

Chris Pedersen, In Proper Person

2550 Desert Inn Rd, #236
Las Vegas, NV, 89121

Electronically Filed
Mar 02 2022 11:37 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN
AND FOR THE COUNTY OF CLARK

TOBIN MOTORCARS, LLC],)	Case No.: A-21-827749-C
)	
Plaintiff)	Form 1
)	
CHRIS PEDERSEN,)	
)	
Defendant)	
)	

NOTICE OF APPEAL

Notice is hereby given that Chris Pedersen, defendant above
named, hereby appeals to the Supreme Court of Nevada the Motion
for Summary Judgment entered in this action on the 26th day of
January,

Dated this 25th day of February
2022.


Chris Pedersen, In Pro

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1 ASTA

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 CHRIS PEDERSEN,

11 Plaintiff(s),

12 vs.

13 FLORENCE KIAMA aka FLORENCE WAMUCII
14 PFEIFFER; KEITH GLAZER; TOBIN
15 MOTORCARS, LLC dba TOBIN MOTORCARS,

16 Defendant(s),

Case No: A-21-827749-C

Dept No: XIV

17
18 **CASE APPEAL STATEMENT**
19

20 1. Appellant(s): Chris Pedersen

21 2. Judge: Adriana Escobar

22 3. Appellant(s): Chris Pedersen

23 Counsel:

24 Chris Pedersen
25 2550 Desert Inn Rd. #236
26 Las Vegas, NV 89121

27 4. Respondent (s): Florence Kiama aka Florence Wamucii Pfeiffer

28 Counsel:

Florence Kiama

2659 Calypso Cr.
Las Vegas, NV 89121

Respondent (s): Keith Glazer

Counsel:

Keith Glazer
3557 Monroe St.
Carlsbad, CA 92008

Respondent (s): Tobin Motorcars, LLC dba Tobin Motorcars

Counsel:

Jeffery A. Bendavid, Esq.
7301 Peak Dr., Suite 150
Las Vegas, NV 89128

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: January 12, 2021

10. Brief Description of the Nature of the Action: Unknown

Type of Judgment or Order Being Appealed: Summary Judgment

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

1
2 13. Possibility of Settlement: Unknown

3 Dated This 1 day of March 2022.

4 Steven D. Grierson, Clerk of the Court

5
6 /s/ Heather Ungermann

7 Heather Ungermann, Deputy Clerk

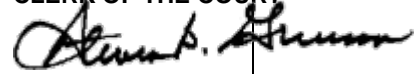
8 200 Lewis Ave

9 PO Box 551601

10 Las Vegas, Nevada 89155-1601

11 (702) 671-0512

12 cc: Chris Pedersen



Chris Pedersen, In Proper Person

2550 Desert Inn Rd, #236
Las Vegas, NV, 89121

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN
AND FOR THE COUNTY OF CLARK**

CHRIS PEDERSEN,)	Case No.: A-21-827749-C
)	
Plaintiff)	Form 2
)	
TOBIN MOTORCARS, LLC)	
)	
Defendant)	
)	

1. Chris Pedersen, In Proper Person

2. The Honorable Adriana Escobar

3. Chris Pedersen, In Proper Person

4. Tobin Motorcars, LLC

Jeffery A. Bendavid, Esq (SBN: 6220)

Stephanie J. Smith, Esq (SBN 11280)

Bendavid Law

7301 Peak Drive, Suite 150

Las Vegas, NV 89128

(702) 385-6114

5. All licensed in Nevada

6. Appellant was self-represented

1 7. No, Appellant is self-represented

2 8. No

3 9. January 12, 2021

4 10. Tobin Motorcars, LLC's Motion to Dismiss Plaintiff Chris
5 Pedersen's First Amended Complaint Pursuant to N.R.C.P. 12(b)

6 Alternatively,

7 Motion For Summary Judgment Pursuant To N.R.C.P. 56

8 11. It has not

9 12. It does not

10 13. I don't think so at this Point

11
12
13
14 Dated this day, February 25, 2022

15
16
17
18
19
20 Dated this 25th day of February
21 2022.

22 
23 Chris Pedersen, In Pro

CASE SUMMARY**CASE NO. A-21-827749-C**

Chris Pedersen, Plaintiff(s)
vs.
Florence Kiama, Defendant(s)

§
§
§
§
§

Location: **Department 14**
 Judicial Officer: **Escobar, Adriana**
 Filed on: **01/12/2021**
 Cross-Reference Case Number: **A827749**

CASE INFORMATION**Statistical Closures**

01/25/2022 Summary Judgment

Case Type: **Other Civil Matters**

Case Status: **01/25/2022 Closed**





DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-21-827749-C
 Court Department 14
 Date Assigned 01/12/2021
 Judicial Officer Escobar, Adriana

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Pedersen, Chris	Pro Se 949-899-4960(H)
Defendant	Glazer, Keith	Pro Se 760-331-5129(H)
	Kiama, Florence	Pro Se 949-899-4960(H)
	Tobin Motorcars LLC	Bendavid, Jeffrey A. <i>Retained</i> 702-385-6114(W)
Arbitrator	Craner, Andrew	
Counter Claimant	Kiama, Florence	Pro Se 949-899-4960(H)
Counter Defendant	Pedersen, Chris	Pro Se 949-899-4960(H)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

01/12/2021	 Complaint [1] Complaint
01/15/2021	 Clerk's Notice of Nonconforming Document [2] Clerk's Notice of Nonconforming Document
05/12/2021	 Summons Filed by: Counter Defendant Pedersen, Chris [3] Summons - Civil
05/12/2021	 Summons Issued

CASE SUMMARY

CASE NO. A-21-827749-C

[4] Summons - Civil

05/12/2021



Summons Electronically Issued - Service Pending

Party: Counter Defendant Pedersen, Chris

[5] summons for defendant

05/17/2021



Change of Address

Filed By: Counter Defendant Pedersen, Chris

[6] just changing address

05/17/2021



Consent to Service By Electronic Means

Filed By: Counter Defendant Pedersen, Chris

[7] Consent to Service by Electronic Means Through E-Filing Program

05/17/2021



Proof of Service

Filed by: Counter Defendant Pedersen, Chris

Party Served: Counter Claimant Kiama, Florence

[8] Proof of Service - Florence Kiama aka Florence Wamucii

05/20/2021



Clerk's Notice of Nonconforming Document

[9] Clerk's Notice of Nonconforming Document

05/26/2021



Consent to Service By Electronic Means

Filed By: Counter Defendant Pedersen, Chris

[10] Consent to Service by Electronic Means through E-Filing Program

06/09/2021



Answer

Filed By: Counter Claimant Kiama, Florence

[11] Answer

06/30/2021



Amended Answer

Filed By: Counter Claimant Kiama, Florence

[12] Amended Answer and Counterclaim

07/01/2021



First Amended Complaint

Filed By: Counter Defendant Pedersen, Chris

[13] First Amended Complaint

07/02/2021



Affidavit of Service

Filed By: Counter Defendant Pedersen, Chris

[14] Affidavit of Service

07/14/2021



Answer and Crossclaim

Filed By: Counter Defendant Pedersen, Chris

[15] Answer to Defendant Florence Kiama's Counter Claim

07/22/2021



Answer to Amended Complaint

[16] Answer to Amended Complaint and Counterclaim

07/29/2021



Clerk's Refund Request

[17]

08/06/2021



Answer to Counterclaim

CASE SUMMARY

CASE NO. A-21-827749-C

Filed By: Counter Defendant Pedersen, Chris
[18] Answer to Defendant Florence Kiama's First Amended Counter Claim

08/11/2021



Summons

Filed by: Counter Defendant Pedersen, Chris
[19] summons of additional defendant Keith Glazer and in First Amended Complaint

08/30/2021



Notice of Early Case Conference

Filed By: Counter Defendant Pedersen, Chris
[20] Notice of Early Case Conference

08/30/2021



Affidavit of Service

Filed By: Counter Defendant Pedersen, Chris
[21] Affidavit / Declaration of Service Under Penalty of Perjury

09/09/2021



Affidavit of Service

Filed By: Counter Defendant Pedersen, Chris
[22] Affidavit of Service

10/13/2021



Appointment of Arbitrator

[23] Appointment of Arbitrator

10/25/2021



Case Conference Disclosure Statement

Filed By: Counter Defendant Pedersen, Chris
[24] Early Conference Rule 16.1 Disclosure

10/26/2021



Notice to Appear for Arbitration Hearing

[25] Notice to Appear for Arbitration Hearing

10/26/2021



Arbitration Discovery Order

[26] Arbitration Discovery Order

10/26/2021



Ex Parte Application for Enlargement of Time to Serve

Filed By: Counter Defendant Pedersen, Chris
[27] Ex Parte Motion to Extend Time for Service

10/26/2021



Summons

Filed by: Counter Defendant Pedersen, Chris
[28] Serve defendant Towbin Motor CArS, LLC

10/27/2021



Summons Electronically Issued - Service Pending

Party: Counter Defendant Pedersen, Chris
[29] serving additional defendants with 1st amended complaint

10/27/2021



Summons Electronically Issued - Service Pending

Party: Counter Defendant Pedersen, Chris
[30] serving additional defendants (glazer) with 1st amended complaint

10/28/2021



Motion to Extend Time to Serve

[31] Motion to Extend Time to Serve 1st Amended Complaint

11/01/2021



Clerk's Notice of Nonconforming Document

[32] Clerk's Notice of Nonconforming Document

CASE SUMMARY

CASE NO. A-21-827749-C

11/03/2021	 Clerk's Notice of Nonconforming Document <i>[33] Clerk's Notice of Nonconforming Document</i>
11/03/2021	 Order Filed By: Counter Defendant Pedersen, Chris <i>[34] Order to Extend Time to Serve Summons and Complaint</i>
11/04/2021	 Proof of Service Filed by: Counter Defendant Pedersen, Chris <i>[35] Proof of Service</i>
11/17/2021	 Motion Filed By: Defendant Tobin Motorcars LLC <i>[36] Towbin Motorcars, LLC's Motion to Dismiss Plaintiff Chris Pedersen's First Amended Complaint Pursuant to N.R.C.P. 12(b)(5) or Alternatively, Motion for Summary Judgment Pursuant N.R.C.P. 56</i>
11/17/2021	 Initial Appearance Fee Disclosure Filed By: Defendant Tobin Motorcars LLC <i>[37] Initial Appearance Fee Disclosure (NRS Chapter 19)</i>
11/22/2021	 Clerk's Notice of Hearing <i>[38] Notice of Hearing</i>
12/03/2021	 Affidavit of Service Filed By: Counter Defendant Pedersen, Chris <i>[39] Affidavit /Declaration of Service Under Penalty of Perjury</i>
12/13/2021	 Order of Arbitrator <i>[40] Arbitrator's Order Regarding Supplementation of Initial Disclosures</i>
12/24/2021	 Opposition to Motion to Dismiss Filed By: Counter Defendant Pedersen, Chris <i>[41] Opposition to Tobin Motorcars, LLC's Motion to Dismiss Plaintiff Chris Pedersen's First Amended Complaint Pursuant to N.R.C.P. 12(b)(5) or Tobin Motorcars, LLC's Motion for Summary Judgment Pursuant to N.R.C.P. 56</i>
12/24/2021	 Exhibits Filed By: Counter Defendant Pedersen, Chris <i>[42] Exhibits 1-5 to Planitiff's Opposition to Defendant Tobin's Motion To Dismiss</i>
12/24/2021	 Exhibits Filed By: Counter Defendant Pedersen, Chris <i>[43] Exhibit 6 to Opposition to Tobin s Motion To Dismiss</i>
12/28/2021	 Deposition Subpoena <i>[44] Deposition Subpoena Issued to Plaintiff</i>
12/29/2021	 Answer <i>[45] Answer to First Amended Complaint</i>
12/29/2021	 Proof of Service by Mail <i>[46] Proof of Service by Mail</i>

CASE SUMMARY

CASE NO. A-21-827749-C

12/30/2021



Reply in Support

Filed By: Defendant Tobin Motorcars LLC

[47] Towbin Motorcars, LLC's Reply in Support of its Dismiss Plaintiff Chris Pedersen's First Amended Complaint Pursuant to N.R.C.P. 12(b)(5) or alternatively, Motion for Summary Judgment Pursuant to N.R.C.P. 56

01/07/2022



Subpoena Duces Tecum

[48] Subpoena Duces Tecum for Business Records

01/07/2022



Subpoena Duces Tecum

Filed by: Counter Claimant Kiama, Florence

[49] Subpoena Duces Tecum for Business Records

01/07/2022



Subpoena Duces Tecum

Filed by: Counter Claimant Kiama, Florence

[50] Subpoena Duces Tecum for Business Records

01/19/2022



Order of Arbitrator

[51] Arbitrator's Order Directing Registration for Electronic Service

01/25/2022



Findings of Fact, Conclusions of Law and Judgment

[52] [Proposed] Findings of Fact and Conclusions of Law on Towbin Motorcars LLC's Motion to Dismiss Plaintiff Chris Pedersen's First Amended Complaint

01/26/2022



Notice of Entry of Findings of Fact, Conclusions of Law

Filed By: Defendant Tobin Motorcars LLC

[53] FINDINGS OF FACT AND CONCLUSIONS OF LAW ON TOWBIN MOTORCARS, LLC S MOTION TO DISMISS PLAINTIFF CHRIS PEDERSEN S FIRST AMENDED COMPLAINT PURSUANT TO N.R.C.P. 12(b)(5) or alternatively, MOTION FOR SUMMARY JUDGMENT PURSUANT TO N.R.C.P. 56

02/07/2022



Subpoena Duces Tecum

Filed by: Counter Defendant Pedersen, Chris

[54] Subpoena Defendant /cross complainant Kiama

02/07/2022



Deposition Subpoena

Filed By: Counter Defendant Pedersen, Chris

[55] Deposition Subpoena - Thomas (Nick) N Hemmesch Jr

02/07/2022



Deposition Subpoena

Filed By: Counter Defendant Pedersen, Chris

[56] Deposition Subpoena - Thomas (Nick) N Hemmesch Jr

02/07/2022



Deposition Subpoena

Filed By: Counter Defendant Pedersen, Chris

[57] Deposition Subpoena - Rolland Sansone

02/07/2022



Subpoena Duces Tecum

Filed by: Counter Defendant Pedersen, Chris

[58] deposition notice yvonne sansone

02/07/2022

















Clerk's Notice of Nonconforming Document

[59] Clerk's Notice of Nonconforming Documents

CASE SUMMARY

CASE NO. A-21-827749-C

02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[60] Deposition Subpoena (Duces Tecum)</i>
02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[61] Deposition Subpoena (Duces Tecum)</i>
02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[62] Deposition Subpoena (Duces Tecum)</i>
02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[63] Deposition Subpoena (Duces Tecum)</i>
02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[64] Deposition Subpoena Duces Tecum for Business Records</i>
02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[65] Deposition Subpoena Duces Tecum for Business Records</i>
02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[66] Deposition Subpoena Duces Tecum for Business Records</i>
02/08/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[67] Deposition Subpoena Duces Tecum for Business Records</i>
02/08/2022	 Subpoena Electronically Issued <i>[68] Deposition Subpoena Duces Tecum for Business Records</i>
02/14/2022	 Subpoena Duces Tecum <i>[69] Deposition Subpoena (Duces Tecum)</i>
02/23/2022	 Subpoena Electronically Issued Filed by: Counter Defendant Pedersen, Chris <i>[70] Deposition Subpoena (Duces Tecum)</i>
02/25/2022	 Notice of Appeal Filed By: Counter Defendant Pedersen, Chris <i>[71] Notice of Appeal</i>
02/25/2022	 Notice of Appeal Filed By: Counter Defendant Pedersen, Chris <i>[72] Notice of Appeal</i>
02/25/2022	 Case Appeal Statement Filed By: Counter Defendant Pedersen, Chris

CASE SUMMARY**CASE NO. A-21-827749-C***[73] Case Appeal Statement*

03/01/2022

Case Appeal Statement
Case Appeal Statement

03/01/2022

Case Appeal Statement
*Case Appeal Statement***DISPOSITIONS**

01/25/2022

Summary Judgment (Judicial Officer: Escobar, Adriana)

Debtors: Chris Pedersen (Plaintiff)

Creditors: Tobin Motorcars LLC (Defendant)

Judgment: 01/25/2022, Docketed: 01/26/2022

HEARINGS

01/06/2022

**Motion to Dismiss** (9:30 AM) (Judicial Officer: Escobar, Adriana)

Events: 11/17/2021 Motion

Towbin Motorcars, LLC's Motion to Dismiss Plaintiff Chris Pedersen's First Amended Complaint Pursuant to N.R.C.P. 12(b)(5) or Alternatively, Motion for Summary Judgment Pursuant N.R.C.P. 56

Motion Granted;

Journal Entry Details:

In an abundance of caution, Court disclosed it purchased a vehicle from Towbin Motor Company years ago; however, it will be fair and Impartial. Colloquy regarding title of vehicle. Mr. Pedersen stated Towbin Motors did not attach a copy of title. COURT ORDERED, Towbin Motorcars, LLC's Motion to Dismiss Plaintiff Chris Pedersen's First Amended Complaint Pursuant to N.R.C.P.12(b)(5) or Alternatively, Motion for Summary Judgment Pursuant N.R.C.P. 56 GRANTED. Court stated everything checks out with DMV. Ms. Smith to prepare the order. Court directed the order to be submitted in fourteen days.;

05/05/2022

Arbitration Hearing (7:00 AM)**DATE****FINANCIAL INFORMATION****Defendant** Glazer, Keith

Total Charges

223.00

Total Payments and Credits

223.00

Balance Due as of 3/1/2022**0.00****Counter Claimant** Kiama, Florence

Total Charges

446.00

Total Payments and Credits

446.00

Balance Due as of 3/1/2022**0.00****Defendant** Tobin Motorcars LLC

Total Charges

423.00

Total Payments and Credits

423.00

Balance Due as of 3/1/2022**0.00****Counter Defendant** Pedersen, Chris

Total Charges

285.00

Total Payments and Credits

285.00

Balance Due as of 3/1/2022**0.00**

Heather S. Smith

CLERK OF THE COURT

1 **FFCL**

2 **JEFFERY A. BENDAVID, ESQ.** (SBN: 6220)

3 jbendavid@bendavidfirm.com

4 **STEPHANIE J. SMITH, ESQ.** (SBN: 11280)

5 ssmith@bendavidfirm.com

6 **BENDAVID LAW**

7 7301 Peak Drive, Suite 150

8 Las Vegas, Nevada 89128

9 (702) 385-6114

10 *Attorneys for Defendant*

11 *Towbin Motorcars, LLC*

12 **DISTRICT COURT**

13 **CLARK COUNTY NEVADA**

14 **CHRIS PEDERSEN,**

15 Plaintiff,

16 vs.

17 FLORENCE KIAMA, AKA FLORENCE
18 WAMUCII PFEIFFER; KEITH GLAZER,
19 TOBIN MOTORCARS, LLC DBA
20 TOBIN MOTORCARS; DOES I through
21 X, inclusive and DOES I through X,
22 business entities, inclusive,

23 Defendants.

Case No. A-21-827749

Dept. 14

**[PROPOSED] FINDINGS OF
FACT AND CONCLUSIONS
OF LAW ON TOWBIN
MOTORCARS, LLC'S
MOTION TO DISMISS
PLAINTIFF CHRIS
PEDERSEN'S FIRST
AMENDED COMPLAINT
PURSUANT TO N.R.C.P.
12(b)(5) or**

alternatively,

**MOTION FOR
SUMMARY JUDGMENT
PURSUANT TO N.R.C.P. 56**

24
25
26 Defendant Towbin Motorcars, LLC's (incorrectly named as "Tobin Motorcars,
27 LLC dba Tobin Motorcars")("Towbin") Motion to Dismiss Plaintiff Chris Pedersen's
28 ("Plaintiff") First Amended Complaint pursuant to NRCP 12(b)(5) or alternatively Motion

BendavidLaw

702.385.6114
7301 Peak Drive, Suite 150
Las Vegas, Nevada 89128

1 for Summary Judgment pursuant to NRCP 56 having come on for hearing on January 6,
2 2022 at 9:30 a.m. with Stephanie J. Smith, Esq., of the law firm of Bendavid Law, appearing
3 on behalf of Defendant Towbin, Plaintiff Chris Pedersen appearing in *pro per*, and
4 Defendant Florence Kiama appearing in *pro per*, with the Honorable Judge Adriana
5 Escobar presiding.
6

7 The Court having considered the pleadings, and papers on file, and the arguments
8 of counsel and the parties at the time for hearing, with good cause appearing, makes the
9 following findings of fact and conclusions of law and orders as follows:
10

11 **FINDINGS OF FACT**

12 1. On or about June 27, 2021, Florence Kiama (“Ms. Kiama”) came to Defendant
13 Towbin’s business and presented a valid title which showed her as the owner of the 2002
14 Maserati, VIN ZAMBC38A020006135 (“Subject Vehicle”), and which was examined by
15 Richard Kansky.
16

17 2. The Nevada Department of Motor Vehicles verified to Defendant Towbin that the
18 Subject Vehicle was registered to Florence Kiama as of June 27, 2019, and that the title was
19 issued on or about May 26, 2017.

20 3. Ms. Kiama paid for the repairs performed on the Subject Vehicle at the time she
21 picked it up from Defendant Towbin.

22 4. Defendant Towbin did not have any documentation evidence that there was any
23 other legal owner of the Subject Vehicle, than Ms. Kiama.
24

25 5. Plaintiff Pedersen admitted that he had previously signed over title and ownership
26 to the Subject Vehicle to Ms. Kiama in the past. Subsequent to that transfer of ownership,
27 the Court concludes that Plaintiff failed to register the Subject Vehicle to his name or
28 otherwise obtain a title issued in his name

1 6. Plaintiff Pedersen did not have a title issued to him in his name for the Subject
2 Vehicle as of June 27, 2019.

3 7. Plaintiff Pedersen was not the registered owner of the Subject Vehicle as of June
4 27, 2019.

5 8. Defendant Towbin released the Subject Vehicle to the titled and registered owner
6 Ms. Kiama on or about June 27, 2019 based on actual documents and records.

7 **CONCLUSIONS OF LAW**

8
9 1. N.R.C.P. 12(b)(5) provides that a party can request a dismissal by motion
10 of an opposing party's claims or counterclaims for that party's failure to state a claim upon
11 which relief can be granted. *See Zalk-Josephs Co. v. Wells-Cargo, Inc.*, 81 Nev. 163, 169-
12 70, 400 P.2d 621, 624-25 (1965); and *Edgar v. Wagner*, 101 Nev. 226, 228, 699 P.2d 110,
13 112 (1985). Dismissal pursuant to N.R.C.P. 12(b)(5) is warranted "if no set of facts would
14 entitle a plaintiff to relief." *Zalk-Josephs Co.*, 81 Nev. at 169-70. *See also Stockmeier v.*
15 *Nevada Department of Corrections Psychological Review Panel*, 124 Nev. 313, 316, 183
16 *P.3d 133, 135 (2008)* (dismissal is proper where the allegations asserted are not sufficient
17 to establish the elements of a claim for relief).
18

19
20 2. For the purposes of a motion under N.R.C.P. 12(b)(5), only the "factual allegations
21 of the complaint must be accepted as true." *Bratcher v. City of Las Vegas*, 113 Nev. 502,
22 507, 937 P.2d 485, 489 (1997) (citations omitted). Plaintiff has failed to allege any
23 cognizable claim against Defendant Towbin in light of the factual allegations of the claims
24 alleged by Plaintiff.
25

26 3. Plaintiff is required "to set forth sufficient facts to demonstrate the necessary
27 elements of a claim for relief so that the defending party has adequate notice of the nature
28 of the claim and the relief sought." *Hay v. Hay*, 100 Nev. 196, 198, 678 P.2d 672, 674

1 (1984); *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984). *See also*
2 *Stockmeier v. Nevada Department of Corrections Psychological Review Panel*, 124 Nev.
3 313, 316, 183 P.3d 133, 135 (2008) (dismissal is proper where the allegations asserted are
4 not sufficient to establish the elements of a claim for relief).

5
6 4. Under N.R.C.P. 12(b)(5), when matters are presented outside the pleadings the
7 motion shall be treated as a motion for summary judgment pursuant to N.R.C.P. 56.

8 5. N.R.C.P. 56(c) provides that summary judgment is appropriate when the pleadings
9 and other evidence on file, construed in a light most favorable to the non-moving party,
10 demonstrate that no genuine issue as to any material fact remains and the moving party is
11 entitled to judgment as a matter of law. *Holcomb v. Georgia Pacific, LLC*, 128 Nev. Adv.
12 Rep. 56 *9-10, 289 P.3d 188, 192 (2012); *Wood v. Safeway*, 121 Nev. 724, 729, 121 P.3d
13 1026, 1029 (2005).

14
15 6. The substantive law controls which factual disputes are material. *Wood*, 121 Nev.
16 at 731. A factual dispute is genuine “when the evidence is such that a rational trier of fact
17 could return a verdict for the non-moving party.” *Id.*

18
19 7. Based on the findings of fact and the actual verification from the Nevada DMV,
20 and the declaration regarding Richard Kansky’s personal review of the title to the subject
21 vehicle, the Court concludes that Defendant Towbin released the subject vehicle to the
22 actual registered owner of the vehicle.

23
24 8. Since Defendant Towbin released to the subject vehicle to the registered owner
25 who presented a valid title to the vehicle, the Court concludes that a dismissal of all of
26 Plaintiff’s claims as to Defendant Towbin is merited by the controlling law.

1 9. Further the Court concludes that in light of the actual ownership of the subject
2 vehicle, Plaintiff has failed to state a claim upon which relief can be granted, and summary
3 judgment should be granted based on NRCp 56 in favor of Towbin.

4 10. Further the Court concludes that Defendant Towbin did not and does not have a
5 cognizable legal duty which mandates for Defendant Towbin to explore any possible claims
6 or sales of any vehicle, prior to releasing it to its registered owner.

7 11. The Court concludes that based on the findings of fact and applicable law,
8 Defendant Towbin only has a legal duty to permit the titled and registered owner of a
9 vehicle to take possession of it.

10 12. The Court concludes that it was Ms. Kiama who came to the dealership, had title,
11 was the legally registered owner with the Nevada DMV, and then who paid for the
12 outstanding repair costs and no service obligations were breached by Defendant Towbin

13 13. In Nevada, a plaintiff must allege that a defendant actually owed plaintiff a duty of
14 care, that it breached that duty, the breach was the legal cause of plaintiff's injuries, and
15 plaintiff suffered damages. *See Sadler v. PacifiCare of Nev.*, 340 P.3d 1264 (Nev. 2014).

16 14. The Court concludes that Plaintiff plainly fails to allege that Defendant Towbin
17 owed him any duty of care, since he did not have title to, nor was he registered as the owner
18 of the Subject Vehicle, and additionally, there is no legal duty for a vehicle repair shop to
19 "consider" a claim to a vehicle because an individual claims he has "an email."

20 15. Any duty owed would be to actual registered owner of a vehicle, and Defendant
21 Towbin verified the identity of the actual registered owner of the Vehicle.

22 16. The Court concludes that to the extent that Plaintiff's claim for negligence relates
23 to the loss of his anticipated arrangement with Ms. Kiama to own the Vehicle, then his
24 negligence claim against Defendant Towbin is further barred because he is only seeking
25

1 economic damages, for the alleged “unauthorized” release of the Subject Vehicle for which
2 he was not the registered owner. In Nevada, the doctrine of economic loss is designed to
3 enforce the expectancy of parties, and tort law, which imposes a duty of reasonable care
4 and thereby generally encourages citizens to avoid causing physical harm to others.
5 *Terracon Consultants W., Inc. v. Mandalay Resort Grp.*, 206 P.3d 81 (Nev. 2009)(emphasis
6 added). In order to effectuate such a result, the “Economic Loss Doctrine” bars
7 unintentional tort actions when the plaintiff seeks to recover purely economic losses. *Id.*
8 The Economic Loss Doctrine is applicable with respect to common law tort claim, which
9 is not otherwise founded upon a specific statutory obligation or right. *See FAC*. Nevada law
10 is clear that a plaintiff may not recover solely economic losses under theories of strict
11 products liability or negligence. *Calloway v. City of Reno*, 993 P.2d 1259 (Nev. 2000),
12 overruled on other grounds by, *Olson v. Richard*, 89 P.3d 31 (Nev. 2004)(emphasis added).
13 Here, Defendant Towbin released the Subject Vehicle to the registered owner of the Subject
14 Vehicle, therefore any other “negligence” claim is dismissed additionally based on the
15 economic loss doctrine.

16
17
18
19 17. The elements for a claim for Breach of Contract in Nevada are:

- 20 1. Plaintiff and Defendant entered into a valid and existing contract;
- 21 2. Plaintiff performed or was excused from performance;
- 22 3. Defendant failed to perform and was not excused from performance;
- 23 and
- 24 4. Plaintiff sustained damages as a result of the breach.

25 *Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d 1259 (2000).

26 18. Defendant Towbin did not fail to perform any of its duties. Defendant Towbin
27 performed repair services on the Vehicle, and when those repairs were completed, they
28 released the Vehicle to the registered owner who paid for those repairs. As such, Plaintiff

1 fails to meet the requisite elements of his claim. Accordingly, Plaintiff's claim for "breach
2 of contract" fails, and must be dismissed as a matter of law.

3 19. Nevada Courts have found that even "in an ordinary bailment the bailee is not an
4 insurer of the goods and he is not liable to the bailor if they are lost or destroyed without
5 his fault." *Bramlette v. Titus*, 70 Nev. 305 (1952) citing 8 C.J.S., *Bailments*, sec. 37, p.
6 308. A "**bailment**" is defined as the rightful, temporary possession of goods by an
7 individual other than the true owner. *Personal Property - Bailments - Bailor, Bailee,*
8 *Possession, and Ownership*-[https://law.jrank.org/pages/9187/Personal-Property-](https://law.jrank.org/pages/9187/Personal-Property-Bailments.html#ixzz7CQWIO5xS)
9 [Bailments.html#ixzz7CQWIO5xS](https://law.jrank.org/pages/9187/Personal-Property-Bailments.html#ixzz7CQWIO5xS); viewed Nov. 16, 2021. The Court concludes that the
10 "bailor" per Plaintiff's allegations, was Defendant Towbin, however, the actual owner of
11 the Subject Vehicle was Ms. Kiama, and not Plaintiff as was confirmed by the DMV and
12 the examination of the title.
13
14

15 20. Defendant Towbin, as alleged bailor, subsequently returned the subject Vehicle to
16 its registered owner Ms. Kiama, and therefore any bailment was terminated upon her
17 payment for repairs and re-possession of the Vehicle. Accordingly, Plaintiff's bailment
18 claim fails on its face, because despite his "allegations" the evidence clearly illustrates he
19 was not the registered owner.
20
21

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

IT IS THEREFORE HEREBY ORDERED that Defendant Towbin Motorcars, LLC's (incorrectly named as "Tobin Motorcars") Motion for Summary Judgment is **GRANTED** in its entirety, with judgment to be entered in favor of Defendant, Towbin Motorcars.

DATED this 01 day of February, 2022.

Dated this 25th day of January, 2022

DISTRICT COURT JUDGE, DEPT. XIV

A-21-827749-C

2EA 141 5939 87B3

Respectfully Submitted by:

Adriana Escobar
District Court Judge

BEN DAVID LAW

/s/ Jeffery A. Bendavid, Esq.

JEFFERY A. BENDAVID, ESQ.

Nevada Bar No. 6220

STEPHANIE J. SMITH, ESQ.

Nevada Bar No. 11280

7301 Peak Dr., Suite 150

Las Vegas, NV 89128

Attorneys for Defendant Towbin Motorcars LLC

Approved as to form and content:

NOT APPROVED

CHRIS PEDERSEN

2550 E Desert Inn Road #236

Las Vegas, NV 89121

In Pro Per

Approved as to form and content:

/s/ Florence Kiama

FLORENCE KIAMA

2659 Calypso Ct.

Las Vegas, NV 89121

In Pro Per

Stephanie Smith

From: Stephanie Smith
Sent: Wednesday, January 19, 2022 9:59 AM
To: Florence Kiama; chris pedersen
Subject: RE: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Thank you Ms. Kiama.

From: Florence Kiama <flokiamo@aol.com>
Sent: Wednesday, January 19, 2022 9:57 AM
To: Stephanie Smith <ssmith@bendavidfirm.com>; chris pedersen <pedersen92591@hotmail.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Go ahead and add my signature. Thank you

[Sent from the all new AOL app for iOS](#)

On Wednesday, January 19, 2022, 9:18 AM, Stephanie Smith <ssmith@bendavidfirm.com> wrote:

Ms. Kiama- The Court ruled on my Towbin MotorCars's motion to dismiss and/or motion for summary judgment. This is simply the findings of fact and conclusions of law based on that hearing. This is not a time to attach additional documentation unless it had been directed by the Court. Does that make sense? Thank you.

From: Florence Kiama <flokiamo@aol.com>
Sent: Wednesday, January 19, 2022 9:15 AM
To: Stephanie Smith <ssmith@bendavidfirm.com>; chris pedersen <pedersen92591@hotmail.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Good Morning Ms. Smith

I have two questions, shouldn't I have been served with Mr. Pedersen's arguments and the evidence he produced?

I feel like I am appending a signature on a document which I only know one side of its argument, and even though it is favorable on my part, I feel I was owed full disclosure.

Stephanie Smith

From: Stephanie Smith
Sent: Thursday, January 20, 2022 9:31 AM
To: chris pedersen
Subject: RE: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Mr. Pedersen – I have not heard back from you if you had revisions or were simply disagreeing with the findings. Regardless I will be submitting the proposed findings of fact and conclusions of law to the court and indicating you did not approve. Thank you.

From: Stephanie Smith
Sent: Wednesday, January 19, 2022 12:15 PM
To: chris pedersen <pedersen92591@hotmail.com>
Subject: RE: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Mr. Pedersen- The Court requested that I prepare a findings of fact and conclusions of law which I have done. When you state you have objections are you wishing to provide suggested edits? If so, then I will wait to review them today. However, if you are just stating you are disagreeing with the finding then you wish to submit a competing version to the Court you may do so. Please let me know.

From: chris pedersen <pedersen92591@hotmail.com>
Sent: Wednesday, January 19, 2022 12:12 PM
To: Stephanie Smith <ssmith@bendavidfirm.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Not familiar with objecting to a statement of decision? I thought you just offered that I should submit my own statement of decision for consideration? Change of mind? Regardless, your statement of decision has absolutely nothing to do with the courts simple ruling granting your motion without exclamation of any kind. No minute order. I will add to my objections you're insisting on submitting a statement of decision to which I informed you I had objections to and after which you offered to consider and alternative statement of decision. You're most welcome.

Sent from my iPhone

On Jan 19, 2022, at 11:18 AM, Stephanie Smith <ssmith@bendavidfirm.com> wrote:

Mr. Pedersen- I do not know what you are referring to when you reference a statement of decision or your objections. I will construe this to mean that you will not sign the proposed findings of fact and conclusions of law as to the form and content. As such, I will be submitting it to the Court. Thank you.

From: chris pedersen <pedersen92591@hotmail.com>
Sent: Wednesday, January 19, 2022 11:16 AM
To: Stephanie Smith <ssmith@bendavidfirm.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Thank you Stephanie, I will attach a proposed statement of decision together with my objections. I am in court all day today in Los Angeles, but will get it to you later this afternoon.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Chris Pedersen, Plaintiff(s)

CASE NO: A-21-827749-C

7 vs.

DEPT. NO. Department 14

8 Florence Kiama, 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 Granting Summary Judgment was served via the court's
13 electronic eFile system to all recipients registered for e-Service on the above entitled case as
listed below:

14 Service Date: 1/25/2022

15 Andrew Craner

nvesq@cox.net

16 Jeffery Bendavid

jbendavid@bendavidfirm.com

17 Stephanie Smith

ssmith@bendavidfirm.com

18 Florence Kiama

flokiamo@aol.com

19 Chris Pedersen

pedersen92591@hotmail.com

20 Julie Hall

jhall@bendavidfirm.com

22

23

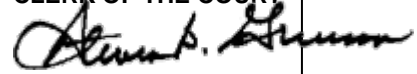
24

25

26

27

28



1 **NEO**
2 **JEFFERY A. BENDAVID, ESQ.** (SBN: 6220)
3 jbendavid@bendavidfirm.com
4 **STEPHANIE J. SMITH, ESQ.** (SBN: 11280)
5 ssmith@bendavidfirm.com
6 **BENDAVID LAW**
7 7301 Peak Drive, Suite 150
8 Las Vegas, Nevada 89128
9 (702) 385-6114
10 *Attorneys for Defendant*
11 *Towbin Motorcars, LLC*

8 **DISTRICT COURT**

9 **CLARK COUNTY NEVADA**

10 **CHRIS PEDERSON,**

11 Plaintiff,

12 vs.

13
14 **FLORENCE KIAMA, AKA FLORENCE**
15 **WAMUCII PFEIFFER; KEITH GLAZER,**
16 **TOBIN MOTORCARS, LLC DBA**
17 **TOBIN MOTORCARS; DOES I through**
18 **X, inclusive and DOES I through X,**
19 **business entities, inclusive,**

20 Defendants.

Case No. A-21-827749
Dept. 14

**NOTICE OF ENTRY OF
FINDINGS OF FACT AND
CONCLUSIONS OF LAW
GRANTING DEFENDANT
TOWBIN MOTORCARS,
LLC'S MOTION TO
DISMISS
PLAINTIFF CHRIS
PEDERSEN'S FIRST
AMENDED COMPLAINT
PURSUANT TO N.R.C.P.
12(b)(5)**

**or
alternatively,**

**MOTION FOR
SUMMARY JUDGMENT
PURSUANT TO N.R.C.P. 56**

21
22
23
24
25
26 Please take notice that a FINDINGS OF FACT AND CONCLUSIONS OF
27 LAW GRANTING DEFENDANT TOWBIN MOTORCARS, LLC'S MOTION TO
28 DISMISS PLAINTIFF CHRIS PEDERSEN'S FIRST AMENDED COMPLAINT

BendavidLaw

702.385.6114
7301 Peak Drive, Suite 150
Las Vegas, Nevada 89128

1 PURSUANT TO N.R.C.P. 12(b)(5) or alternatively, MOTION FOR SUMMARY
2 JUDGMENT PURSUANT TO N.R.C.P. 56 was entered in the above-entitled case on
3 January 25, 2022.

4 A true and correct copy of the above-referenced document is attached hereto as
5 **Exhibit A.**
6

7 DATED this 26th day of January, 2022.
8

9 **BENDAVID LAW**

10 /s/ Jeffery A. Bendavid, Esq.
11 **JEFFERY A. BENDAVID, ESQ.**
12 Nevada Bar No. 6220
13 **STEPHANIE J. SMITH, ESQ.**
14 Nevada Bar No. 11280
15 7301 Peak Drive, Suite 150
16 Las Vegas, Nevada 89128
17 *Attorneys for Defendant Towbin*
18 *Motorcars*
19
20
21
22
23
24
25
26
27
28

EXHIBIT

“A”

1 **FFCL**
2 **JEFFERY A. BENDAVID, ESQ.** (SBN: 6220)
3 jbendavid@bendavidfirm.com
4 **STEPHANIE J. SMITH, ESQ.** (SBN: 11280)
5 ssmith@bendavidfirm.com
6 **BENDAVID LAW**
7 7301 Peak Drive, Suite 150
8 Las Vegas, Nevada 89128
9 (702) 385-6114
10 *Attorneys for Defendant*
11 *Towbin Motorcars, LLC*

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

11 CHRIS PEDERSEN,

12 Plaintiff,

13 vs.

14 FLORENCE KIAMA, AKA FLORENCE
15 WAMUCII PFEIFFER; KEITH GLAZER,
16 TOBIN MOTORCARS, LLC DBA
17 TOBIN MOTORCARS; DOES I through
18 X, inclusive and DOES I through X,
19 business entities, inclusive,

20 Defendants.

Case No. A-21-827749
Dept. 14

**[PROPOSED] FINDINGS OF
FACT AND CONCLUSIONS
OF LAW ON TOWBIN
MOTORCARS, LLC'S
MOTION TO DISMISS
PLAINTIFF CHRIS
PEDERSEN'S FIRST
AMENDED COMPLAINT
PURSUANT TO N.R.C.P.
12(b)(5) or**

alternatively,

**MOTION FOR
SUMMARY JUDGMENT
PURSUANT TO N.R.C.P. 56**

26 Defendant Towbin Motorcars, LLC's (incorrectly named as "Tobin Motorcars,
27 LLC dba Tobin Motorcars")("Towbin") Motion to Dismiss Plaintiff Chris Pedersen's
28 ("Plaintiff") First Amended Complaint pursuant to NRCP 12(b)(5) or alternatively Motion

1 for Summary Judgment pursuant to NRCP 56 having come on for hearing on January 6,
2 2022 at 9:30 a.m. with Stephanie J. Smith, Esq., of the law firm of Bendavid Law, appearing
3 on behalf of Defendant Towbin, Plaintiff Chris Pedersen appearing in *pro per*, and
4 Defendant Florence Kiama appearing in *pro per*, with the Honorable Judge Adriana
5 Escobar presiding.
6

7 The Court having considered the pleadings, and papers on file, and the arguments
8 of counsel and the parties at the time for hearing, with good cause appearing, makes the
9 following findings of fact and conclusions of law and orders as follows:
10

11 **FINDINGS OF FACT**

12 1. On or about June 27, 2021, Florence Kiama (“Ms. Kiama”) came to Defendant
13 Towbin’s business and presented a valid title which showed her as the owner of the 2002
14 Maserati, VIN ZAMBC38A020006135 (“Subject Vehicle”), and which was examined by
15 Richard Kansky.
16

17 2. The Nevada Department of Motor Vehicles verified to Defendant Towbin that the
18 Subject Vehicle was registered to Florence Kiama as of June 27, 2019, and that the title was
19 issued on or about May 26, 2017.

20 3. Ms. Kiama paid for the repairs performed on the Subject Vehicle at the time she
21 picked it up from Defendant Towbin.

22 4. Defendant Towbin did not have any documentation evidence that there was any
23 other legal owner of the Subject Vehicle, than Ms. Kiama.
24

25 5. Plaintiff Pedersen admitted that he had previously signed over title and ownership
26 to the Subject Vehicle to Ms. Kiama in the past. Subsequent to that transfer of ownership,
27 the Court concludes that Plaintiff failed to register the Subject Vehicle to his name or
28 otherwise obtain a title issued in his name

1 6. Plaintiff Pedersen did not have a title issued to him in his name for the Subject
2 Vehicle as of June 27, 2019.

3 7. Plaintiff Pedersen was not the registered owner of the Subject Vehicle as of June
4 27, 2019.

5 8. Defendant Towbin released the Subject Vehicle to the titled and registered owner
6 Ms. Kiama on or about June 27, 2019 based on actual documents and records.

8 **CONCLUSIONS OF LAW**

9 1. N.R.C.P. 12(b)(5) provides that a party can request a dismissal by motion
10 of an opposing party's claims or counterclaims for that party's failure to state a claim upon
11 which relief can be granted. *See Zalk-Josephs Co. v. Wells-Cargo, Inc.*, 81 Nev. 163, 169-
12 70, 400 P.2d 621, 624-25 (1965); and *Edgar v. Wagner*, 101 Nev. 226, 228, 699 P.2d 110,
13 112 (1985). Dismissal pursuant to N.R.C.P. 12(b)(5) is warranted "if no set of facts would
14 entitle a plaintiff to relief." *Zalk-Josephs Co.*, 81 Nev. at 169-70. *See also Stockmeier v.*
15 *Nevada Department of Corrections Psychological Review Panel*, 124 Nev. 313, 316, 183
16 *P.3d 133, 135 (2008)* (dismissal is proper where the allegations asserted are not sufficient
17 to establish the elements of a claim for relief).

18 2. For the purposes of a motion under N.R.C.P. 12(b)(5), only the "factual allegations
19 of the complaint must be accepted as true." *Bratcher v. City of Las Vegas*, 113 Nev. 502,
20 507, 937 P.2d 485, 489 (1997) (citations omitted). Plaintiff has failed to allege any
21 cognizable claim against Defendant Towbin in light of the factual allegations of the claims
22 alleged by Plaintiff.

23 3. Plaintiff is required "to set forth sufficient facts to demonstrate the necessary
24 elements of a claim for relief so that the defending party has adequate notice of the nature
25 of the claim and the relief sought." *Hay v. Hay*, 100 Nev. 196, 198, 678 P.2d 672, 674

1 (1984); *Ravera v. City of Reno*, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984). *See also*
2 *Stockmeier v. Nevada Department of Corrections Psychological Review Panel*, 124 Nev.
3 313, 316, 183 P.3d 133, 135 (2008) (dismissal is proper where the allegations asserted are
4 not sufficient to establish the elements of a claim for relief).

5
6 4. Under N.R.C.P. 12(b)(5), when matters are presented outside the pleadings the
7 motion shall be treated as a motion for summary judgment pursuant to N.R.C.P. 56.

8 5. N.R.C.P. 56(c) provides that summary judgment is appropriate when the pleadings
9 and other evidence on file, construed in a light most favorable to the non-moving party,
10 demonstrate that no genuine issue as to any material fact remains and the moving party is
11 entitled to judgment as a matter of law. *Holcomb v. Georgia Pacific, LLC*, 128 Nev. Adv.
12 Rep. 56 *9-10, 289 P.3d 188, 192 (2012); *Wood v. Safeway*, 121 Nev. 724, 729, 121 P.3d
13 1026, 1029 (2005).

14
15 6. The substantive law controls which factual disputes are material. *Wood*, 121 Nev.
16 at 731. A factual dispute is genuine “when the evidence is such that a rational trier of fact
17 could return a verdict for the non-moving party.” *Id.*

18
19 7. Based on the findings of fact and the actual verification from the Nevada DMV,
20 and the declaration regarding Richard Kansky’s personal review of the title to the subject
21 vehicle, the Court concludes that Defendant Towbin released the subject vehicle to the
22 actual registered owner of the vehicle.

23
24 8. Since Defendant Towbin released to the subject vehicle to the registered owner
25 who presented a valid title to the vehicle, the Court concludes that a dismissal of all of
26 Plaintiff’s claims as to Defendant Towbin is merited by the controlling law.

1 9. Further the Court concludes that in light of the actual ownership of the subject
2 vehicle, Plaintiff has failed to state a claim upon which relief can be granted, and summary
3 judgment should be granted based on NRCp 56 in favor of Towbin.

4 10. Further the Court concludes that Defendant Towbin did not and does not have a
5 cognizable legal duty which mandates for Defendant Towbin to explore any possible claims
6 or sales of any vehicle, prior to releasing it to its registered owner.

7 11. The Court concludes that based on the findings of fact and applicable law,
8 Defendant Towbin only has a legal duty to permit the titled and registered owner of a
9 vehicle to take possession of it.

10 12. The Court concludes that it was Ms. Kiama who came to the dealership, had title,
11 was the legally registered owner with the Nevada DMV, and then who paid for the
12 outstanding repair costs and no service obligations were breached by Defendant Towbin

13 13. In Nevada, a plaintiff must allege that a defendant actually owed plaintiff a duty of
14 care, that it breached that duty, the breach was the legal cause of plaintiff's injuries, and
15 plaintiff suffered damages. *See Sadler v. PacifiCare of Nev.*, 340 P.3d 1264 (Nev. 2014).

16 14. The Court concludes that Plaintiff plainly fails to allege that Defendant Towbin
17 owed him any duty of care, since he did not have title to, nor was he registered as the owner
18 of the Subject Vehicle, and additionally, there is no legal duty for a vehicle repair shop to
19 "consider" a claim to a vehicle because an individual claims he has "an email."

20 15. Any duty owed would be to actual registered owner of a vehicle, and Defendant
21 Towbin verified the identity of the actual registered owner of the Vehicle.

22 16. The Court concludes that to the extent that Plaintiff's claim for negligence relates
23 to the loss of his anticipated arrangement with Ms. Kiama to own the Vehicle, then his
24 negligence claim against Defendant Towbin is further barred because he is only seeking
25
26
27
28

1 economic damages, for the alleged “unauthorized” release of the Subject Vehicle for which
2 he was not the registered owner. In Nevada, the doctrine of economic loss is designed to
3 enforce the expectancy of parties, and tort law, which imposes a duty of reasonable care
4 and thereby generally encourages citizens to avoid causing physical harm to others.
5 *Terracon Consultants W., Inc. v. Mandalay Resort Grp.*, 206 P.3d 81 (Nev. 2009)(emphasis
6 added). In order to effectuate such a result, the “Economic Loss Doctrine” bars
7 unintentional tort actions when the plaintiff seeks to recover purely economic losses. *Id.*
8 The Economic Loss Doctrine is applicable with respect to common law tort claim, which
9 is not otherwise founded upon a specific statutory obligation or right. *See FAC*. Nevada law
10 is clear that a plaintiff may not recover solely economic losses under theories of strict
11 products liability or negligence. *Calloway v. City of Reno*, 993 P.2d 1259 (Nev. 2000),
12 overruled on other grounds by, *Olson v. Richard*, 89 P.3d 31 (Nev. 2004)(emphasis added).
13 Here, Defendant Towbin released the Subject Vehicle to the registered owner of the Subject
14 Vehicle, therefore any other “negligence” claim is dismissed additionally based on the
15 economic loss doctrine.
16
17
18

19 17. The elements for a claim for Breach of Contract in Nevada are:

- 20 1. Plaintiff and Defendant entered into a valid and existing contract;
- 21 2. Plaintiff performed or was excused from performance;
- 22 3. Defendant failed to perform and was not excused from performance;
23 and
- 24 4. Plaintiff sustained damages as a result of the breach.

25 *Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d 1259 (2000).

26 18. Defendant Towbin did not fail to perform any of its duties. Defendant Towbin
27 performed repair services on the Vehicle, and when those repairs were completed, they
28 released the Vehicle to the registered owner who paid for those repairs. As such, Plaintiff

1 fails to meet the requisite elements of his claim. Accordingly, Plaintiff's claim for "breach
2 of contract" fails, and must be dismissed as a matter of law.

3 19. Nevada Courts have found that even "in an ordinary bailment the bailee is not an
4 insurer of the goods and he is not liable to the bailor if they are lost or destroyed without
5 his fault." *Bramlette v. Titus*, 70 Nev. 305 (1952) citing 8 C.J.S., *Bailments*, sec. 37, p.
6 308. A "**bailment**" is defined as the rightful, temporary possession of goods by an
7 individual other than the true owner. *Personal Property - Bailments - Bailor, Bailee,*
8 *Possession, and Ownership*-[https://law.jrank.org/pages/9187/Personal-Property-](https://law.jrank.org/pages/9187/Personal-Property-Bailments.html#ixzz7CQWIO5xS)
9 [Bailments.html#ixzz7CQWIO5xS](https://law.jrank.org/pages/9187/Personal-Property-Bailments.html#ixzz7CQWIO5xS); viewed Nov. 16, 2021. The Court concludes that the
10 "bailor" per Plaintiff's allegations, was Defendant Towbin, however, the actual owner of
11 the Subject Vehicle was Ms. Kiama, and not Plaintiff as was confirmed by the DMV and
12 the examination of the title.
13
14

15 20. Defendant Towbin, as alleged bailor, subsequently returned the subject Vehicle to
16 its registered owner Ms. Kiama, and therefore any bailment was terminated upon her
17 payment for repairs and re-possession of the Vehicle. Accordingly, Plaintiff's bailment
18 claim fails on its face, because despite his "allegations" the evidence clearly illustrates he
19 was not the registered owner.
20
21

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

IT IS THEREFORE HEREBY ORDERED that Defendant Towbin Motorcars, LLC's (incorrectly named as "Tobin Motorcars") Motion for Summary Judgment is **GRANTED** in its entirety, with judgment to be entered in favor of Defendant, Towbin Motorcars.

DATED this 0. E day of _____, 2022.

Dated this 25th day of January, 2022

DISTRICT COURT JUDGE, DEPT. XIV

A-21-827749-C

2EA 141 5939 87B3

Respectfully Submitted by:

Adriana Escobar
District Court Judge

BENDAVID LAW

/s/ Jeffery A. Bendavid, Esq.

JEFFERY A. BENDAVID, ESQ.

Nevada Bar No. 6220

STEPHANIE J. SMITH, ESQ.

Nevada Bar No. 11280

7301 Peak Dr., Suite 150

Las Vegas, NV 89128

Attorneys for Defendant Towbin Motorcars LLC

Approved as to form and content:

NOT APPROVED

CHRIS PEDERSEN

2550 E Desert Inn Road #236

Las Vegas, NV 89121

In Pro Per

Approved as to form and content:

/s/ Florence Kiama

FLORENCE KIAMA

2659 Calypso Ct.

Las Vegas, NV 89121

In Pro Per

Stephanie Smith

From: Stephanie Smith
Sent: Wednesday, January 19, 2022 9:59 AM
To: Florence Kiama; chris pedersen
Subject: RE: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Thank you Ms. Kiama.

From: Florence Kiama <flokiamo@aol.com>
Sent: Wednesday, January 19, 2022 9:57 AM
To: Stephanie Smith <ssmith@bendavidfirm.com>; chris pedersen <pedersen92591@hotmail.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Go ahead and add my signature. Thank you

[Sent from the all new AOL app for iOS](#)

On Wednesday, January 19, 2022, 9:18 AM, Stephanie Smith <ssmith@bendavidfirm.com> wrote:

Ms. Kiama- The Court ruled on my Towbin MotorCars's motion to dismiss and/or motion for summary judgment. This is simply the findings of fact and conclusions of law based on that hearing. This is not a time to attach additional documentation unless it had been directed by the Court. Does that make sense? Thank you.

From: Florence Kiama <flokiamo@aol.com>
Sent: Wednesday, January 19, 2022 9:15 AM
To: Stephanie Smith <ssmith@bendavidfirm.com>; chris pedersen <pedersen92591@hotmail.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Good Morning Ms. Smith

I have two questions, shouldn't I have been served with Mr. Pedersen's arguments and the evidence he produced?

I feel like I am appending a signature on a document which I only know one side of its argument, and even though it is favorable on my part, I feel I was owed full disclosure.

Stephanie Smith

From: Stephanie Smith
Sent: Thursday, January 20, 2022 9:31 AM
To: chris pedersen
Subject: RE: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Mr. Pedersen – I have not heard back from you if you had revisions or were simply disagreeing with the findings. Regardless I will be submitting the proposed findings of fact and conclusions of law to the court and indicating you did not approve. Thank you.

From: Stephanie Smith
Sent: Wednesday, January 19, 2022 12:15 PM
To: chris pedersen <pedersen92591@hotmail.com>
Subject: RE: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Mr. Pedersen- The Court requested that I prepare a findings of fact and conclusions of law which I have done. When you state you have objections are you wishing to provide suggested edits? If so, then I will wait to review them today. However, if you are just stating you are disagreeing with the finding then you wish to submit a competing version to the Court you may do so. Please let me know.

From: chris pedersen <pedersen92591@hotmail.com>
Sent: Wednesday, January 19, 2022 12:12 PM
To: Stephanie Smith <ssmith@bendavidfirm.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Not familiar with objecting to a statement of decision? I thought you just offered that I should submit my own statement of decision for consideration? Change of mind? Regardless, your statement of decision has absolutely nothing to do with the courts simple ruling granting your motion without exclamation of any kind. No minute order. I will add to my objections you're insisting on submitting a statement of decision to which I informed you I had objections to and after which you offered to consider and alternative statement of decision. You're most welcome.

Sent from my iPhone

On Jan 19, 2022, at 11:18 AM, Stephanie Smith <ssmith@bendavidfirm.com> wrote:

Mr. Pedersen- I do not know what you are referring to when you reference a statement of decision or your objections. I will construe this to mean that you will not sign the proposed findings of fact and conclusions of law as to the form and content. As such, I will be submitting it to the Court. Thank you.

From: chris pedersen <pedersen92591@hotmail.com>
Sent: Wednesday, January 19, 2022 11:16 AM
To: Stephanie Smith <ssmith@bendavidfirm.com>
Subject: Re: Proposed FFCL- Pedersen v. Towbin Motorcars et al

Thank you Stephanie, I will attach a proposed statement of decision together with my objections. I am in court all day today in Los Angeles, but will get it to you later this afternoon.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Chris Pedersen, Plaintiff(s)

CASE NO: A-21-827749-C

7 vs.

DEPT. NO. Department 14

8 Florence Kiama, 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 Granting Summary Judgment was served via the court's
13 electronic eFile system to all recipients registered for e-Service on the above entitled case as
listed below:

14 Service Date: 1/25/2022

15 Andrew Craner

nvesq@cox.net

16 Jeffery Bendavid

jbendavid@bendavidfirm.com

17 Stephanie Smith

ssmith@bendavidfirm.com

18 Florence Kiama

flokiamo@aol.com

19 Chris Pedersen

pedersen92591@hotmail.com

20 Julie Hall

jhall@bendavidfirm.com

22

23

24

25

26

27

28

A-21-827749-C Chris Pedersen, Plaintiff(s)
vs.
Florence Kiama, Defendant(s)

January 06, 2022 09:30 AM Towbin Motorcars, LLC's Motion to Dismiss Plaintiff Chris Pedersen's First Amended Complaint Pursuant to N.R.C.P. 12(b)(5) or Alternatively, Motion for Summary Judgment Pursuant N.R.C.P. 56

HEARD BY: Escobar, Adriana COURTROOM: RJC Courtroom 14C

COURT CLERK: Squyres, Stephanie

RECORDER: Scott, Deloris

REPORTER:

PARTIES PRESENT:

Chris Pedersen Counter Defendant, Counter Defendant,
Plaintiff, Plaintiff

Florence Kiama Counter Claimant, Counter Claimant,
Defendant, Defendant

Stephanie J. Smith Attorney for Defendant

JOURNAL ENTRIES

In an abundance of caution, Court disclosed it purchased a vehicle from Towbin Motor Company years ago; however, it will be fair and Impartial. Colloquy regarding title of vehicle. Mr. Pedersen stated Towbin Motors did not attach a copy of title. COURT ORDERED, Towbin Motorcars, LLC's Motion to Dismiss Plaintiff Chris Pedersen's First Amended Complaint Pursuant to N.R.C.P. 12(b)(5) or Alternatively, Motion for Summary Judgment Pursuant N.R.C.P. 56 GRANTED. Court stated everything checks out with DMV. Ms. Smith to prepare the order. Court directed the order to be submitted in fourteen days.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

CHRIS PEDERSEN
2550 DESERT INN RD. #236
LAS VEGAS, NV 89121

DATE: March 1, 2022
CASE: A-21-827749-C

RE CASE: CHRIS PEDERSEN vs. FLORENCE KIAMA aka FLORENCE WAMUCII PFEIFFER; KEITH GLAZER; TOBIN MOTORCARS, LLC dba TOBIN MOTORCARS

NOTICE OF APPEAL FILED: February 25, 2022 2:32 pm

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; [PROPOSED] FINDINGS OF FACT AND CONCLUSIONS OF LAW ON TOWBIN MOTORCARS, LLC'S MOTION TO DISMISS PLAINTIFF CHRIS PEDERSEN'S FIRST AMENDED COMPLAINT PURSUANT TO N.R.C.P. 12(B)(5) OR ALTERNATIVELY, MOTION FOR SUMMARY JUDGMENT PURSUANT TO N.R.C.P. 56; NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW GRANTING DEFENDANT TOWBIN MOTORCARS, LLC'S MOTION TO DISMISS PLAINTIFF CHRIS PEDERSEN'S FIRST AMENDED COMPLAINT PURSUANT OT N.R.C.P. 12(B)(5) OR ALTERNATIVELY, MOTION FOR SUMMARY JUDGMENT PURSUANT TO N.R.C.P. 56; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

CHRIS PEDERSEN,

Plaintiff(s),

vs.

FLORENCE KIAMA aka FLORENCE
WAMUCII PFEIFFER; KEITH GLAZER;
TOBIN MOTORCARS, LLC dba TOBIN
MOTORCARS,

Defendant(s),


Case No: A-21-827749-C

Dept No: XIV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 1 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

