exhibit "1"  
10 and Exhibit "2."

11 9. I calculated Ms. Sanchez's loss of wages and employee benefits under two  
12 distinct scenarios. Under Scenario 1, Ms. Sanchez's wage loss began at \$26,900.00 in year 2017  
13 dollars, which represents the average earnings of a taxi driver in Las Vegas. Ms. Sanchez's  
14 wages were grown at an estimated wage growth rate of three percent (3%) in 2018, 2019, and  
15 2020. Wages past 2020 were grown at a real rate of one percent (1%). The present value of  
16 Sanchez's total past and future loss of wages and employee benefits totals \$694,708.00,  
17 assuming she works to age sixty-seven (67).

18 10. Under Scenario 2, Ms. Sanchez's wage loss began at \$26,900.00 in year 2017  
19 dollars, which represents the average earnings of a taxi driver in Las Vegas. Scenario 2 is grown  
20 to \$39,740.00 in 2017 dollars in the year 2020, which represents the seventy-fifth (75th)  
21 percentile for wages earned by pharmacy technicians in Las Vegas. I assumed that Ms. Sanchez  
22 would have worked as a pharmacy technician by 2020 had she not suffered injuries from the  
23 subject collision. Wages were again grown at an estimated wage growth rate of three percent  
24 (3%) in 2018, 2019, and 2020. Wages past 2020 were again grown at a real rate of one percent  
25 (1%). The present value of Ms. Sanchez's total past and future loss of wages and employee  
26 benefits totals \$985,812.00, assuming she works to age sixty-seven (67).

27 11. I calculated Ms. Sanchez's loss of past and future household services damages by  
28 conducting an interview of her to determine her ability to perform household chores. Based on  
Ms. Sanchez's representations, I determined that her loss of ability to perform household chores

1 is approximately eighty percent (80%). I utilized an hourly rate of \$14.99 for various workers  
 2 who provide household services to estimate the value of Ms. Sanchez's loss. I also relied on the  
 3 American Time Use Survey to determine the number of hours per week spent on housekeeping  
 4 and household management services for persons of various ages to demonstrate the deviation in  
 5 loss as Ms. Sanchez ages. Based on these assumptions and Ms. Sanchez's life expectancy of  
 6 83.5 years, the present value of Ms. Sanchez's total loss of past and future household services is  
 7 \$446,334.00.

8 12. I calculated Ms. Sanchez's damages resulting from the reduction in the value of  
 9 her life by approximating how her physical injuries impacted her ability to lead a normal life by  
 10 performing activities of daily living, as well as career, social, and leisure activities. I used the  
 11 information I gleaned from my interview with Ms. Sanchez to calculate the percentage of loss in  
 12 the value of her life to range from fifty percent (50%) to seventy percent (70%). I also relied on  
 13 economic publications that have outlined the methodology necessary to estimate the value of life  
 14 in after-tax dollars. Based on Ms. Sanchez's life expectancy of 83.5 years, the present value of  
 15 her damages resulting from the reduction in the value of her life is \$2,685,877.00.

16 13. Finally, I calculated the present value of Ms. Sanchez's future medical treatment  
 17 outlined in David J. Oliveri, M.D.'s life care plan dated March 15, 2019. I assumed a real  
 18 growth rate of one point seven zero percent (1.70%) for medical services, zero-point seven zero  
 19 percent (0.70%) for medical commodities, one percent (1%) for non-medical services, and zero  
 20 percent (0%) for non-medical commodities. These growth rates are based on medical care  
 21 growth data from the U.S. Bureau of Labor Statistics. Based on this information, the present  
 22 value of Ms. Sanchez's future medical treatment is \$827,038.00.

23 14. All of my opinions outlined in this declaration, are made to a reasonable degree of  
 24 economic probability.

25   
 26 STAN V. SMITH, Ph.D.

27  
 28 EXECUTED on this 10<sup>TH</sup> day of May, 2019.

# **Exhibit C**

(Notice of Entry of  
Default Judgment)

*Steven D. Grierson*

1 NEJD  
2 DENNIS M. PRINCE, ESQ.  
3 Nevada Bar No. 5092  
4 KEVIN T. STRONG, ESQ.  
5 Nevada Bar No. 12107  
6 **PRINCE LAW GROUP**  
7 8816 Spanish Ridge Avenue  
8 Las Vegas, NV 89148  
9 Telephone: (702) 534-7600  
10 Facsimile : (702) 534-7601  
11 Email: [dprince@thedplg.com](mailto:dprince@thedplg.com)  
12 Email: [kstrong@thedplg.com](mailto:kstrong@thedplg.com)  
13 Attorneys for Plaintiff

9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

12 DIANE SANCHEZ,  
13 Plaintiff,

14 vs.

15 BLAS BON, individually; JOSEPH ACOSTA,  
16 individually; WILFREDO ACOSTA,  
17 individually; DOES I-X, and ROE  
18 CORPORATIONS I-X, inclusive,

19 Defendants.

20 JOSEPH ACOSTA, individually; and  
21 WILFREDO ACOSTA, individually,

22 Crossclaimants,

23 vs.

24 BLAS BON, individually,  
25 Crossdefendant.

CASE NO.: A-15-722815-C  
DEPT. NO. XXV

1  
**NOTICE OF ENTRY OF  
DEFAULT JUDGMENT**



1 PLEASE TAKE NOTICE that a Default Judgment was entered in this matter on the 19<sup>th</sup> day  
2 of July, 2019. A copy of said Default Judgment is attached hereto as Exhibit 1.

3 DATED this 19<sup>th</sup> day of July, 2019.

4 **PRINCE LAW GROUP**

5   
6 DENNIS M. PRINCE, ESQ.

7 Nevada Bar No. 5092

8 KEVIN T. STRONG, ESQ.

9 Nevada Bar No. 12107

10 8816 Spanish Ridge Avenue

11 Las Vegas, NV 89148

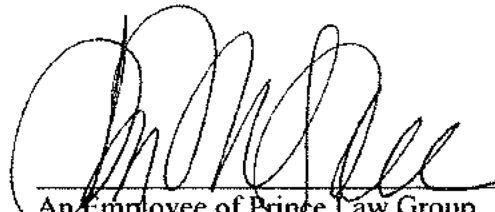
12 Attorneys for Plaintiff



1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of PRINCE LAW GROUP, and that  
3 on the 19th day of July, 2019, I caused the foregoing document entitled **NOTICE OF ENTRY OF**  
4 **DEFAULT JUDGMENT** to be served upon those persons designated by the parties in the E-Service  
5 Master List for the above-referenced matter in the Eighth Judicial District Court E-Filing System in  
6 accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the  
7 Nevada Electronic Filing and Conversion Rules and by U.S. Postal Service, postage prepaid, to  
8 Defendant Blas Bon's last known address as stated below:

9 Blas Bon  
10 3900 Cambridge Street  
11 Suite 106  
12 Las Vegas, NV 89119  
13 Defendant

14   
An Employee of Prince Law Group

# EXHIBIT 1



*Steven D. Grierson*

**JUDG**  
**DENNIS M. PRINCE**  
Nevada Bar No. 5092  
**KEVIN T. STRONG**  
Nevada Bar No. 12107  
**PRINCE LAW GROUP**  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
Tel: 702.534.7600  
Fax: 702.534.7601  
Attorneys for Plaintiff  
*Diane Sanchez*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**DIANE SANCHEZ,**  
**Plaintiff,**

Case No. A-15-722815-C  
Dept. No. XXV

**DEFAULT JUDGMENT**

**vs.**

**BLAS BON, individually; JOSEPH**  
**ACOSTA, individually; WILFREDO**  
**ACOSTA, individually; DOES I-X and ROE**  
**CORPORATIONS I-X, inclusive,**

**Defendants.**

Plaintiff Diane Sanchez's ("Sanchez") Application for Default Judgment was brought for hearing in Department XXV of the Eighth Judicial District Court, before The Honorable Kathleen E. Delaney, on the 11th day of June, 2019, with Dennis M. Prince and Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff Diane Sanchez and no one appearing on behalf of Defendant Blas Bon. The Court having reviewed the application on file herein, the documents attached thereto, and being duly advised in the premises:

This matter arises from a motor vehicle collision involving four (4) cars that occurred on April 28, 2015. On August 7, 2015, Sanchez filed her Complaint for personal injuries against Defendants Blas Bon ("Bon") and Joseph Acosta. On October 13, 2016, Sanchez filed her Amended Complaint wherein she named Wilfredo Acosta as an additional defendant. On October 16, 2018, Sanchez and the Acosta Defendants filed their Stipulation and Order for Dismissal with Prejudice following their confidential settlement of Sanchez's claims.

1

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input checked="" type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Def(s)	<input type="checkbox"/> Judgment of Arbitration

*mk*



As to Bon, Sanchez filed her Affidavit of Due Diligence on October 22, 2015 wherein the process server described his failed efforts to personally serve Bon with the Summons and Complaint at his last known address on September 22, 2015. On March 29, 2016, Sanchez filed her Amended Affidavit of Compliance wherein she confirmed that Bon was served with the Summons and Complaint through the Nevada Department of Motor Vehicles, pursuant to NRS 14.070, on November 2, 2015. On November 9, 2015, Sanchez also sent, via certified mail, copies of the Summons, Complaint, traffic accident report, and November 2, 2015 DMV letter confirming proof of service, to Bon's last known address: 3900 Cambridge Street, Suite 106, Las Vegas, Nevada 89119. This package went unclaimed and was returned to Sanchez on November 12, 2015. On April 1, 2016, the district court entered Default against Bon for his failure to file an answer to Sanchez's Complaint or to otherwise appear in the action within twenty (20) days of service. On March 29, 2019, Sanchez filed her Application for Entry of Default Judgment pursuant to NRCP 55(b)(2). The district court's entry of default constitutes an admission by Bon of all material facts alleged in Sanchez's Complaint. *Estate of LoMastro v. Am. Family Ins. Group*, 124 Nev. 1060, 1068 (2008). As a result, entry of default against Bon resolves the issues of liability and causation for all claims for relief in Sanchez's Complaint. *Id.* The only outstanding issue is the extent of Sanchez's damages.

Based on the foregoing, this Court finds and enters judgment against Bon as follows:

1. On April 28, 2015, Sanchez traveled northbound on Interstate 15 in a 1995 BMW 325i in the #5 travel lane. Bon drove a 1997 Dodge Ram 2500 pickup truck, wherein he hauled two wheelbarrows in the truck bed, directly behind Sanchez. Bon negligently collided with the left side of Sanchez's rear bumper.

2. As a result of Bon's negligence, Sanchez sustained severe and life-altering injuries to her cervical spine and lumbar spine that required substantial medical treatment, including anterior artificial disc replacement surgery at L4-5 of her lumbar spine, as established by her medical records.

3. As a result of Bon's negligence, it is reasonably foreseeable that Sanchez will suffer ongoing pain, suffering, and loss of enjoyment of life. It is also reasonably foreseeable that Sanchez will

undergo future medical treatment to address her cervical and lumbar spine injuries and ongoing residual chronic pain complaints suffered as a result of Bon's negligence. Sanchez's need for future medical treatment and the associated costs for her future medical treatment are established by her medical records and opinions of her retained medical expert, David J. Oliveri, M.D. Dr. Oliveri offers these opinions to a reasonable degree of medical probability.

4. As a result of Bon's negligence, Sanchez suffered past economic damages and it is reasonably foreseeable that Sanchez will suffer future economic damages that consist of: (1) future medical expenses, (2) past and future loss of wages and employee benefits, (3) loss of past and future housekeeping and household management services, and (4) reduction in the value of life damages. The extent of Sanchez's past and future economic damages is established by the opinions of her retained economist, Stan V. Smith, Ph.D. Dr. Smith offers his opinions to a reasonable degree of economic probability. Sanchez's permanent functional capacity disability that will preclude her from working in the future is established by the opinions of Dr. Oliveri. Dr. Oliveri offers this opinion to a reasonable degree of medical probability.

Based upon the papers, pleadings, and evidence on file herein, judgment is hereby entered in favor of Plaintiff Diane Sanchez and against Defendant Blas Bon, jointly and severally, as follows:

1. Past medical special damages:	\$465,285.01
2. Future medical special damages:	\$827,038.00
3. Past and future economic wage loss and employee benefits:	\$840,260.00
4. Past and future economic loss of household services:	\$446,334.00
5. Past pain and suffering:	\$2,000,000.00
6. Future pain and suffering:	\$3,000,000.00
7. Future reduction in the value of life:	\$2,685,877.00
8. Pre-judgment interest as allowed by Nevada law on past damages:	\$599,417.62
<b>Total Damages:</b>	<b>\$10,864,211.63</b>

Attorneys' fees based on a contingency fee agreement of forty percent (40%) of the total judgment award in the amount of \$4,345,684.65 ( $\$10,864,211.63 \times .40$ ) pursuant to *O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. Adv. Rep. 67, 429 P.3d 664, 670-71 (Nev. Ct. App. 2018).


A total judgment in the amount of \$15,209,896.28, plus costs in the amount of \$2,759.45, is hereby entered in favor of Plaintiff Diane Sanchez and against Defendant Blas Bon. Plaintiff Diane Sanchez shall also be entitled to interest as allowed by Nevada law from the date of entry hereof until the judgment is fully satisfied.

DATED this 19<sup>th</sup> day of July, 2019.

  
DISTRICT COURT JUDGE

Respectfully Submitted By:

**PRINCE LAW GROUP**

  
DENNIS M. PRINCE  
Nevada Bar No. 5092  
KEVIN T. STRONG  
Nevada Bar No. 12107  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
Tel: 702.534.7600  
Fax: 702.534.7601  
Attorneys for Plaintiff  
Diane Sanchez

# **Exhibit D**

**(Real Property Parcel  
Record)**

GENERAL INFORMATION	
PARCEL NO.	162-15-702-011
OWNER AND MAILING ADDRESS	COUNTY OF CLARK (ADMINISTRATIVE) 500 S GRAND CENTRAL PKWY LAS VEGAS NV 89155
LOCATION ADDRESS CITY/UNINCORPORATED TOWN	3900 CAMBRIDGE ST PARADISE
ASSESSOR DESCRIPTION	PARCEL MAP FILE 51 PAGE 29 LOT 1 & PT NE4 SE4 15 21 61
RECORDED DOCUMENT NO.	* 19970130:00868
RECORDED DATE	Jan 30 1997
VESTING	NS

\*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND VALUE EXCLUDED FROM PARTIAL ABATEMENT	
TAX DISTRICT	470
APPRAISAL YEAR	2019
FISCAL YEAR	2020-21
SUPPLEMENTAL IMPROVEMENT VALUE	0
INCREMENTAL LAND	0
INCREMENTAL IMPROVEMENTS	0

REAL PROPERTY ASSESSED VALUE		
FISCAL YEAR	2019-20	2020-21
LAND	167096	187983
IMPROVEMENTS	606005	613604
PERSONAL PROPERTY	0	0
EXEMPT	773100	801586
GROSS ASSESSED (SUBTOTAL)	773100	801586
TAXABLE LAND+IMP (SUBTOTAL)	2208857	2290246
COMMON ELEMENT ALLOCATION ASSD	0	0
TOTAL ASSESSED VALUE	773100	801586
TOTAL TAXABLE VALUE	2208857	2290246

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION	
ESTIMATED SIZE	1.37 Acres
ORIGINAL CONST. YEAR	1989
LAST SALE PRICE MONTH/YEAR SALE TYPE	2030 1/1997 R - Recorded Value
LAND USE	41.335 - Offices, Professional and Business Services
DWELLING UNITS	1

PRIMARY RESIDENTIAL STRUCTURE
-------------------------------

NBIS 000599

1ST FLOOR SQ. FT.	0	CASITA SQ. FT.	0	ADDN/CONV	
2ND FLOOR SQ. FT.	0	CARPORT SQ. FT.	0	POOL	NO
3RD FLOOR SQ. FT.	0	STYLE	Office Building	SPA	NO
UNFINISHED BASEMENT SQ. FT.	0	BEDROOMS	0	TYPE OF CONSTRUCTION	
FINISHED BASEMENT SQ. FT.	0	BATHROOMS	0	ROOF TYPE	
BASEMENT GARAGE SQ. FT.	0	FIREPLACE	0		
TOTAL GARAGE SQ. FT.	0				

NBIS 000600

# **Exhibit E**

## **(Correspondence)**





June 16, 2015

VIA FAX AND U.S. MAIL  
866-291-3559

DMA Claims Services  
P.O. BOX 648  
Battle Creek, MI 49016

RECEIVED  
JUN 31 2015  
DMA Claims Services

RE: Our Client : Diane Sanchez  
Your Insured : Hipolito Cruz  
Claim No. : DMA-0147074  
Date of Accident : April 28, 2015

To Whom It May Concern:

This letter and the attached information constitute our settlement demand in the above-mentioned matter for Diane Sanchez.

**Specials.** The medical bills of Ms. Sanchez total \$7,818 the bills and records are attached for your review.

**Futures:** Ms. Sanchez has been recommended for C6-C7 cervical decompression and fusion by Dr. Khavkin which is in Dr. Khavkin's June 4, 2015 chart note.

**Demand.** We are prepared to settle this matter on behalf of Diane Sanchez, fully and finally, for ALL APPLICABLE POLICY LIMITS. If you do not respond to this demand by **June 30, 2015**, we will file suit and seek the full measure of our client's damages, without regard to policy limits. Your response must be delivered by 5 p.m. Pacific Standard Time by either facsimile or phone call on the aforementioned date. Notice by regular mail will be insufficient notice since it is unlikely that the mail will reach my office prior to the deadline.

Additionally, please disclose the existence of any other applicable policies, umbrellas, or any other coverage on this claim. I look forward to hearing from you.

Thank you for your courtesy and cooperation.

Sincerely,

Paul D. Powell, Esq.



July 10, 2015

Nevada Injury Lawyers  
7785 West Sahara, Suite 101  
Las Vegas, NV 89117

Re: Insured: Hipolito Cruz  
Claim Number: Diane Sanchez  
Date of Loss: 04/28/2015  
Owner of File: DMA-0147074

Dear Mr. Powell:

We represent the interest of ATX Premier Insurance Company for the above loss.

We are writing to advise you that we are in the process of investigating DMA-0147074 this claim. In order for us to complete our investigation, we need additional time to secure the following information:

- \* Statement from the vehicle drivers involved in this incident.  
Photos of the vehicles involved in this incident

We are unable to come to a determination regarding DMA-0147074 claim because we have not received the above information. There are multiple impacts involved in this incident and we are attempting to determine the liability. We are currently operating on a reservation of rights with our insured for non-cooperation. If you have additional information that could help us make these determinations we would appreciate any assistance that you can provide.

We estimate that we will be in a position to evaluate DMA-0147074 claim within thirty days of receipt of this information. We will contact you after we have received and had the opportunity to review the above.

In the meantime, if you have any questions, please let us know. Thank you for your cooperation.

Sincerely,

DeLawrence Templeton  
Bodily Injury Claims Representative  
(269) 200-4846  
dtempleton@dmaclaims.com



P.O. Box 648 Battle Creek, MI 49016

July 17, 2015

Nevada Injury Lawyers  
7785 West Sahara, Suite 101  
Las Vegas, NV 89117

Insured: Hipolito Cruz  
Claim No: DMA-0147074  
D/Loss: 04/28/2015  
O/File: Diane Sanchez

Dear Mr. Powell:

We represent the interests of ATX Premier Insurance Company in the above matter.

We have completed a thorough investigation and examination of the facts and circumstances surrounding the above-referenced accident.

We have completed our investigation into the facts of the above listed loss and must inform you that the claim is denied. Our policy only covers losses for which our insured becomes legally liable. After a review of the facts of this loss, we have determined that our insured was not the proximate cause of the loss, and therefore, not legally liable for the resulting damages.

Therefore, we are unable to consider any portion of your claim. In taking this action of denying the claim for specific reasons stated herein, ATX Premier Insurance Company EXPRESSLY RESERVES and DOES NOT WAIVE any right to raise other defenses at any subsequent time.

If there is any information, not already provided, that you believe would affect this determination, please forward it to the undersigned for further consideration.

Sincerely,

DeLawrence Templeton  
Bodily Injury Claims Representative  
(269) 200-4846  
dtempleton@dmaclaims.com

**"ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL AND CRIMINAL PENALTIES"**

NBIS 000604



August 8, 2015

Via U.S. MAIL

ATX Premier Insurance  
Attn: DeLawrence Templeton  
PO Box 142768  
Dallas, Texas 75014

RECEIVED  
AUG 19 2015

DMA Claims Services

Re: **Sanchez v. Cruz**  
**Claim No. DMA-0147074**  
**Date of Loss: April 28, 2015**

Dear Mr. Templeton:

I am in receipt of your correspondence from July 10, 2015. As you know, my office recently attempted to resolve Ms. Sanchez's claims with ATX PREMIER. The policy limit of your insured, Mr. Cruz, is just \$15,000. At the time of the demand, Ms. Sanchez's bills were nearly \$8,000, and she was scheduled to undergo a cervical fusion surgery by Dr. Gene Khavkin for crash-related injuries. Instead of paying the policy limit, ATX PREMIER confusingly failed to respond to the time-sensitive demand.

On July 10, 2015 — approximately 10 days after the demand due date — you contacted me and requested additional time to evaluate the claim. You indicated to me that the claim was passed around to multiple claims handlers prior to you. You indicated that ATX PREMIER was bought by an another company and that any demands sent to the ATX PREMIER PO Box weren't handled in a timely manner with respect to allocation to claims handlers.

~~As you know, this crash occurred in late April 2015. The Traffic Report indicates that Mr. Blas~~  
(who was driving the car insured by Mr. Cruz) caused the start of a four-car crash by striking Ms. Sanchez from behind. There is no dispute that fault lies with Mr. Blas under Nevada's "duty to use due care" requirement. ATX PREMIER indicated that it could not offer any settlement on the case because it was still evaluating the claim. Yet, you indicated that ATX PREMIER had yet to investigate the claim due to the mishaps with the PO Box. ATX PREMIER had yet to review photos of the crash. ATX PREMIER made no substantive efforts to contact Mr. Blas or Mr. Cruz. And even if driver/insured were contacted, it doesn't change our story line — Mr. Blas struck Ms. Sanchez from behind, and Ms. Sanchez required immediate fusion surgery for crash-related injuries.

In light of the need for immediate fusion surgery, and considering the nature of this crash, the refusal to tender policy limits is troubling. Please be advised that Ms. Sanchez withdraws the policy limit demand. The refusal by ATX PREMIER to timely tender the policy limits forces Ms. Sanchez to file a lawsuit. She also intends to continue with recommended medical treatment. As this case now moves into litigation, please be advised that ATX PREMIER's conduct will be treated as a bad faith attempt to avoid payment. Accordingly, Ms. Sanchez will no longer accept the ATX PREMIER policy limits at any time in the future.

The bad faith component is important as we move forward. In my experience, it is unlikely that ATX PREMIER will alert Mr. Cruz to the fact that Ms. Sanchez offered to settle for the policy limit prior to commencing litigation, and that ATX PREMIER rejected this offer. It is also unlikely that ATX PREMIER will alert Mr. Cruz to potential extra-contractual claims based on the likelihood of an excess judgment. Insurance companies never do. This failure to notify your own insured of this bad faith conduct creates a direct conflict between ATX PREMIER and Mr. Cruz.

ATX PREMIER's business gamble also creates a troublesome conflict for the defense attorney on this case. The attorney is hired by ATX PREMIER. But ultimately, the attorney must provide Mr. Cruz with advice that is potentially detrimental to ATX PREMIER. To alleviate this conflict, both long-standing and recent case law suggests that Mr. Cruz should consult with independent bad faith counsel.

To further this protection, I can suggest several extremely competent bad faith attorneys who can advise Mr. Cruz of the potential bad faith rights. **Importantly, these attorneys will meet with Mr. Cruz at no charge.** In my experience, bad faith counsel is critical to ensure that Mr. Cruz receives a fair-handed legal evaluation. And considering the present and future medical care in this case, an excess verdict is likely — thus mandating the need for bad faith counsel. Please let me know if you would like assistance in this regard, or if you desire to discuss this matter further.

Lastly, to my knowledge, at no time since our earlier discussion has ATX PREMIER engaged in any contact with my office. And no additional settlement offers were provided. Once again, please be advised that any offers to settle for policy limits have been withdrawn. A lawsuit has been filed on behalf of my client. And my client intends to treat for injuries sustained in this crash, and to recover the full measure of damages through litigation. The sole cause of this need to litigate is because ATX PREMIER failed to properly and fairly evaluate the claim. Please notify your insured of this upcoming litigation and the unfortunate need for bad faith counsel.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul D. Powell', with a large, loopy flourish extending from the end of the name.

Paul D. Powell, Esq.



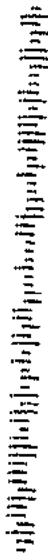
6785 W. RUSSELL, SUITE 210  
LAS VEGAS, NV 89118

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**US POSTAGE**  
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# **Exhibit F**

## **(Court Minutes)**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Negligence - Auto**

**COURT MINUTES**

**April 11, 2017**

---

A-15-722815-C      Diane Sanchez, Plaintiff(s)  
vs.  
Blas Bon, Defendant(s)

---

**April 11, 2017      9:00 AM      Deft. / Cross-Claimant Joseph Acosta's Motion to Enlarge  
Time to Perfect Service of Cross Claim Against Cross-  
Deft. Blas Bon**

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**REPORTER:** Sharon Howard

**PARTIES**      Finch, Renee M.

Attorney for Deft.

**PRESENT:**      Kristof, Michael A.

Attorney for Pltf.

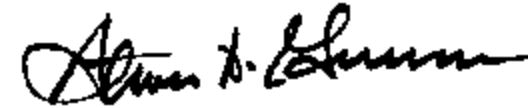
**JOURNAL ENTRIES**

- Mr. Finch stated Deft. Bon is very much aware of the case and requested time to try to serve Deft. Bon again. Colloquy regarding how much time the Court should allow for service. COURT STATED ITS FINDINGS, and ORDERED, Motion GRANTED; the Court will allow another SIXTY (60) DAYS to serve Deft. Blas Bon. Mr. Finch is to prepare the Order, provide a copy to opposing counsel for review as to form and content, and return it back to the Court within 10 days.



# EXHIBIT 3

# EXHIBIT 3



CLERK OF THE COURT

**ACOMP**

Paul D. Powell, Esq.  
Nevada Bar No. 7488  
THE POWELL LAW FIRM  
6785 W. Russell Road, Suite 210  
Las Vegas, Nevada 89118  
Phone: (702) 728-5500  
Facsimile: (702) 728-5501  
Email: paul@TPLF.com

Attorneys for DIANE SANCHEZ

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DIANE SANCHEZ,

Plaintiff,

vs.

BLAS BON, individually; JOSEPH ACOSTA,  
individually; WILFREDO ACOSTA, individually;  
DOES I - X, and ROE CORPORATIONS I - X,  
inclusive,

Defendants.

CASE NO. A722815

DEPT. NO. XXV

**AMENDED COMPLAINT**

Plaintiff DIANE SANCHEZ, by and through attorney of record, PAUL D. POWELL,  
ESQ., of THE POWELL LAW FIRM complains against Defendants BLAS BON, JOSEPH  
ACOSTA and WILFREDO ACOSTA, as follows:

**GENERAL ALLEGATIONS**

1. Plaintiff DIANE SANCHEZ (hereinafter "Plaintiff") is, and at all times mentioned herein, was, a resident of the County of Clark, State of Nevada.
2. That Defendants BLAS BON, JOSEPH ACOSTA and WILFRDO ACOSTA (hereinafter "Defendants") are, and at all times mentioned herein, were, a resident of the County of Clark, State of Nevada.
3. The true names and capacities of the Defendants designated herein as Doe or Roe Corporations are presently unknown to Plaintiff at this time, who therefore sues

1 said Defendants by such fictitious names. When the true names and capacities of  
2 these defendants are ascertained, Plaintiff will amend this Complaint accordingly.

3 4. At all times pertinent, Defendants were agents, servants, employees or joint  
4 venturers of every other Defendant herein, and at all times mentioned herein were  
5 acting within the scope and course of said agency, employment, or joint venture,  
6 with knowledge and permission and consent of all other named Defendants.

7  
8 5. Defendant JOSEPH ACOSTA was, at all times mentioned herein, the operator of  
9 a 1997 BMW 52851, Nevada Plate No. 361LKK (hereinafter referred to as the  
10 "Vehicle"). The Vehicle was owned by Defendant WILFREDO ACOSTA.

11 6. On April 28, 2015, in Clark County, Nevada, Defendant JOSEPH ACOSTA  
12 caused a crash with Plaintiff.

13  
14 7. As a direct and proximate result of the negligence of Defendants, Plaintiff  
15 sustained injuries to Plaintiff's shoulders, back, bodily limbs, organs and systems,  
16 all or some of which condition may be permanent and disabling, and all to  
17 Plaintiff's damage in a sum in excess of \$10,000.

18  
19 8. As a direct and proximate result of the negligence of Defendants, Plaintiff received  
20 medical and other treatment for the aforementioned injuries, and that said services,  
21 care, and treatment are continuing and shall continue in the future, all to the  
22 damage of Plaintiff.

23  
24 9. As a direct and proximate result of the negligence of Defendants, Plaintiff has been  
25 required to, and has limited occupational and recreational activities, which have  
26 caused and shall continue to cause Plaintiff loss of earning capacity, lost wages,  
27  
28

1 physical impairment, mental anguish, and loss of enjoyment of life, in a presently  
2 unascertainable amount.

3 10. As a direct and proximate result of the negligence of Defendants, Plaintiff's  
4 vehicle was damaged and Plaintiff lost the use of that vehicle.

5 11. As a direct and proximate result of the aforementioned negligence of all  
6 Defendants, Plaintiff has been required to engage the services of an attorney,  
7 incurring attorney's fees and costs to bring this action.  
8

9 **FIRST CAUSE OF ACTION**

10 12. Plaintiff incorporates paragraphs 1 through 11 of the Complaint as though said  
11 paragraphs were fully set forth herein.  
12

13 13. Defendants owed Plaintiff a duty of care to operate their vehicles in a reasonable  
14 and safe manner. Defendant breached that duty of care by striking Plaintiff's  
15 vehicle on the roadway. As a direct and proximate result of the negligence of  
16 Defendant, Plaintiff has been damaged in an amount in excess of \$10,000.00.  
17

18 **SECOND CAUSE OF ACTION**

19 14. Plaintiff incorporates paragraphs 1 through 14 of the Complaint as though said  
20 paragraphs were fully set forth herein.

21 15. The acts of Defendants as described herein violated the traffic laws of the State  
22 of Nevada and Clark County, constituting negligence per se, and Plaintiff has  
23 been damaged as a direct and proximate result thereof in an amount in excess of  
24 \$10,000.00.  
25  
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28

**THIRD CAUSE OF ACTION**

16. Plaintiff incorporates paragraphs 1 through 15 of the Complaint as though said paragraphs were fully set forth herein.
17. Defendant WILFREDO ACOSTA was the registered owner of the Vehicle driven by Defendant JOSEPH ACOSTA at the time of the acts plead herein.
18. Defendant JOSEPH ACOSTA had either the express or implied permission of Defendant WILFREDO ACOSTA to operate the Vehicle.
19. Defendant JOSEPH ACOSTA and Defendant WILFREDO ACOSTA are related as defined by NRS 41.440. To wit: WILFREDO ACOSTA is JOSEPH ACOSTA's father.
20. Pursuant to NRS 41.440, Defendant WILFREDO ACOSTA is jointly and severally liable for any damages proximately resulting from Defendant JOSEPH ACOSTA's negligence.
21. Pursuant to NRS 41.440, Defendant JOSEPH ACOSTA's negligence is imputed to Defendant WILFREDO ACOSTA for all purposes of civil damages.
22. As a direct and proximate cause of Defendant JOSEPH ACOSTA's negligence, Plaintiff has been damaged in an amount in excess of \$10,000.00.

WHEREFORE, Plaintiff expressly reserving the right to amend this complaint prior to or at the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays judgment against all Defendants, and each of them, as follows:

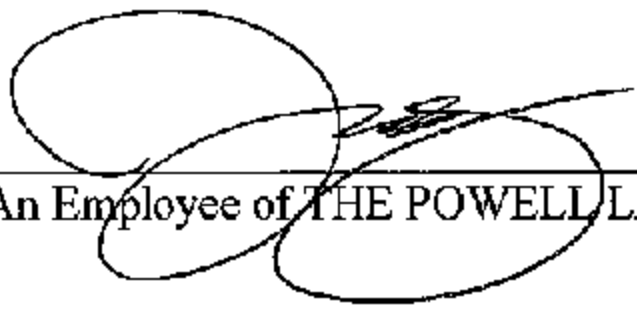
1. For general damages sustained by Plaintiff in an amount in excess of \$10,000.00;
2. For special damages sustained by Plaintiff in an amount in excess of \$10,000.00;
3. For property damages sustained by Plaintiff;



**CERTIFICATE OF SERVICE**

Pursuant to Nevada Rules of Civil Procedure 5 (b), I hereby certify that on the 13<sup>th</sup>  
day of October, 2016, the **AMENDED COMPLAINT** was served via electronic service to  
the following counsel of record:

Sarah Smith, Esq.  
MESSNER REEVES LLP  
5556 S. Fort Apache Road, Suite 100  
Las Vegas, Nevada 89148  
Attorneys for Defendant

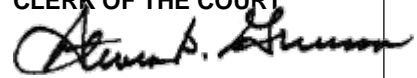


An Employee of THE POWELL LAW FIRM

# EXHIBIT 4

# EXHIBIT 4





**NOTC**  
WILLIAM P. VOLK, ESQ.  
Nevada Bar No. 006157  
**HOLLEY DRIGGS**  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 791-0308  
Facsimile: (702) 791-1912  
E-Mail: [wvolk@nevadafirm.com](mailto:wvolk@nevadafirm.com)

Attorneys for Defendant  
BLAS BON

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

\* \* \*

DIANE SANCHEZ,

Plaintiff,

vs.

BLAS BON, individually; JOSEPH ACOSTA,  
individually; DOES I - X, and ROE  
CORPORATIONS I - X, inclusive,

Defendants.

JOSEPH ACOSTA, individually; and  
WILFREDO ACOSTA, individually,

Cross-Claimants,

vs.

BLAS BON, individually,

Cross-Defendant.

CASE NO. A-15-722815-C

DEPT NO. XXV

**NOTICE OF PERMANENT  
INJUNCTION AND AUTOMATIC  
STAY RE: LIQUIDATION OF  
WINDHAVEN NATIONAL  
INSURANCE COMPANY f/k/a ATX  
PREMIER INSURANCE COMPANY**

///

///

///

///

**NOTICE OF PERMANENT INJUNCTION AND AUTOMATIC STAY RE:**  
**LIQUIDATION OF WINDHAVEN NATIONAL INSURANCE COMPANY, *FORMERLY***  
**KNOWN AS ATX PREMIER INSURANCE COMPANY**

PLEASE TAKE NOTICE that on March 5, 2020, upon application of the Insurance Commissioner of the State of Texas, an Order Appointing Liquidator, Permanent Injunction and Notice of Automatic Stay was filed in the District Court of Travis County, Texas, 419<sup>th</sup> Judicial District, pertaining to WINDHAVEN NATIONAL INSURANCE COMPANY (WINDHAVEN”), *formerly known as* ATX PREMIER INSURANCE COMPANY (“ATX”). A true and correct copy of said Order is attached hereto as **Exhibit “A.”**

The above-referenced Order applies to the instant action against WINDHAVEN’s insured, Blas Bon, the Defendant herein, pursuant to Section 2.8 of the Order.

Attached as **Exhibit “B”** are the various notices of the change of name of ATX PREMIER INSURANCE COMPANY to WINDHAVEN NATIONAL INSURANCE COMPANY, EFFECTIVE August 23, 2016.

DATED this 30<sup>th</sup> day of March, 2020.

**HOLLEY DRIGGS**

By /s/ William P. Volk  
 WILLIAM P. VOLK, ESQ.  
 Nevada Bar No. 006157  
 400 South Fourth Street, Third Floor  
 Las Vegas, Nevada 89101

Attorneys for Defendant BLAS BON

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Holley Driggs, and that on the 30<sup>th</sup> day of March, 2020, pursuant to EDCR 8.05 and NRCP 5(b), I caused to be served a true and correct copy of foregoing **NOTICE OF PERMANENT INJUNCTION AND AUTOMATIC STAY RE: LIQUIDATION OF WINDHAVEN NATIONAL INSURANCE COMPANY f/k/a ATX PREMIER INSURANCE COMPANY** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by that Court's facilities to those parties listed below.

Dennis M. Prince, Esq.  
Kevin T. Strong, Esq.  
PRINCE LAW GROUP  
10801 West Charleston Boulevard, Suite 560  
Las Vegas, NV 89135  
Email:

[dprince@thedplg.com](mailto:dprince@thedplg.com)  
[eservice@thedplg.com](mailto:eservice@thedplg.com)  
[kstrong@thedplg.com](mailto:kstrong@thedplg.com)

/s/ Kileen Watase

An Employee of Holley Driggs

# EXHIBIT 5

# EXHIBIT 5

*Heather S. Lamin*  
CLERK OF THE COURT

**ORDR**  
DENNIS M. PRINCE  
Nevada Bar No. 5092  
KEVIN T. STRONG  
Nevada Bar No. 12107  
**PRINCE LAW GROUP**  
10801 West Charleston Boulevard  
Suite 560  
Las Vegas, Nevada 89135  
Tel: (702) 534-7600  
Fax: (702) 534-7601  
Email: [eservice@thedplg.com](mailto:eservice@thedplg.com)  
Attorneys for Plaintiff  
*Diane Sanchez*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

DIANE SANCHEZ,  
Plaintiff,

CASE NO. A-15-722815-C  
DEPT. NO. XXV

vs.

BLAS BON, individually; JOSEPH  
ACOSTA, individually; WILFREDO  
ACOSTA, individually; DOES I-X and  
ROE CORPORATIONS I-X, inclusive,  
Defendants.

**ORDER DENYING  
DEFENDANT BLAS BON'S  
MOTION TO SET ASIDE  
DEFAULT JUDGMENT**

Defendant BLAS BON's Motion to Set Aside Default Judgment was brought for hearing in Department XXV of the Eighth Judicial District Court, before the Honorable Kathleen Delaney, on the 25th day of February, 2020, with Dennis M. Prince and Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff DIANE SANCHEZ; and William P. Volk of HOLLEY DRIGGS, appearing on behalf of Defendant BLAS BON.<sup>1</sup> The Court having reviewed the pleadings and papers on file herein, having heard oral argument, and being duly advised in the premises:

...

...

<sup>1</sup> At the time of the hearing, Mr. Volk was a partner at Kolesar & Leatham. Since that time, Kolesar & Leatham ceased operations and Mr. Volk is now a partner/shareholder with Holley Driggs.



1       **THE COURT HEREBY FINDS** that NRCP 60(b) outlines the specific legal  
2 grounds for a district court to grant a party relief from a final judgment. The legal  
3 grounds outlined in NRCP 60(b) include mistake, inadvertence, surprise, or excusable  
4 neglect and any other reason that justifies relief.

5       **THE COURT FURTHER FINDS** that a district court has broad discretion to  
6 determine whether a default judgment should be set aside. *Britz v. Consolidated*  
7 *Casinos Corp.*, 87 Nev. 441, 445 (1971).

8       **THE COURT FURTHER FINDS** that the district court has “wide discretion in  
9 determining what neglect is excusable and what neglect is inexcusable” under NRCP  
10 60(b). *Durango Fire Prot., Inc. v. Troncoso*, 120 Nev. 658, 662 (2004).

11       **THE COURT FURTHER FINDS** that Plaintiff properly served her Complaint  
12 on Defendant Blas Bon through the Nevada Department of Motor Vehicles pursuant to  
13 NRS 14.070. Plaintiff exercised due diligence to locate and personally serve Bon before  
14 effectuating service through the DMV. Specifically, Plaintiff attempted to serve Bon at  
15 3900 Cambridge Street, Suite 106, Las Vegas, Nevada 89119, the address that was listed  
16 on the traffic accident report. Plaintiff’s process server attempted to locate Bon through  
17 records searches with the Clark County Assessor’s Office and Clark County Voter  
18 Registration. Plaintiff’s process server also searched local phone records and performed  
19 a registered vehicle search with the Nevada Department of Motor Vehicles and Premium  
20 Finder. The efforts made to locate and serve Bon were reasonably diligent and justified  
21 service of Sanchez’s Complaint through the DMV.

22       Sanchez also fully complied with the requirements to effectuate service through  
23 the DMV set forth in NRS 14.070. Sanchez received a letter dated November 2, 2015  
24 from the DMV acknowledging service of the Summons and Complaint on Bon. On  
25 November 9, 2015, Sanchez mailed, via certified mail, return receipt requested, a copy  
26 of the Summons, Complaint, traffic accident, report, and the November 2, 2015 DMV  
27 letter to Bon’s best last known address: 3900 Cambridge Street, Suite 106, Las Vegas,  
28 Nevada 89119.

      This Court also determined Bon was properly served when it considered Sanchez’s  
Application for Default Judgment filed on March 29, 2019. Bon has also not supplied

1 this Court with an affidavit declaring that he never received any notice of Sanchez's  
2 Complaint or otherwise has no knowledge of the suit against him. Under these  
3 circumstances, Bon cannot now claim that he was surprised or that there is excusable  
4 neglect to justify relief from the July 19, 2019 default judgment entered against him  
5 pursuant to NRCP 60(b)(1).

6 **THE COURT FURTHER FINDS** that there is ample evidence that Bon's  
7 insurer, ATX, the entity tasked to defend Bon, received notice of Sanchez's Complaint.  
8 On January 20, 2016, Sanchez sent a letter, via U.S. mail, to DeLawrence Templeton  
9 ("Templeton") of DMA Claims Services, advising him that Bon was served with the  
10 Summons and Sanchez's Complaint via the DMV.<sup>2</sup> Sanchez provided Templeton with a  
11 copy of her Complaint, November 2, 2015 DMV letter, and November 19, 2015 Affidavit  
12 of Complaine and requested ATX to file an answer to her Complaint. Sanchez  
13 specifically warned Templeton that she would request the Court to enter a default against  
14 Bon if an answer was not filed. On February 16, 2016, Sanchez again sent a letter to  
15 Templeton advising that Bon still did not file his Answer to her Complaint. Sanchez  
16 clarified that if Bon did not file his Answer to her Complaint by February 23, 2016, she  
17 would request entry of a default against Bon. ATX never filed an answer to Sanchez's  
18 Complaint on Bon's behalf despite receiving a full and fair opportunity to do so. There  
19 is no evidence to suggest that ATX never received any notice of Sanchez's lawsuit.

20 **THE COURT FURTHER FINDS** that there is no factual or legal basis to set  
21 aside the July 19, 2019 Default Judgment due to surprise, excusable neglect, or for any  
22 other reason under NRCP 60(b). The evidence presented establishes inexcusable neglect  
23 on the part of both Bon and ATX given ATX's failure to satisfy its responsibility to defend  
24 Bon against the allegations set forth in Sanchez's Complaint.  
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...

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---

<sup>2</sup> DMA represented the interests of ATX in relation to the motor vehicle collision giving rise to Sanchez's Complaint for personal injuries against Bon.



**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Blas Bon's Motion to Set Aside Default Judgment is **DENIED** in its entirety.

**IT IS SO ORDERED.**

Dated this 19th day of September, 2020

DATED this \_\_\_\_ day of September, 2020.



DISTRICT COURT JUDGE

DD9 015 23D5 10E3

DATED this 9th day of September, 2020.

DATED this 19th day of September, 2020.

~~Kathleen E. Delaney~~  
District Court Judge

Respectfully Submitted By:

Approved as to Form and Content:

**PRINCE LAW GROUP**

**HOLLEY DRIGGS**



DENNIS M. PRINCE  
Nevada Bar No. 5092  
KEVIN T. STRONG  
Nevada Bar No. 12107  
10801 West Charleston Boulevard  
Suite 560  
Las Vegas, Nevada 89135  
Tel: (702) 534-7600  
Fax: (702) 534-7601  
Attorneys for Plaintiff  
*Diane Sanchez*

Refused to sign

WILLIAM P. VOLK  
Nevada Bar No. 6157  
400 South 4th Street  
Suite 300  
Las Vegas, Nevada 89101  
Tel: (702) 791-0308  
Fax: (702) 791-1912  
Attorney for Defendant  
*Blas Bon*



1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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6 Diane Sanchez, Plaintiff(s)

CASE NO: A-15-722815-C

7 vs.

DEPT. NO. Department 25

8 Blas Bon, Defendant(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 9/19/2020

15 William Volk

wvolk@klnevada.com

16 Joanne Hybarger

jhybarger@klnevada.com

17 Lennie Fraga

lfraga@klnevada.com

18 Bernita Lujan .

blujan@messner.com

19 Dana Marcolongo .

dana@tplf.com

20 Jenny Marimberga .

jenny@tplf.com

21 Kimberly Shonfeld .

kshonfeld@messner.com

22 Lauren Pellino .

lpellino@tplf.com

23 Lindsay Reid .

lindsay@tplf.com

24 Michael Meyer .

cmeyer@messner.com

25 Renee Finch .

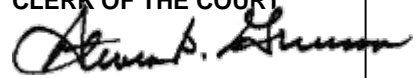
rfinch@messner.com

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William Schuller	wschuller@klnevada.com
Cindy Kishi	ckishi@klnevada.com
eFiling District	nvdistrict@klnevada.com
Tracey Zastrow	tzastrow@messner.com
Michael T. Nixon .	mnixon@messner.com
E Service	eservice@egletlaw.com
Suri Guzman	sguzman@nevadafirm.com
Lisa Lee	llee@thedplg.com
Eservice Filing	eservice@thedplg.com
William Volk	wvolk@nevadafirm.com

# EXHIBIT 6

# EXHIBIT 6



**NOAS**

WILLIAM P. VOLK (SBN 6157)

wvolk@nevadafirm.com

**HOLLEY DRIGGS**

400 S. Fourth Street, Suite 300

Las Vegas, NV 89101

Tel: (702) 791-0308

Fax: (702) 791-1912

Daniel F. Polsenberg (SBN 2376)

dpolsenberg@lrrc.com

Abraham G. Smith (SBN 13250)

Asmith@lrrc.com

**LEWIS ROCA ROTHGERBER CHRISTIE LLP**

3993 Howard Hughes Parkway, Suite 600

Las Vegas, NV 89169-8996

Tel: (702) 949-8200

*Attorneys for Defendant BLAS BON*

DISTRICT COURT

CLARK COUNTY, NEVADA

DIANE SANCHEZ,

Plaintiff,

vs.

BLAS BON, individually; JOSEPH ACOSTA,  
individually; DOES I - X, and ROE  
CORPORATIONS I - X, inclusive,

Defendants.

JOSEPH ACOSTA, individually; and  
WILFREDO ACOSTA, individually,

Cross-Claimants,

vs.

BLAS BON, individually,

Cross-Defendant.

Case No. A-15-722815-C

Dept. No. 25

**NOTICE OF APPEAL**

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Please take notice that defaulted defendant Blas Bon hereby appeals to the Supreme Court of Nevada from:

1. All judgments and orders in this case;
  2. “Order Denying Defendant Blas Bon’s Motion to Set Aside Default Judgment,” filed September 19, 2020, notice of entry of which was served electronically on September 21, 2020 (**Exhibit “A”**); and
  3. All judgments, rulings and interlocutory orders made appealable by the foregoing.
- Dated this 20th day of October, 2020.

HOLLEY DRIGGS

By: /s/ William P. Volk  
 400 S. Fourth Street, Suite 300  
 Las Vegas, NV 89101  
 Tel: (702) 791-0308

DANIEL F. POLSENBERG (SBN 2376)  
 ABRAHAM G. SMITH (SBN 13,250)  
 LEWIS ROCA ROTHGERBER CHRISTIE LLP  
 993 Howard Hughes Parkway, Suite 600  
 Las Vegas, Nevada 89169  
 (702) 949-8200

*Attorneys for Defendant BLAS BON*

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of October, 2020 service of the above and foregoing “Notice of Appeal” was made upon each of the parties via electronic service through the Eighth Judicial District Court’s Odyssey E-file and Serve system.

/s/ Suri Guzman  
An Employee of HOLLEY DRIGGS

# **Exhibit “A”**



1 **NEOJ**  
2 **DENNIS M. PRINCE**  
3 Nevada Bar No. 5092  
4 **KEVIN T. STRONG**  
5 Nevada Bar No. 12107  
6 **PRINCE LAW GROUP**  
7 10801 West Charleston Blvd., Suite 560  
8 Las Vegas, Nevada 89135  
9 Tel: (702) 534-7600  
10 Fax: (702) 534-7601  
11 Email: [eservice@thedplg.com](mailto:eservice@thedplg.com)  
12 Attorneys for Plaintiff  
13 *Diane Sanchez*

8 **EIGHTH JUDICIAL DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 **DIANE SANCHEZ,**  
11 **Plaintiff,**

Case No. A-15-722815-C  
Dept. No. XXV

12 vs.

13 **BLAS BON, individually; JOSEPH**  
14 **ACOSTA, individually; WILFREDO**  
15 **ACOSTA, individually; DOES I-X and**  
16 **ROE CORPORATIONS I-X, inclusive,**


**Defendants.**

**NOTICE OF ENTRY OF ORDER**  
**DENYING DEFENDANT BLAS**  
**BON'S MOTION TO SET ASIDE**  
**DEFAULT JUDGMENT**

17 PLEASE TAKE NOTICE that an Order Denying Defendant Blas Bon's Motion to  
18 Set Aside Default Judgment was entered on the 19<sup>th</sup> day of September, 2020 in the  
19 above-referenced matter, a copy of which is attached hereto.

20 DATED this 21<sup>st</sup> day September, 2020.

21 **PRINCE LAW GROUP**

22   
23 **DENNIS M. PRINCE**  
24 Nevada Bar No. 5092  
25 **KEVIN T. STRONG**  
26 Nevada Bar No. 12107  
27 10801 W. Charleston Blvd., Suite 560  
28 Las Vegas, NV 89135  
Attorneys for Plaintiff  
*Diane Sanchez*



1  
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I certify that I am employee of **PRINCE LAW GROUP**,  
4 and that on the 24 day of September, 2020, I caused the foregoing document entitled  
5 **NOTICE OF ENTRY OF ORDER DENYING DEFENDANT BLAS BON'S**  
6 **MOTION TO SET ASIDE DEFAULT JUDGMENT** to be served upon those persons  
7 designated by the parties in the E-Service Master List for the above-referenced matter  
8 in the Eighth Judicial District Court eFiling System in accordance with the mandatory  
9 electronic service requirements of Administrative Order 14-2 and the Nevada  
10 Electronic Filing and Conversion Rules, as follows:  
11

12 **WILLIAM P. VOLK**  
13 **Holley Driggs**  
14 **400 South Fourth Street**  
15 **Third Floor**  
16 **Las Vegas, Nevada 89101**  
17 **Attorneys for Defendant**  
18 ***Blas Bon***

19  
20   
21  
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23  
24  
25  
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27  
28

1 **ORDER**  
2 **DENNIS M. PRINCE**  
3 Nevada Bar No. 5092  
4 **KEVIN T. STRONG**  
5 Nevada Bar No. 12107  
6 **PRINCE LAW GROUP**  
7 10801 West Charleston Boulevard  
8 Suite 560  
9 Las Vegas, Nevada 89135  
10 Tel: (702) 534-7600  
11 Fax: (702) 534-7601  
12 Email: [eservice@thedplg.com](mailto:eservice@thedplg.com)  
13 Attorneys for Plaintiff  
14 *Diane Sanchez*

15 **EIGHTH JUDICIAL DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 **DIANE SANCHEZ,**  
18 Plaintiff,

CASE NO. A-15-722815-C  
DEPT. NO. XXV

19 vs.

**ORDER DENYING**  
**DEFENDANT BLAS BON'S**  
**MOTION TO SET ASIDE**  
**DEFAULT JUDGMENT**

20 **BLAS BON, individually; JOSEPH**  
21 **ACOSTA, individually; WILFREDO**  
22 **ACOSTA, individually; DOES I-X and**  
23 **ROE CORPORATIONS I-X, inclusive,**  
24 Defendants.

25 Defendant BLAS BON's Motion to Set Aside Default Judgment was brought for  
26 hearing in Department XXV of the Eighth Judicial District Court, before the Honorable  
27 Kathleen Delaney, on the 25th day of February, 2020, with Dennis M. Prince and Kevin  
28 T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff DIANE SANCHEZ,  
and William P. Volk of HOLLEY DRIGGS, appearing on behalf of Defendant BLAS  
BON.<sup>1</sup> The Court having reviewed the pleadings and papers on file herein, having heard  
oral argument, and being duly advised in the premises:

...

...

<sup>1</sup> At the time of the hearing, Mr. Volk was a partner at Kolesar & Leatham. Since that time, Kolesar & Leatham ceased operations and Mr. Volk is now a partner/shareholder with Holley Driggs.



1       **THE COURT HEREBY FINDS** that NRCP 60(b) outlines the specific legal  
2 grounds for a district court to grant a party relief from a final judgment. The legal  
3 grounds outlined in NRCP 60(b) include mistake, inadvertence, surprise, or excusable  
4 neglect and any other reason that justifies relief.

5       **THE COURT FURTHER FINDS** that a district court has broad discretion to  
6 determine whether a default judgment should be set aside. *Britz v. Consolidated*  
7 *Casinos Corp.*, 87 Nev. 441, 445 (1971).

8       **THE COURT FURTHER FINDS** that the district court has "wide discretion in  
9 determining what neglect is excusable and what neglect is inexcusable" under NRCP  
10 60(b). *Durango Fire Prot., Inc. v. Troncoso*, 120 Nev. 658, 662 (2004).

11       **THE COURT FURTHER FINDS** that Plaintiff properly served her Complaint  
12 on Defendant Blas Bon through the Nevada Department of Motor Vehicles pursuant to  
13 NRS 14.070. Plaintiff exercised due diligence to locate and personally serve Bon before  
14 effectuating service through the DMV. Specifically, Plaintiff attempted to serve Bon at  
15 8900 Cambridge Street, Suite 106, Las Vegas, Nevada 89119, the address that was listed  
16 on the traffic accident report. Plaintiff's process server attempted to locate Bon through  
17 records searches with the Clark County Assessor's Office and Clark County Voter  
18 Registration. Plaintiff's process server also searched local phone records and performed  
19 a registered vehicle search with the Nevada Department of Motor Vehicles and Premium  
20 Finder. The efforts made to locate and serve Bon were reasonably diligent and justified  
21 service of Sanchez's Complaint through the DMV.

22       Sanchez also fully complied with the requirements to effectuate service through  
23 the DMV set forth in NRS 14.070. Sanchez received a letter dated November 2, 2015  
24 from the DMV acknowledging service of the Summons and Complaint on Bon. On  
25 November 9, 2015, Sanchez mailed, via certified mail, return receipt requested, a copy  
26 of the Summons, Complaint, traffic accident report, and the November 2, 2015 DMV  
27 letter to Bon's best last known address: 3900 Cambridge Street, Suite 106, Las Vegas,  
28 Nevada 89119.

      This Court also determined Bon was properly served when it considered Sanchez's  
Application for Default Judgment filed on March 29, 2019. Bon has also not supplied



*Sanchez v. Bon*  
Case No. A-15-722815-C  
Order Denying Motion to Set Aside Default Judgment

1 this Court with an affidavit declaring that he never received any notice of Sanchez's  
2 Complaint or otherwise has no knowledge of the suit against him. Under these  
3 circumstances, Bon cannot now claim that he was surprised or that there is excusable  
4 neglect to justify relief from the July 19, 2019 default judgment entered against him  
5 pursuant to NRCP 60(b)(1).

6 **THE COURT FURTHER FINDS** that there is ample evidence that Bon's  
7 insurer, ATX, the entity tasked to defend Bon, received notice of Sanchez's Complaint.  
8 On January 20, 2016, Sanchez sent a letter, via U.S. mail, to DeLawrence Templeton  
9 ("Templeton") of DMA Claims Services, advising him that Bon was served with the  
10 Summons and Sanchez's Complaint via the DMV.<sup>2</sup> Sanchez provided Templeton with a  
11 copy of her Complaint, November 2, 2015 DMV letter, and November 19, 2015 Affidavit  
12 of Compliance and requested ATX to file an answer to her Complaint. Sanchez  
13 specifically warned Templeton that she would request the Court to enter a default against  
14 Bon if an answer was not filed. On February 16, 2016, Sanchez again sent a letter to  
15 Templeton advising that Bon still did not file his Answer to her Complaint. Sanchez  
16 clarified that if Bon did not file his Answer to her Complaint by February 23, 2016, she  
17 would request entry of a default against Bon. ATX never filed an answer to Sanchez's  
18 Complaint on Bon's behalf despite receiving a full and fair opportunity to do so. There  
19 is no evidence to suggest that ATX never received any notice of Sanchez's lawsuit.

20 **THE COURT FURTHER FINDS** that there is no factual or legal basis to set  
21 aside the July 19, 2019 Default Judgment due to surprise, excusable neglect, or for any  
22 other reason under NRCP 60(b). The evidence presented establishes inexcusable neglect  
23 on the part of both Bon and ATX given ATX's failure to satisfy its responsibility to defend  
24 Bon against the allegations set forth in Sanchez's Complaint.  
25 ...  
26 ...  
27 ...

28 <sup>2</sup> DMA represented the interests of ATX in relation to the motor vehicle collision giving rise to Sanchez's Complaint for personal injuries against Bon.



Sanchez v. Bon  
Case No. A-15-722815-C  
Order Denying Motion to Set Aside Default Judgment

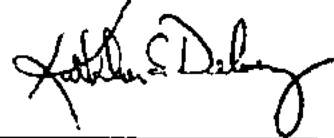
**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Blas Bon's Motion to Set Aside Default Judgment is **DENIED** in its entirety.

**IT IS SO ORDERED.**

Dated this 19th day of September, 2020

DATED this \_\_\_\_ day of September, 2020.



DISTRICT COURT JUDGE

DD9 015 23D5 10E3  
Dated this 19th day of September, 2020.


DATED this 9th day of September, 2020.

Respectfully Submitted By:

Approved as to Form and Content:

PRINCE LAW GROUP

HOLLEY DRIGGS



DENNIS M. PRINCE  
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KEVIN T. STRONG  
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Tel: (702) 534-7600  
Fax: (702) 534-7601  
Attorneys for Plaintiff  
Diane Sanchez

Refused to sign  
WILLIAM P. VOLK  
Nevada Bar No. 6157  
400 South 4th Street  
Suite 300  
Las Vegas, Nevada 89101  
Tel: (702) 791-0308  
Fax: (702) 791-1912  
Attorney for Defendant  
Blas Bon



1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 Diane Sanchez, Plaintiff(s)

CASE NO: A-15-722815-C

7 vs.

DEPT. NO. Department 25

8 Blas Bon, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 9/19/2020

15 William Volk

wvolk@klnevada.com

16 Joanne Hybarger

jhybarger@klnevada.com

17 Lennie Fraga

lfraga@klnevada.com

18 Bernita Lujan .

blujan@messner.com

19 Dana Marcolongo .

dana@tplf.com

20 Jenny Marimberga .

jenny@tplf.com

21 Kimberly Shonfeld .

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22 Lauren Pellino .

lpellino@tplf.com

23 Lindsay Reid .

lindsay@tplf.com

24 Michael Meyer .

cmeyer@messner.com

25 Renee Finch .

rfinch@messner.com  
26  
27  
28

1	William Schuller	wschuller@knevada.com
2		
3	Cindy Kishi	ckishi@knevada.com
4	eFiling District	nvdistrict@knevada.com
5	Tracey Zastrow	tzastrow@messner.com
6	Michael T. Nixon .	mnixon@messner.com
7	E Service	eservice@egletlaw.com
8	Suri Guzman	sguzman@nevadafirm.com
9		
10	Lisa Lee	llee@thedplg.com
11	Eservice Filing	eservice@thedplg.com
12	William Volk	wvolk@nevadafirm.com
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# EXHIBIT 7

# EXHIBIT 7



**In the Supreme Court of Nevada**

BLAS BON,

Appellant,

*vs.*

DIANE SANCHEZ,

Respondent.

Electronically Filed  
May 25 2021 07:30 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**JOINT STATUS REPORT REGARDING  
SETTLEMENT CONFERENCE**

On February 24, 2021, this Court approved the parties' stipulation to use a private mediator for their NRAP 16 settlement conference. The mediation is set for June 14, 2021 before Judge Jennifer Togliatti with Advanced Resolution Management. The parties will submit a report regarding the outcome of mediation within 30 days of the mediation and ask that the deadlines for briefing and requesting transcripts remain suspended during this period.

Dated this 25th day of May, 2021.

LEWIS ROCA ROTHGERBER CHRISTIE LLP   PRINCE LAW GROUP

By: /s/ Abraham G. Smith  
DANIEL F. POLSENBERG (SBN 2376)  
JOEL D. HENRIOD (SBN 8492)  
ABRAHAM G. SMITH (SBN 13250)  
3993 Howard Hughes Parkway,  
Suite 600  
Las Vegas, Nevada 89169  
(702) 949-8200

*Attorneys for Appellant*

By: /s/ Kevin T. Strong  
DENNIS M. PRINCE (SBN 5092)  
KEVIN T. STRONG (SBN 12107)  
10801 West Charleston Blvd.,  
Suite 560  
Las Vegas, Nevada 89135  
(702) 534-7600

*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I certify that on May 25, 2021, I submitted the foregoing STATUS REPORT REGARDING SETTLEMENT CONFERENCE for filing *via* the Court's eFlex electronic filing system.

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

Janet Trost  
501 S. Rancho Drive, Suite H-56  
Las Vegas, Nevada 89106

Aaron D. Ford  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

/s/ Emily D. Kapolnai  
An Employee of Lewis Roca Rothgerber Christie LLP

**EXHIBIT 11**

**EXHIBIT 11**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Insurance Carrier**

**COURT MINUTES**

**August 23, 2021**

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A-19-805351-C	Diane Sanchez, Plaintiff(s) vs. ATX Premier Insurance Company, Defendant(s)
---------------	---

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**August 23, 2021      9:00 AM      All Pending Motions**

**HEARD BY:** Denton, Mark R.      **COURTROOM:** RJC Courtroom 03D

**COURT CLERK:** Madalyn Kearney

**RECORDER:** Jennifer Gerold

**PARTIES**

<b>PRESENT:</b>	Prince, Dennis M Thongkham, Megan H	Attorney for Plaintiff Attorney for Defendants NBIS Construction and Transport Insurance Services Inc and Nationbuilders Insurance Services Inc
-----------------	--	--

**JOURNAL ENTRIES**

PLAINTIFF DIANE SANCHEZ'S MOTION TO SERVE DEFENDANT BLAS BON BY PUBLICATION...DEFENDANTS NATIONBUILDERS INSURANCE SERVICES, INC. AND NBIS CONSTRUCTION & TRANSPORT SERVICES, INC'S MOTION TO DISMISS SECOND AMENDED COMPLAINT, OR IN THE ALTERNATIVE, MOTION TO STAY PROCEEDINGS

Abraham Smith, Esq. present for Blas Bon. John Podesta, Esq. present for Defendant ATX Premier Insurance Company. Robert Schumacher, Esq. present for Defendant DMA Claims Management Inc. Counsel present via BlueJeans.

Court noted it did not receive an opposition to the Motion to Serve by Publication. Colloquy regarding the impact of granting the Motion to Stay on the Motion to Serve. COURT ORDERED, Plaintiff Diane Sanchez's Motion to Serve Defendant Blas Bon by Publication GRANTED. Mr. Prince to prepare the order. Court advised the Second Amended Complaint does not fail to state a claim upon which relief can be granted. Following arguments by Ms. Thongkham and Mr. Prince, Court

PRINT DATE: 08/23/2021

Page 1 of 2

Minutes Date: August 23, 2021

NBIS 000645

noted it is not clear if there is a viable appeal at this time and the stay motion is not ripe. COURT FURTHER ORDERED, Defendants Nationsbuilders Insurance Services, Inc. and NBIS Construction & Transport Services, Inc's Motion to Dismiss Second Amended Complaint, or in the Alternative, Motion to Stay Proceedings DENIED WITHOUT PREJUDICE to renewal after the dust settles as to whether or not there is an appeal. Mr. Prince to prepare the order.

**EXHIBIT 12**

**EXHIBIT 12**

**ORDR**  
DENNIS M. PRINCE  
Nevada Bar No. 5092  
KEVIN T. STRONG  
Nevada Bar No. 12107  
**PRINCE LAW GROUP**  
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Tel: (702) 534-7600  
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Email: [eservice@thedplg.com](mailto:eservice@thedplg.com)  
Attorneys for Plaintiff  
*Diane Sanchez*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

DIANE SANCHEZ,  
  
Plaintiff,

Case No. A-19-805351-C  
Dept. No. XIII

vs.

**ORDER DENYING DEFENDANT  
WINDHAVEN NATIONAL  
INSURANCE COMPANY'S MOTION  
TO DISMISS ATX PREMIER  
INSURANCE COMPANY WITHOUT  
PREJUDICE**

ATX PREMIER INSURANCE COMPANY  
now known as WINDHAVEN NATIONAL  
INSURANCE COMPANY, a foreign  
corporation; NATIONSBUILDERS  
INSURANCE SERVICES, INC., a foreign  
corporation; NBIS CONSTRUCTION &  
TRANSPORT INSURANCE SERVICES,  
INC., a foreign corporation; DMA CLAIMS  
MANAGEMENT, INC., a foreign  
corporation; BLAS BON, an individual;  
DOES I-X; and ROE CORPORATIONS I-  
X, inclusive,

Defendants.

Windhaven National Insurance Company's Motion to Dismiss ATX Premier Insurance Company Without Prejudice was brought for a hearing in Department XIII of the Eighth Judicial District Court, on the 5th day of August, 2021, before the Honorable Judge Mark R. Denton, with Dennis M. Prince and Kevin T. Strong of PRINCE LAW GROUP, appearing on behalf of Plaintiff Diane Sanchez; John H. Podesta of WILSON,

NBIS 000647



Order Denying Windhaven National Insurance Company's Motion to Dismiss

ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP, appearing on behalf of Windhaven National Insurance Company; Robert E. Schumacher of GORDON REES SCULLY MANSUKHANI, LLC, appearing on behalf of Defendant DMA Claims Management, Inc.; and Megan H. Thongkham of LIPSON NEILSON P.C., appearing on behalf of Defendants NationsBuilders Insurance Services, Inc. and NBIS Construction & Transport Insurance Services, Inc. The Court having reviewed the pleadings and papers on file herein, having heard oral argument and being duly advised in the premises.

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Windhaven National Insurance Company's Motion to Dismiss ATX Premier Insurance Company is **DENIED**, without prejudice as it relates to any potential dispositive motion that Windhaven National Insurance Company intends to file, or further motion to stay proceedings in light of the Texas injunction and its alleged applicability to this action.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Windhaven's Objection to Plaintiff's Supplemental Opposition is hereby **SUSTAINED**.

**IT IS SO ORDERED.**



ABG

DATED this 20th day of August, 2021. <sup>44A CA3 F607-99B7</sup> DATED this 20th day of August, 2021.

Respectfully Submitted By:

Mark R. Denton  
District Court Judge

Approved as to Form and Content:

**PRINCE LAW GROUP**

**WILSON, ELSER, MOSKOWITZ,  
EDELMAN & DICKER LLP**

/s/ Kevin T. Strong

/s/ John H. Podesta

DENNIS M. PRINCE  
Nevada Bar No. 5092  
KEVIN T. STRONG  
Nevada Bar No. 12107  
10801 West Charleston Boulevard  
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Las Vegas, Nevada 89135  
Attorneys for Plaintiff  
Diane Sanchez

JOHN H. PODESTA  
Nevada Bar No. 7487  
CHRIS RICHARDSON  
Nevada Bar No. 9166  
6689 Las Vegas Boulevard South  
Suite 200  
Las Vegas, Nevada 89119  
Attorneys for Defendant  
ATX Premier Insurance Company n/k/a  
Windhaven National Insurance Company

DATED this 20th day of August, 2021.

Approved as to Form and Content:

**GORDON REES SCULLY  
MANSUKHANI, LLP**

/s/ Refused to Sign

ROBERT E. SCHUMACHER

Nevada Bar No. 7504

WING YAN WONG

Nevada Bar No. 13622

300 South 4th Street

Suite 1550

Las Vegas, Nevada 89101

Attorneys for Defendant

*DMA Claims Management, Inc.*

DATED this 20th day of August, 2021.

Approved as to Form and Content:

**LIPSON, NEILSON, P.C.**

/s/ Megan H. Thongkham

JOSEPH P. GARIN

Nevada Bar No. 6653

MEGAN H. THONGKHAM

Nevada Bar No. 12404

9900 Covington Cross Drive

Suite 120

Las Vegas, Nevada 89144

Attorneys for Defendants

*NationsBuilders Insurance Services, Inc.  
and NBIS Construction & Transport  
Insurance Services, Inc.*

**From:** [Kevin Strong](#)  
**To:** [Megan Thongkham](#); [Podesta, John](#); [Robert Schumacher](#)  
**Cc:** [Dennis Prince](#); [Amy Ebinger](#); [Katrina Leaver](#)  
**Subject:** RE: Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD  
**Date:** Thursday, August 19, 2021 4:42:24 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[image010.png](#)

---

Thank you, Megan.

**Kevin T. Strong | Attorney**

**PRINCE LAW GROUP**

10801 West Charleston Boulevard, Suite 560

Las Vegas, Nevada 89135

P: 702.534.7600 | F: 702.534-7601

[kstrong@thedplg.com](mailto:kstrong@thedplg.com) | [www.thedplg.com](http://www.thedplg.com)

---

**From:** Megan Thongkham <MThongkham@lipsonneilson.com>

**Sent:** Thursday, August 19, 2021 2:57 PM

**To:** Kevin Strong <kstrong@thedplg.com>; Podesta, John <John.Podesta@wilsonelser.com>; Robert Schumacher <rschumacher@grsm.com>

**Cc:** Dennis Prince <dprince@thedplg.com>; Amy Ebinger <aebinger@thedplg.com>; Katrina Leaver <KLeaver@lipsonneilson.com>

**Subject:** RE: Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD

Hi Kevin,

You may use my electronic signature.

Thanks,

*Please note my new email address: [mthongkham@lipsonneilson.com](mailto:mthongkham@lipsonneilson.com)*



Megan H. Thongkham, Esq.

Lipson Neilson P.C.

9900 Covington Cross Drive, Suite 120

Las Vegas, Nevada 89144-7052

(702) 382-1500

(702) 382-1512 (fax)

E-Mail: [mthongkham@lipsonneilson.com](mailto:mthongkham@lipsonneilson.com)

NBIS 000650

Website: [www.lipsonneilson.com](http://www.lipsonneilson.com)

**OFFICES IN NEVADA, MICHIGAN, ARIZONA & COLORADO**

\*\*\*\*\*

\*\*\*

**CONFIDENTIALITY NOTICE**

*This message is confidential, intended only for the named recipient(s) and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient(s), you are notified that any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on the contents of this information is prohibited and may be unlawful. If you receive this message in error, or are not the named recipient(s), please notify the sender, delete this e-mail from your computer, and destroy any copies in any form immediately. Receipt by anyone other than the named recipient(s) is not a waiver of any attorney-client, work product, or other applicable privilege.*

---

**From:** Kevin Strong <[kstrong@thedplg.com](mailto:kstrong@thedplg.com)>

**Sent:** Thursday, August 19, 2021 9:06 AM

**To:** Podesta, John <[John.Podesta@wilsonelser.com](mailto:John.Podesta@wilsonelser.com)>; Robert Schumacher <[rschumacher@grsm.com](mailto:rschumacher@grsm.com)>; Megan Thongkham <[MThongkham@lipsonneilson.com](mailto:MThongkham@lipsonneilson.com)>

**Cc:** Dennis Prince <[dprince@thedplg.com](mailto:dprince@thedplg.com)>; Amy Ebinger <[aebinger@thedplg.com](mailto:aebinger@thedplg.com)>

**Subject:** RE: Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD

Robert and Megan,

Please advise if you approve the form and content of the order that was circulated to you yesterday. If we do not hear from you by the end of the day, we will submit the order to the Court without your respective signatures.

Sincerely,

Kevin

**Kevin T. Strong | Attorney**

**PRINCE LAW GROUP**

10801 West Charleston Boulevard, Suite 560

Las Vegas, Nevada 89135

P: 702.534.7600 | F: 702.534-7601

[kstrong@thedplg.com](mailto:kstrong@thedplg.com) | [www.thedplg.com](http://www.thedplg.com)

---

**From:** Kevin Strong

**Sent:** Wednesday, August 18, 2021 10:20 AM

**To:** Podesta, John <[John.Podesta@wilsonelser.com](mailto:John.Podesta@wilsonelser.com)>; Robert Schumacher <[rschumacher@grsm.com](mailto:rschumacher@grsm.com)>; [mthongkham@lipsonneilson.com](mailto:mthongkham@lipsonneilson.com)

**Cc:** Dennis Prince <[dprince@thedplg.com](mailto:dprince@thedplg.com)>; Amy Ebinger <[aebinger@thedplg.com](mailto:aebinger@thedplg.com)>

**Subject:** RE: Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD

Thank you. We will affix your e-signature. Robert and Megan, do we have your permission to use your e-signatures?

Sincerely,

NBIS 000651

Kevin

**Kevin T. Strong | Attorney**

**PRINCE LAW GROUP**

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---

**From:** Podesta, John <[John.Podesta@wilsonelser.com](mailto:John.Podesta@wilsonelser.com)>

**Sent:** Wednesday, August 18, 2021 10:06 AM

**To:** Kevin Strong <[kstrong@thedplg.com](mailto:kstrong@thedplg.com)>; Robert Schumacher <[rschumacher@grsm.com](mailto:rschumacher@grsm.com)>;  
[mthongkham@lipsonneilson.com](mailto:mthongkham@lipsonneilson.com)

**Cc:** Dennis Prince <[dprince@thedplg.com](mailto:dprince@thedplg.com)>; Amy Ebinger <[aebinger@thedplg.com](mailto:aebinger@thedplg.com)>

**Subject:** RE: Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD

I'm fine with this

John Podesta

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

525 Market Street - 17th Floor

San Francisco, CA 94105-2725

415.625.9258 (Direct)

415.433.0990 (Main)

415.434.1370 (Fax)

[john.podesta@wilsonelser.com](mailto:john.podesta@wilsonelser.com)

---

**From:** Kevin Strong [<mailto:kstrong@thedplg.com>]

**Sent:** Wednesday, August 18, 2021 9:31 AM

**To:** Podesta, John <[John.Podesta@wilsonelser.com](mailto:John.Podesta@wilsonelser.com)>; Robert Schumacher  
<[rschumacher@grsm.com](mailto:rschumacher@grsm.com)>; [mthongkham@lipsonneilson.com](mailto:mthongkham@lipsonneilson.com)

**Cc:** Dennis Prince <[dprince@thedplg.com](mailto:dprince@thedplg.com)>; Amy Ebinger <[aebinger@thedplg.com](mailto:aebinger@thedplg.com)>

**Subject:** RE: Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD

**[EXTERNAL EMAIL]**

John,

I've incorporated your proposed language with some additional clarifying language at the end, which I don't suspect you will object to. The revised order is attached for your review.

Sincerely,

Kevin

NBIS 000652

**Kevin T. Strong | Attorney**

**PRINCE LAW GROUP**

10801 West Charleston Boulevard, Suite 560

Las Vegas, Nevada 89135

P: 702.534.7600 | F: 702.534-7601

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**From:** Podesta, John <[John.Podesta@wilsonelser.com](mailto:John.Podesta@wilsonelser.com)>

**Sent:** Monday, August 16, 2021 1:23 PM

**To:** Kevin Strong <[kstrong@thedplg.com](mailto:kstrong@thedplg.com)>; Robert Schumacher <[rschumacher@grsm.com](mailto:rschumacher@grsm.com)>;  
[mthongkham@lipsonneilson.com](mailto:mthongkham@lipsonneilson.com)

**Cc:** Dennis Prince <[dprince@thedplg.com](mailto:dprince@thedplg.com)>; Amy Ebinger <[aebinger@thedplg.com](mailto:aebinger@thedplg.com)>

**Subject:** RE: Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD

My comments, since a motion to stay was specifically addressed.

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Windhaven National Insurance Company's Motion to Dismiss ATX Premier Insurance Company is **DENIED**, without prejudice as it relates to any potential dispositive motion that Windhaven National Insurance Company intends to file, **or further motion to stay proceedings in light of the Texas injunction.**

John Podesta

Attorney at Law

Wilson Elser Moskowitz Edelman & Dicker LLP

525 Market Street - 17th Floor

San Francisco, CA 94105-2725

415.625.9258 (Direct)

415.433.0990 (Main)

415.434.1370 (Fax)

[john.podesta@wilsonelser.com](mailto:john.podesta@wilsonelser.com)

---

**From:** Kevin Strong [[mailto:kstrong@thedplg.com](mailto:mailto:kstrong@thedplg.com)]

**Sent:** Monday, August 16, 2021 12:08 PM

**To:** Podesta, John <[John.Podesta@wilsonelser.com](mailto:John.Podesta@wilsonelser.com)>; Robert Schumacher  
<[rschumacher@grsm.com](mailto:rschumacher@grsm.com)>; [mthongkham@lipsonneilson.com](mailto:mthongkham@lipsonneilson.com)

**Cc:** Dennis Prince <[dprince@thedplg.com](mailto:dprince@thedplg.com)>; Amy Ebinger <[aebinger@thedplg.com](mailto:aebinger@thedplg.com)>

**Subject:** Sanchez v. NBIS - Proposed Order Denying Windhaven's MTD

**[EXTERNAL EMAIL]**

Counsel,

I have attached our proposed order denying Windhaven's Motion to Dismiss for your review. Please advise of any proposed changes. If you do not have any proposed changes,

NBIS 000653

please confirm that we may affix your respective e-signatures and submit to the Court.

Sincerely,

Kevin

**Kevin T. Strong | Attorney**

**PRINCE LAW GROUP**

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Las Vegas, Nevada 89135

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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.

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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.

Thank you.

NBIS 000654

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Diane Sanchez, Plaintiff(s)

CASE NO: A-19-805351-C

7 vs.

DEPT. NO. Department 13

8 ATX Premier Insurance  
9 Company, 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  
system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 8/25/2021

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NBIS 000655



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**EXHIBIT 13**

**EXHIBIT 13**

IN THE SUPREME COURT OF THE STATE OF NEVADA

BLAS BON,  
Appellant,  
vs.  
DIANE SANCHEZ,  
Respondent.

No. 81983

**FILED**

OCT 01 2021

*ORDER REINSTATING BRIEFING*

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

This is an appeal from an order denying appellant's motion to set aside a default judgment. Because the notice of appeal appeared to have been prematurely filed after the timely filing of a tolling motion and before the tolling motion had been resolved, this court ordered appellant to show cause why the appeal should not be dismissed for lack of jurisdiction. Appellant has responded and provides this court with the district court's written order denying the motion to alter or amend the judgment. Accordingly, this appeal may proceed. NRAP 4(a)(6).

The briefing schedule is reinstated as follows. Appellant shall have 14 days from the date of this order to file and serve the transcript request form or certificate of no transcript request pursuant to NRAP 9(a). Appellant shall have 60 days from the date of this order to file and serve the opening brief and appendix. Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

It is so ORDERED.

*[Signature]*, C.J.

cc: Lewis Roca Rothgerber Christie LLP/Las Vegas  
Holley Driggs/Las Vegas  
Prince Law Group