

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff Mecklenburg County, NC (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Joseph J. Urban, Esquire Law Offices of Vincent J. Ciecka 5709 Westfield Avenue, P.O. Box #560, Pennsauken, NJ 08110 Phone: 856-665-5709

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Christina L. Capobianco PO Box 360, Buffalo, NY 14201 1700 Market Street, Suite 1418, Philadelphia PA 19103-3907 Phone: 267-519-6800

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes sub-sections like PERSONAL INJURY, PERSONAL PROPERTY, HABEAS CORPUS, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Philp E. Benson, Kyriacos Argyropoulos,	:	CIVIL ACTION NO.
and Laretta Argyropoulos	:	
v.	:	
Ricardo Alvarado Rosero and Carvana, LLC	:	
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>9/21/2021</u>	<u>Christina L. Capobianco</u>	<u>Ricardo Alvarado Rosero and Carvana, LLC</u>
Date	Attorney-at-law	Attorney for
<u>267-519-6800</u>	<u>267-519-6801</u>	<u>ccapobianco@goldbergsegalla.com</u>
Telephone	FAX Number	E-Mail Address

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _____

Address of Defendant: _____

Place of Accident, Incident or Transaction: _____

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

/s/ Christina L. Capobianco

DATE: _____ Must sign here _____

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FEELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, _____, counsel of record or pro se plaintiff, do hereby certify:

- Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- Relief other than monetary damages is sought.

/s/ Christina L. Capobianco

DATE: _____ Sign here if applicable _____

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

3. Defendant Ricardo Alvarado Rosero was served with the Complaint on September 9, 2021.

4. Plaintiffs' complaint arises out of an alleged motor vehicle accident, which occurred on October 20, 2019, traveling northbound on I-95 at or near mile-marker 26 in the lane leading to the ramp to the Betsy Ross Bridge in the City and County of Philadelphia, Pennsylvania. (*See* Exhibit "A").

5. Plaintiffs allege that they were injured as a result of Defendants' negligence. (*See* Exhibit "A").

Timeliness of Removal

6. This Notice of Removal is timely filed in compliance with 28 U.S.C. §1446(b) as it is being filed within thirty (30) days from the date upon which Defendants were served with the Complaint.

Diversity of Citizenship

7. 28 U.S.C. §1441(a) provides that a state court action over which a district court of the United States would possess original jurisdiction may be removed to the district court for the district and division embracing the place where the state court action is pending.

8. A district court shall have original jurisdiction over a proceeding wherein the matter in controversy exceeds \$75,000 and is between citizens of different states. 28 U.S.C. §1332(a).

9. A corporation shall be deemed to be a citizen of the state in which it is incorporated and the state of its principal place of business. 28 U.S.C. §1332(c)(1).

10. According to the Complaint in the instant case, Plaintiff Philip E. Benson is a citizen of North Carolina. (*See* Exhibit "A").

11. According to the Complaint in the instant case, Plaintiffs Kyriacos and Laretta Argyropoulos, husband and wife, are citizens of New Jersey. (*See* Exhibit “A”).

12. Defendant Ricardo Alvarado Rosero is a citizen of Pennsylvania.

13. Defendant Carvana, LLC, is a citizen of Arizona, its state of incorporation and the location of its principal place of business.

14. Diversity of citizenship exists because Plaintiffs are citizens of North Carolina and New Jersey and Defendants are citizens of Pennsylvania and Arizona.

Plea for Removal

15. There is complete diversity of citizenship and the amount in controversy exceeds the jurisdictional requirement of seventy-five thousand dollars (\$75,000.00); therefore, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 and removal of this proceeding to this Court is proper pursuant to 28 U.S.C. § 1441.

16. No served defendant is a citizen of the forum state of Pennsylvania such that removal is not precluded by 28 U.S.C. §1441(b).

17. Since the Philadelphia County Court of Common Pleas is located within the Eastern District of Pennsylvania, removal of this case to the United States District Court for the Eastern District of Pennsylvania is proper because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. §1441(a).

18. Defendants have contemporaneously with the filing of this Notice and Petition of Removal given written notice to all counsel and unrepresented parties of the removal of this matter.

19. Promptly after filing the within Notice and Petition of Removal, a copy of same will be filed with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, Defendants Ricardo Alvarado Rosero and Carvana, LLC, respectfully request that this civil action be removed from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

GOLDBERG SEGALLA LLP

Date: 9/21/2021

By: /s/ Christina L. Capobianco

Christina L. Capobianco

Attorney ID No. 95105

1700 Market Street, Suite 1418

Philadelphia, PA 19103-3907

(P) 267-519-6800; (F) 267-519-6801

ccapobianco@goldbergsegalla.com

Attorney for Defendants

CERTIFICATE OF SERVICE

I, Christina L. Capobianco, hereby certify that this 21st day of September 2021, a true and correct copy of the foregoing Notice and Petition of Removal of defendants was served via the Court's ECF and by electronic mail upon the following:

GOLDBERG SEGALLA LLP

By: /s/ Christina L. Capobianco

Christina L. Capobianco

Attorney ID No. 95105

1700 Market Street, Suite 1418

Philadelphia, PA 19103-3907

(P) 267-519-6800; (F) 267-519-6801

ccapobianco@goldbergsegalla.com

Attorney for Defendants

EXHIBIT A

Court of Common Pleas of Philadelphia County
 Trial Division
Civil Cover Sheet

For Prothonotary Use Only (Docket Number)
AUGUST 2021
 E-Filed Number: 2108057279 **002750**

PLAINTIFF'S NAME PHILIP E. BENSON	DEFENDANT'S NAME RICARDO ALVARADO ROSERO
PLAINTIFF'S ADDRESS 12041 EVERGREEN HOLLOW DRIVE CHARLOTTE NC 28269-5113	DEFENDANT'S ADDRESS 8542 MARSDEN STREET, APT. 9 PHILADELPHIA PA 19136
PLAINTIFF'S NAME KYRIACOS ARGYROPOULOS	DEFENDANT'S NAME CARVANA, LLC
PLAINTIFF'S ADDRESS 6006 NORMANDY DRIVE MOUNT LAUREL NJ 08054	DEFENDANT'S ADDRESS 1026 MARIETTA STREET NE SUITE A ATLANTA GA 30138 <i>OR c/o CSC</i>
PLAINTIFF'S NAME LAURETTA ARGYROPOULOS	DEFENDANT'S NAME <i>100 CHARLES EWING BLVD #160 EWING, NJ 08628</i>
PLAINTIFF'S ADDRESS 6006 NORMANDY DRIVE MOUNT LAUREL NJ 08054	DEFENDANT'S ADDRESS

TOTAL NUMBER OF PLAINTIFFS 3	TOTAL NUMBER OF DEFENDANTS 2	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Petition Action <input type="checkbox"/> Transfer From Other Jurisdictions <input type="checkbox"/> Notice of Appeal
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Other:	<input type="checkbox"/> Mass Tort <input type="checkbox"/> Savings Action <input type="checkbox"/> Petition <input type="checkbox"/> Commerce <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> Settlement <input type="checkbox"/> Minors <input type="checkbox"/> W/D/Survival

CASE TYPE AND CODE
 2V - MOTOR VEHICLE ACCIDENT

STATUTORY BASIS FOR CAUSE OF ACTION

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)

**FILED
 PRO PROTHY
 AUG 30 2021
 S. RICE**

IS CASE SUBJECT TO COORDINATION ORDER?
 YES NO

TO THE PROTHONOTARY:
 Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: PHILIP E BENSON , KYRIACOS ARGYROPOULOS , LAURETTA ARGYROPOULO
 Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY JOSEPH J. URBAN	ADDRESS 5709 WESTFIELD AVENUE P.O. BOX #560 PENNSAUKEN NJ 08110
PHONE NUMBER (856) 665-5709	FAX NUMBER (856) 665-4107
SUPREME COURT IDENTIFICATION NO. 57369	E-MAIL ADDRESS jurban@ciecka.com
SIGNATURE OF FILING ATTORNEY OR PARTY JOSEPH URBAN	DATE SUBMITTED Monday, August 30, 2021, 05:06 pm

LAW OFFICES OF VINCENT J. CIECKA, P.C.

By: Joseph J. Urban, Esquire
Identification No.: 57369
100 S. Broad Street
Suite 1218
Philadelphia, PA 19110
(215) 271-5709

email - jurban@ciecka.com
dtrimble@ciecka.com



**THIS IS A MAJOR JURY MATTER
ASSESSMENT OF DAMAGES
HEARING IS REQUIRED.**

Attorney for Plaintiffs

Philip E. Benson
12041 Evergreen Hollow Drive
Charlotte, North Carolina 28269-5113
and
**Kyriacos Argyropoulos and Laretta
Argyropoulos**, his wife
6006 Normandy Drive
Mount Laurel, New Jersey 08054,

Plaintiffs
vs.

Ricardo Alvarado Rosero
8542 Marsden Street, Apt. 9
Philadelphia, PA 19136
and

CARVANA, LLC
1026 Marietta Street NW Suite A
Atlanta, GA 30138,

Defendants

PHILADELPHIA COURT OF
COMMON PLEAS

AUGUST TERM, 2021

NO.:

COMPLAINT

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take the paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascantar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

Asociacion De Licenciados
De Filadelfia Servicio De Referencia E
Informacion Legal - One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333 - TTY (215)-451-6197

COMPLAINT
2V-Motor Vehicle Accident

PARTIES

1. Plaintiff, Philip E. Benson, is an adult individual and citizen of the State of North Carolina, residing at 12041 Evergreen Hollow Drive, in the City of Charlotte, County of Mecklenberg and State of North Carolina at zip code 28269-5113.

2. Plaintiffs, Kyriacos Argyropoulos, and Laretta Argyropoulos, his wife, are adult individuals and citizens of the State of New Jersey, residing at 6006 Normandy Drive, in the Township of Mount Laurel, County of Burlington and New Jersey and State of North Jersey at zip code 08054.

3. Defendant, Ricardo Alvarado Rosero, is an adult individual and citizen of the Commonwealth of Pennsylvania residing at 8542 Marsden Street, Apartment 9, in the County and City of Philadelphia and Commonwealth of Pennsylvania at zip code 19136.

4. Defendant, CARVANA, LLC, is a limited liability company organized and existing under the laws of the State of Delaware, with corporate headquarters located at 1930 West Rio Salado Parkway, Tempe, Arizona 85281 and a place of business located in the State of Georgia, at 1026 Marietta Street NW, Suite A, in Township of Atlanta, in the State of Georgia at zip code 30138, and which is registered to conduct business and does regularly conduct business in the Commonwealth of Pennsylvania and City and County of Philadelphia.

FACTUAL AVERMENTS

5. On or about October 20, 2019, at approximately 7:14 a.m., Plaintiff, Philip E. Benson, was the operator of a 2016 Toyota Camry owned by Plaintiff, Kyriacos Argyropoulos, who was a front seat passenger in the vehicle, and was traveling northbound on I-95 at or near mile marker 26 in the lane leading to the ramp to the Betsy Ross Bridge in the City and County of Philadelphia and Commonwealth Pennsylvania.

6. At the aforesaid time and place, Defendant, Ricardo Alvarado Rosero, the operator, driver, possessor and/or person otherwise in control of a 2020 Freightliner truck which was owned, leased and/or otherwise possessed by Defendant, CARVANA, LLC, violently collided with the rear of Plaintiff's motor vehicle, hereby causing the bodily injuries to Plaintiffs as set forth herein.

7. Defendant, Ricardo Alvarado Rosero, failed to stay alert at all times, failed to properly observe his surroundings, failed to keep his truck under control, failed to proceed at an appropriate speed, failed to visualize what was in front of him while operating his vehicle on the roadway and caused his truck to violently strike the rear of Plaintiffs' motor vehicle.

FIRST COUNT

Plaintiff, Philip E. Benson v. Defendant, Ricardo Alvarado Rosero

8. Plaintiffs incorporate by reference the allegations contained above as though the same were set forth herein at length.

9. At the time and place aforesaid, Defendant, Ricardo Alvarado Rosero, negligently, carelessly, and/or without acting with due and proper care, caused his vehicle to violently collide with the rear end of the Plaintiff's vehicle, resulting in severe, serious, and permanent personal injuries and economic losses to Plaintiff, as hereinafter described.

10. At the time and place aforesaid, the negligence, carelessness and other liability-producing conduct of Defendant, Ricardo Alvarado Rosero, consisted of, but is not limited to, the following:

- a) failing to properly control his vehicle and bring his vehicle to a safe stop behind Plaintiff's vehicle;
- b) failing to have his vehicle under proper and adequate control at the time and place aforesaid;
- c) failing to stay awake and alert and properly observe his surroundings at all times relevant hereto;
- d) operating his vehicle at an excess and/or unsafe speed;

- e) failing to properly and adequately brake and/or stop his vehicle and failing to yield to traffic on the road;
- f) failing to abide by the assured clear distance ahead rule;
- g) failing to act, and/or acting, without due regard for the rights, safety, and position of the Plaintiff and others at the time and place aforesaid;
- h) failing to properly assess traffic conditions;
- l) failing to properly maintain his lane of travel;
- j) negligently and carelessly violating various statutes governing vehicular travel;
- k) failing to properly observe the traffic conditions and the slowing and/or stopping of vehicles directly ahead of him;
- l) negligence per se;
- m) negligence at law;
- n) such other acts or failures to act which may constitute negligence, and/or carelessness, which may become apparent during the course of discovery or at the time of trial.

11. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Philip E. Benson, was caused to suffer severe and permanent bodily injuries and will continue to suffer for an indefinite period of time into the future, which injuries are permanent in nature and caused by the Defendants herein.

12. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Philip E. Benson, was caused to suffer severe and permanent bodily injuries, including, but not limited to, injuries to the entire body, a trigger finger injury which required surgery, blood clots in the eye, concussion, head trauma, headaches, spinal injuries to neck and back, injuries to the shoulders and head, radiculopathy and nerve damage in arms and legs, bulging or herniated discs in the cervical and lumbar spine, exacerbation and/or aggravation of pre-existing conditions, mental distress, anxiety, and depression and numerous other ailments and injuries and will continue to suffer for

an indefinite period of time into the future, which injuries are permanent in nature and caused by the Defendants herein.

13. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Philip E. Benson, has been compelled, in order to attempt treatment of the aforesaid injuries, to incur medical expenses and will be required to expend such sums of money for an indefinite period of time into the future. Plaintiff may have limited automobile insurance and have to spend great sums of his own money or use her private health insurance, including, but not limited to, co-pay, deductibles, out of pocket expenses, liens against any recovery by her private health carrier and/or PIP carrier, and other medical losses which will extend into the future possible, including possible need for surgery into the future.

14. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendant, Plaintiff, Philip E. Benson, has been and will continue to be prevented or restricted from attending to usual duties, activities, and occupations, and has suffered and will continue to suffer into the future, a loss of earnings and loss of future earning capacity, all to great financial detriment and loss.

15. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Philip E. Benson, has experienced great pain and suffering, humiliation, embarrassment, a loss of the enjoyment of life's pleasures, and numerous other damages and losses, and in all likelihood, will continue to sustain these losses indefinitely into the future. Plaintiff has lost income in the past by not being able to work at the same rate and pace, thereby losing hours of work, losing jobs and profits, losing opportunity both past, present and into the future; Plaintiff has been and will continue to be prevented or restricted from attending to usual duties, activities, and occupations, and has suffered and will continue to suffer into the future, a loss of earnings and loss of future earning capacity, to great financial detriment and loss, and some or all of the wage loss may have been

paid by workers' compensation insurance carriers, and/or disability insurance companies, who have or may assert liens against Plaintiff for the sums expended.

16. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Philip E. Benson, sustained other damages to which he is entitled.

17. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Philip E. Benson, has in the past and will in the future sustain other financial and/or pecuniary losses and expenses, damages, including but not limited to economic damages, non-economic damages and property damages, to which he is entitled.

18. At all times relevant hereto, Plaintiff was bound, either by way of election or having been so deemed under the Pennsylvania Motor Vehicle Financial Responsibility Law, by the full tort option and possesses an unfettered right to pursue non-economic damages.

19. As a result of Defendants' negligence and carelessness, Plaintiff sustained a permanent injury and/or a serious impairment to a body function or functions and is entitled to be compensated for both economic and non-economic losses suffered in this matter.

WHEREFORE, Plaintiff, Philip E. Benson, demands judgment against the Defendant, Ricardo Alvarado Rosero and Defendant, CARVANA, LLC, individually, jointly, severally, and/or in the alternative, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with costs, interest, delay damages, attorney's fees and other relief deemed appropriate by the Court.

SECOND COUNT

Plaintiff, Kyriacos Argyropoulos v. Defendant, Ricardo Alvarado Rosero

20. Plaintiff incorporates by reference the allegations contained above as though the same were set forth herein at length.

21. At the time and place aforesaid, Defendant, Ricardo Alvarado Rosero, negligently, carelessly, and/or without acting with due and proper care, caused his vehicle to violently collide with the rear end of the Plaintiff's vehicle, resulting in severe, serious, and permanent personal injuries and economic losses to Plaintiff, as hereinafter described.

22. At the time and place aforesaid, the negligence, carelessness and other liability-producing conduct of Defendant, Ricardo Alvarado Rosero, consisted of, but is not limited to, the following:

- d) failing to properly control his vehicle and bring his vehicle to a safe stop behind Plaintiff's vehicle;
- e) failing to have his vehicle under proper and adequate control at the time and place aforesaid;
- c) failing to stay awake and alert at all times and properly observe his surroundings at all times relevant hereto;
- d) operating his vehicle at an excess and/or unsafe speed;
- e) failing to properly and adequately brake and/or stop his vehicle and failing to yield to traffic on the road;
- f) failing to abide by the assured clear distance ahead rule;
- g) failing to act, and/or acting, without due regard for the rights, safety, and position of the Plaintiff and others at the time and place aforesaid;
- h) failing to properly assess traffic conditions;
- l) failing to properly maintain his lane of travel;
- j) negligently and carelessly violating various statutes governing vehicular travel;
- k) failing to properly observe the traffic conditions and the slowing and/or stopping of vehicles directly ahead of him;
- l) negligence per se;
- m) negligence at law;
- n) such other acts or failures to act which may constitute negligence, and/or carelessness, which may become apparent during the course of discovery or at the time of trial.

23. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Kyriacos Argyropoulos, was caused to suffer severe and permanent injuries to his body and will continue to suffer for an indefinite period of time into the future, which injuries are permanent in nature and caused by the Defendant herein.

24. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Kyriacos Argyropoulos was caused to suffer severe and permanent injuries to his body, including, but not limited to, injuries to his entire body, concussion, head trauma, headaches, spinal injuries to neck and back which may require surgery, injuries to the shoulders and head, radiculopathy and nerve damage in arms and legs, bulging or herniated discs in the cervical and lumbar spine, exacerbation and/or aggravation of pre-existing conditions, mental distress, anxiety, and depression and numerous other ailments and injuries and will continue to suffer for an indefinite period of time into the future, which injuries are permanent in nature and caused by the Defendant herein.

25. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Kyriacos Argyropoulos has been compelled, in order to attempt treatment of the aforesaid injuries, to incur medical expenses and will be required to expend such sums of money for an indefinite period of time into the future. Plaintiff may have limited automobile insurance and have to spend great sums of his own money or use her private health insurance, including, but not limited to, co-pay, deductibles, out of pocket expenses, liens against any recovery by her private health carrier and/or PIP carrier, and other medical losses which will extend into the future possible, including possible need for surgery into the future.

26. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Kyriacos Argyropoulos has been and will continue to be prevented or restricted from attending to usual duties, activities,

and occupations, and has suffered and will continue to suffer into the future, a loss of earnings and loss of future earning capacity, all to great financial detriment and loss.

27. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Kyriacos Argyropoulos has experienced great pain and suffering, humiliation, embarrassment, a loss of the enjoyment of life's pleasures, and numerous other damages and losses, and in all likelihood, will continue to sustain these losses indefinitely into the future. Plaintiff has lost income in the past by not being able to work at the same rate and pace, thereby losing hours of work, losing jobs and profits, losing opportunity both past, present and into the future; Plaintiff has been and will continue to be prevented or restricted from attending to usual duties, activities, and occupations, and has suffered and will continue to suffer into the future, a loss of earnings and loss of future earning capacity, to great financial detriment and loss, and some or all of the wage loss may have been paid by workers' compensation insurance carriers, and/or disability insurance companies, who have or may assert liens against Plaintiff for the sums expended.

28. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiff, Kyriacos Argyropoulos stained other damages to which he is entitled.

29. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendant, Plaintiff, Kyriacos Argyropoulos has in the past and will in the future sustain other financial and/or pecuniary losses and expenses, damages, including but not limited to economic damages, non-economic damages and property damages, to which he is entitled.

30. At all times relevant hereto, Plaintiff was bound, either by way of election or having been so deemed under the Pennsylvania Motor Vehicle Financial Responsibility Law, by the full tort option and possesses an unfettered right to pursue non-economic damages.

31. As a result of Defendant's negligence and carelessness, Plaintiff sustained a permanent injury and/or a serious impairment to a body function or functions and is entitled to be compensated for both economic and non-economic losses suffered in this matter.

WHEREFORE, Plaintiff, Kyriacos Argyropoulos, demands judgment in his favor and against Defendant, Ricardo Alvarado Rosero, and Defendant, CARVANA, LLC, individually, jointly, severally, and/or in the alternative, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with costs, interest, delay damages, attorney's fees and other relief deemed appropriate by the Court.

THIRD COUNT
All Plaintiffs v. All Defendants
(Respondeat Superior/Negligent Entrustment)

32. All of the previous paragraphs of this Complaint are incorporated herein by reference as if the same were set forth herein at length.

33. At the aforesaid time and place, Defendant, Ricardo Alvarado Rosero, was operating the subject vehicle as an agent, servant and/or employee of the Defendant, CARVANA, LLC, and/or with the express and/or implied permission of Defendant, CARVANA, LLC, and/or was negligently entrusted to operate a truck by said Defendant.

34. At the time and place aforesaid, the Defendant, Ricardo Alvarado Rosero, operated his truck carelessly and inattentively and was otherwise so negligent as to cause his vehicle to come into violent collision with the Plaintiff's vehicle.

35. The negligence of Defendant, Ricardo Alvarado Rosero, is therefore imputed to and against Defendant, CARVANA, LLC.

36. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiffs, Philip E. Benson and Kyriacos Argyropoulos were caused to suffer severe and permanent injuries to their bodies and will continue to suffer for an indefinite period of time into the future, which injuries are permanent

in nature and caused by the Defendant herein.

37. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiffs, Philip E. Benson, and Kyriacos Argyropoulos were caused to suffer severe and permanent injuries to their bodies, including, but not limited to, injuries identified previously in this Complaint, concussion, head trauma, headaches, spinal injuries to her neck and back, injuries to the shoulders and head, radiculopathy and nerve damage in arms and legs, bulging or herniated discs in the cervical and lumbar spine, exacerbation and/or aggravation of pre-existing conditions, mental distress, anxiety, and depression and numerous other ailments and injuries and will continue to suffer for an indefinite period of time into the future, which injuries are permanent in nature and caused by the Defendants herein.

38. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiffs, Philip E. Benson and Kyriacos Argyropoulos, have been compelled, in order to attempt treatment of the aforesaid injuries, to incur medical expenses and will be required to expend such sums of money for an indefinite period of time into the future. Plaintiffs may have limited automobile insurance and have to spend great sums of their own money or use their own health insurance, including co-pay, deductibles, out of pocket expenses, liens against any recovery by their private health carrier and/or PIP carrier, and other medical losses into the future possible, including need for surgery into the future.

39. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiffs, Philip E. Benson and Kyriacos Argyropoulos, have been and will continue to be prevented or restricted from attending to their usual duties, activities, and occupations, and have suffered and will continue to suffer into the future, a loss of earnings and loss of future earning capacity, all to their great financial detriment and loss.

40. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiffs, Philip E. Benson and Kyriacos Argyropoulos, have experienced great pain and suffering, humiliation, embarrassment, a loss of the enjoyment of life's pleasures, and numerous other damages and losses, and in all likelihood, will continue to sustain these losses indefinitely into the future. Plaintiffs have lost income in the past by not being able to work at the same rate and pace, thereby losing hours of work, losing jobs and profits, losing opportunity both past, present and into the future; Plaintiffs have been and will continue to be prevented or restricted from attending to their usual duties, activities, and occupations, and have suffered and will continue to suffer into the future, a loss of earnings and loss of future earning capacity, to their great financial detriment and loss, and some or all of the wage loss may have been paid by workers' compensation insurance carriers, and/or disability insurance companies, who have or may assert liens against Plaintiffs for the sums expended.

41. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiffs, Philip E. Benson and Kyriacos Argyropoulos, sustained other damages to which they are entitled.

42. As a direct and proximate result of the aforesaid negligence, carelessness and other liability-producing conduct of the defendants, Plaintiffs, Philip E. Benson and Kyriacos Argyropoulos, have in the past and will in the future sustain other financial and/or pecuniary losses and expenses, damages, including but not limited to economic damages, non-economic damages and property damages, to which they are entitled.

43. At all times relevant hereto, Plaintiffs were bound, either by way of election or having been so deemed under the Pennsylvania Motor Vehicle Financial Responsibility Law, by the full tort option and possesses an unfettered right to pursue non-economic damages.

44. As a result of Defendants' negligence and carelessness, Plaintiffs sustained permanent injuries and/or serious impairments to a body function or functions and are entitled to be compensated for both economic and non-economic losses suffered in this matter.

WHEREFORE, Plaintiffs, Philip E. Benson and Kyriacos Argyropoulos, demand judgment in their favor and against Defendants, Ricardo Alvarado Rosero and CARVANA, LLC, individually, jointly, severally, and/or in the alternative, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with costs, interest, delay damages, attorney's fees and other relief deemed appropriate by the Court.

FOURTH COUNT
Loss of Consortium
Plaintiff, Laretta Argyropoulos vs. Ricardo Alvarado Rosero and Carvana, LLC

45. All of the previous paragraphs of this Complaint are incorporated herein by reference as if the same were set forth herein at length.

46. The Plaintiff, Laretta Argyropoulos, at all times herein mentioned was, and still is, the wife of the Plaintiff, Kyriacos Argyropoulos.

47. By reason of the injuries sustained by Plaintiff, Kyriacos Argyropoulos, Plaintiff, Laretta Argyropoulos, has been deprived of the services, affection and consortium of her husband, Plaintiff, Kyriacos Argyropoulos for a substantial period of time and will, in the future, continue to be deprived of such services.

WHEREFORE, Plaintiffs, Kyriacos Argyropoulos and Laretta Argyropoulos, husband and wife, and Plaintiff, Philip E. Benson, demand judgment in their favor and against Defendants, Ricardo Alvarado Rosero and CARVANA, LLC, individually, jointly, severally, and/or in the alternative, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with costs, interest, delay damages, attorney's fees and other relief deemed appropriate by the Court.

LAW OFFICES OF VINCENT J. CIECKA, P.C.

/s/Joseph J. Urban
BY: _____
Joseph J. Urban, Esquire
Attorney for Plaintiff

Dated: August 30, 2021

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the United Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted By: Joseph J. Urban, Esquire

Signature: /s/Joseph J. Urban

Attorney Identification No.: 57369

VERIFICATION

I, Philip Benson, have read the foregoing. The statements herein are correct to the best of my personal knowledge, information and/or belief.

The statement and verification is made subject to the penalties of 18 Pa.S.C.A. Sec. 4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date

8/19/21

Signature

Philip Benson

VERIFICATION

I, Kyriacos Argyropoulos have read the foregoing. The statements herein are correct to the best of my personal knowledge, information and/or belief.

The statement and verification is made subject to the penalties of 18 Pa.S.C.A. Sec. 4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date

8/21/2021

Signature

Kyriacos Argyropoulos