

EXHIBIT E

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
JOSE AYBAR, ORLANDO GONZALES, JOSE AYBAR
as Administrator of THE ESTATE OF CRYSTAL CRUZ-
AYBAR, JESENIA AYBAR as Administratrix of THE
ESTATE OF NOELIA OLIVERAS, JESENIA AYBAR as
LEGAL GUARDIAN on behalf of KEILA CABRAL, a
minor, ANNA AYBAR and JESENIA AYBAR as
Administratrix of THE ESTATE OF TIFFANY CABRAL,

Index No.: 9344/2014

**THIRD-PARTY
SUMMONS**

Plaintiffs,

-against-

US TIRES AND WHEELS OF QUEENS, LLC,

Defendant.

-----X
US TIRES AND WHEELS OF QUEENS, LLC,

Third-Party Plaintiff,

-against-

THE GOODYEAR TIRE & RUBBER COMPANY,
GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD.
and FORD MOTOR COMPANY,

Third-Party Defendants.

-----X

ABOVE-NAMED THIRD PARTY DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the third-party complaint of the
defendant/third-party plaintiff, U.S. Tires and Wheels of Queens, LLC, which is served on you,
and to serve a copy of your answer on the attorneys for the defendant/third-party plaintiff;
counsel for the plaintiffs, Omrani & Taub, P.C., 16 Court Stteet, 28th Floor, Brooklyn, New York
11241; Certain & Zilberg, PLLC, 909 Third Avenue – 28th Floor, New York, New York 10022;
attorneys for defendant/third-party defendant, Ford Motor Company, Aaron, Rappaport,

Feinstein & Deutsch, LLP, 600 Third Avenue, New York, New York 10016; attorneys for defendant/third-party defendant The Goodyear Tire & Rubber Company, DLA Piper LLP (US), 1251 Avenue of the Americas – 27th Floor, New York, New York 10020; and attorneys for defendant, Jose A. Aybar, Jr., Montfort, Healy, McGuire & Salley, 840 Franklin Avenue, P.O. Box 7677, Garden City, New York 11530-7677 within 20 days after the service of the summons, exclusive of the date of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York), and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the third-party complaint.

PLEASE TAKE NOTICE that pursuant to CPLR § 3402(b), the title of this action has been changed from the title of the plaintiff's complaint to the title of this third-party summons and complaint.

Dated: New York, New York
July 19, 2016

Marshall Dennehey Warner Coleman & Goggin

By: 

Adam C. Calvert
Attorneys for Defendant/Third-Party Plaintiff
U.S. Tires and Wheels of Queens, LLC
Wall Street Plaza · 88 Pine Street – 21st Floor
New York, New York 10005
Tel: (212) 376-6400
Fax: (212) 376-6490
File No.: 40318.00121

To: Through the Secretary of State – New York upon:
The Goodyear Tire & Rubber Company
200 Innovation Way
Akron, OH 44316

Through the Secretary of State – New York upon:

Goodyear Dunlop Tires North America, Ltd.
C/o Corporation Service Company
80 State Street
Albany, New York 12201

Through the Secretary of State – New York upon:

Ford Motor Company
1 American Road
Dearborn, MI 48126

Omrani & Taub, P.C.
Attorneys for Plaintiffs
16 Court Street – 28th Floor
Brooklyn, New York 11241
Tel: (718) 855-1350

Certain & Zilberg, PLLC
909 Third Avenue – 28th Floor
New York, New York 10022
212-687-7800

Aaronson, Rappaport, Feinstein & Deutsch, LLP
Attorneys for Defendant/Third-Party Defendant
Ford Motor Company
600 Third Avenue
New York, New York 10016
Tel: (212) 593-6700

DLA Piper LLP (US)
Attorneys for Defendant/Third-Party Defendant
The Goodyear Tire & Rubber Company
1251 Avenue of the Americas – 27th Floor
New York, New York 10020
Tel: (212) 335-4500

Montfort, Healy, McGuire & Salley
Attorneys for Defendant Jose A. Aybar, Jr.
840 Franklin Avenue
PO Box 7677
Garden City, New York 11530-7677
516-747-4082

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
JOSE AYBAR, ORLANDO GONZALES, JOSE AYBAR
as Administrator of THE ESTATE OF CRYSTAL CRUZ-
AYBAR, JESENIA AYBAR as Administratrix of THE
ESTATE OF NOELIA OLIVERAS, JESENIA AYBAR as
LEGAL GUARDIAN on behalf of KEILA CABRAL, a
minor, ANNA AYBAR and JESENIA AYBAR as
Administratrix of THE ESTATE OF TIFFANY CABRAL,

Plaintiffs,

-against-

US TIRES AND WHEELS OF QUEENS, LLC,

Defendant.

-----X
US TIRES AND WHEELS OF QUEENS, LLC,

Third-Party Plaintiff,

-against-

THE GOODYEAR TIRE & RUBBER COMPANY,
GOODYEAR DUNLOP TIRES NORTH AMERICA, LTD.
and FORD MOTOR COMPANY,

Third-Party Defendants.

-----X

Defendant/third-party plaintiff, U.S. Tires and Wheels of Queens, LLC, by its attorneys,
Marshall Dennehey Warner Coleman & Goggin, as and for its third-party complaint against The
Goodyear Tire & Rubber Company, Goodyear Dunlop Tires North America, Ltd. and Ford
Motor Company, alleges upon information and belief, as follows:

1. Plaintiffs commenced an action for personal injury and wrongful death against
defendant/third-party plaintiff US Tires and Wheel of Queens, LLC under Index No. 9344/14 for

Index No.: 9344/2014

**THIRD-PARTY
COMPLAINT**

US Tire's alleged negligence in the installation of Goodyear tires on plaintiff-Jose Aybar's Ford Explorer. The tires allegedly failed, causing an accident and injuries on July 1, 2012. Complaint & Answer (**Exhibit A**).

2. Plaintiff Jose Aybar commenced a separate action against The Goodyear Tire & Rubber Company, and Goodyear Dunlop Tires North America, Ltd., (hereinafter "Goodyear") under Index No. 706908/15, alleging that Goodyear was liable to him for the same July 1, 2012 accident based on strict products liability, negligence, breach of warranty, and deceptive trade practices. Complaint in Index No. 706908/15 (**Exhibit B**).

3. Plaintiffs Anna Aybar, Orlando Gonzalez, Jesenia Aybar, as legal guardian on behalf of Keyla Cabral, an infant over the age of fourteen (14) years; Jesnia Aybar, as Adminisitratrix of the Estate of Noelia Oliveras, Jesenia Aybar, as Administratrix of the Estate of Tiffany Cabral, a deceased infant under the age of fourteen (14) years, and Anna Aybar, as Administratrix of the Estate of Crystal Cruz-Aybar, commenced an action against Jose A. Aybar, Jr., Ford Motor Company, The Goodyear Tire & Rubber Co., and John Does 1 thru 30, under Index No. 706909/15 for the same July 1, 2012 accident based on strict products liability, negligence, breach of warrant, and deceptive trade practices. Complaint in Index No. 706909/15 (**Exhibit C**).

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST THE THIRD-PARTY DEFENDANTS
(COMMON LAW INDEMNITY AND CONTRIBUTION)**

4. Defendant/third-party plaintiff repeats and realleges the allegations contained in paragraphs 1 through 3 as if set forth fully herein.

5. If US Tires and Wheels of Queens LLC is held liable to anyone in this action, its liability and damages will have arisen out of the affirmative active and primary negligence of The Goodyear Tire & Rubber Company, Goodyear Dunlop Tires North America, Ltd. and Ford Motor Company, their agents, servants or employees, and without any active or primary negligence or active participation on the part of US Tires and Wheels of Queens LLC, and that if any negligence or liability is found to exist on the part of US Tires and Wheels of Queens LLC, that liability and negligence would be secondary or passive or the result solely of the operation of law as opposed to negligence of The Goodyear Tire & Rubber Company, Goodyear Dunlop Tires North America, Ltd. and Ford Motor Company, whose liability and negligence will be active and primary, and if the plaintiff's allegations are proven true at trial US Tires and Wheels of Queens LLC will be entitled to and demands common law indemnification or contribution from The Goodyear Tire & Rubber Company, Goodyear Dunlop Tires North America, Ltd. and Ford Motor Company for the amount of any verdict or judgment that may be recovered against it in this action.

WHEREFORE, defendant/third-party plaintiff U.S. Tires and Wheels of Queens, LLC demands judgment over and against The Goodyear Tire & Rubber Company, Goodyear Dunlop Tires North America, Ltd. and Ford Motor Company for all or part of any verdict or judgment that may be had against the defendant/third-party plaintiff in this action; judgment against The Goodyear Tire & Rubber Company, Goodyear Dunlop Tires North America, Ltd. and Ford Motor Company, for all attorneys' fees, costs, interest, other expenses and all costs of settlement of the claim and/or satisfaction of judgment as may be obtained against defendant/third-party plaintiff U.S. Tires and Wheels of Queens, LLC, in connection with the subject action because of

third-party defendants' negligence; and together with all costs, interest, expenses, and legal fees incurred in defending the litigation.

Dated: New York, New York
July 19, 2016

Marshall Dennehey Warner Coleman & Goggin

By: 

Adam C. Calvert

Attorneys for Defendant/Third-Party Plaintiff
U.S. Tires and Wheels of Queens, LLC

Wall Street Plaza · 88 Pine Street – 21st Floor
New York, New York 10005

Tel: (212) 376-6400

Fax: (212) 376-6490

File No.: 40318.00121

To: Through the Secretary of State – New York upon:
The Goodyear Tire & Rubber Company
200 Innovation Way
Akron, OH 44316

Through the Secretary of State – New York upon:
Goodyear Dunlop Tires North America, Ltd.
C/o Corporation Service Company
80 State Street
Albany, New York 12201

Through the Secretary of State – New York upon:
Ford Motor Company
1 American Road
Dearborn, MI 48126

Omrani & Taub, P.C.
Attorneys for Plaintiffs
16 Court Street – 28th Floor
Brooklyn, New York 11241
Tel: (718) 855-1350

Certain & Zilberg, PLLC
909 Third Avenue – 28th Floor
New York, New York 10022
212-687-7800

Aaronson, Rappaport, Feinstein & Deutsch, LLP
Attorneys for Defendant/Third-Party Defendant
Ford Motor Company
600 Third Avenue
New York, New York 10016
Tel: (212) 593-6700

DLA Piper LLP (US)
Attorneys for Defendant/Third-Party Defendant
The Goodyear Tire & Rubber Company
1251 Avenue of the Americas – 27th Floor
New York, New York 10020
Tel: (212) 335-4500

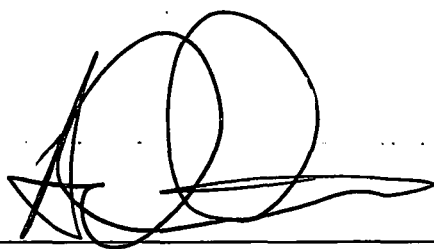
Montfort, Healy, McGuire & Salley
Attorneys for Defendant Jose A. Aybar, Jr.
840 Franklin Avenue
PO Box 7677
Garden City, New York 11530-7677
516-747-4082

ATTORNEY VERIFICATION

Adam C. Calvert, an attorney admitted in the State of New York, affirms and says:

I am associated with the firm of Marshall Dennehey Warner Coleman & Goggin, attorneys for defendant/third-party plaintiff U.S. Tires and Wheels of Queens, LLC. I have read the Verified Third-Party Complaint and know its contents and they are true to my knowledge, except those matters which are stated to be alleged on information and belief, and as to those matters I believe them to be true. The reason why this verification is made by me instead of by defendant/third-party plaintiff U.S. Tires and Wheels of Queens, LLC, is because it is not in the county where my firm maintains an office.

Dated: New York, New York
July 19, 2016


Adam C. Calvert