

EXHIBIT B

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

Plaintiff
designates Queens
County as the
place of trial.

Amended
SUMMONS

Plaintiffs,

-against-

US TIRES AND WHEELS OF QUEENS, LLC

Defendant.

SEP 29 2014

The basis of venue
is: Defendant's
Principal Place of
Business

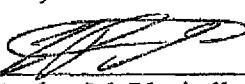
X

TO THE ABOVE NAMED DEFENDANT:

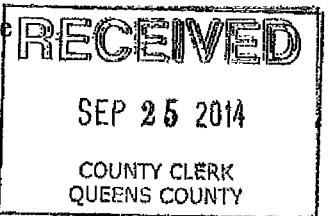
YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs' attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (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 Amended Verified Complaint pursuant to section 3215 of the New York Civil Practice Law and Rules.

Dated: September 23, 2014
Red Bank, NJ

COHEN, PLACITELLA & ROTH, P.C.

By: 

Christopher M. Placitella, Esquire
Attorney No. 2202497
Joel S. Rosen, Esquire
Mark B. Goodheart, Esquire
Jared M. Placitella, Esquire
Attorney No. 5216817



2001 Market Street, Suite 2900
Philadelphia, PA 19103
Attorneys for all Plaintiffs

TO DEFENDANT ADDRESSED:

US Tires and Wheels of Queens
8924 Metropolitan Avenue
Rego Park, NY 11374

**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

**AMENDED
VERIFIED
COMPLAINT**

Plaintiffs,

-against-

US TIRES AND WHEELS OF QUEENS, LLC

Defendant.

X

Jose Aybar, individually, Orlando Gonzales, individually, Jose Aybar as the
Administrator of the Estate of Crystal Cruz-Aybar, Jesenia Aybar as the Administratrix
of the Estate of Noelia Oliveras, Jesenia Aybar as the Administratrix of the Estate of
Tiffany Cabral, Jesenia Aybar as Legal Guardian on behalf of Keila Cabral, a minor,
Anna Aybar, individually, by their attorneys Cohen, Placitella & Roth, P.C. as and for
their Amended Verified Complaint against Defendant US Tires and Wheels of Queens
("defendant") allege and set forth as follows:

INTRODUCTION

1. The causes of action set forth herein arise out of a motor vehicle collision
that occurred on July 1, 2012 as a result of the negligence and carelessness of the
defendant ("the collision").
2. The collision occurred on Interstate 85 in Brunswick County, Virginia and
near the intersection with Route 644.

THE PARTIES

3. Defendant US Tires and Wheels of Queens, LLC is a limited liability corporation existing and organized under and by virtue of the laws of the State of New York.

4. At all times relevant to this action defendant US Tires and Wheels of Queens operated its business in Queens County, State of New York.

5. Plaintiff Jose Aybar is an individual residing in the County of Hudson, State of New Jersey. At the time of the collision plaintiff Jose Aybar was residing in Queens County, State of New York.

6. Jose Aybar is the Administrator of the Estate of Crystal Cruz-Aybar, his deceased wife, and Jose Aybar brings an action individually and as Administrator of the Estate of Crystal Cruz-Aybar and on behalf of The Estate of Crystal Cruz-Aybar ("plaintiff Estate of Cruz-Aybar").

7. At the time of the collision and her death, Crystal Cruz-Aybar, deceased, was the wife of plaintiff Jose Aybar.

8. At the time of the collision and her death, Crystal Cruz-Aybar, deceased, was an individual residing in Queens County, State of New York.

9. Plaintiff Orlando Gonzales is an individual residing in the County of Hudson, State of New Jersey.

10. Plaintiff Jesenia Aybar is the Administratrix of the Estate of Noelia Oliveras and Jesenia Aybar brings an action as Administratrix of the Estate of Noelia Oliveras and on behalf of The Estate of Noelia Oliveras ("plaintiff Estate of Oliveras").

11. At the time of the collision and her death, Noelia Oliveras, deceased, was an individual residing in the County of Hudson, State of New Jersey.

12. At the time of the collision and her death, Noelia Oliveras, deceased, was the mother of plaintiff Jesenia Aybar.

13. Plaintiff Jesenia Aybar is the Administratrix of the Estate of Tiffany Cabral, a deceased minor, and Jesenia Aybar brings an action as Administratrix of the Estate of Tiffany Cabral and on behalf of The Estate of Tiffany Cabral, a deceased minor, ("plaintiff Estate of Cabral").

14. At the time of the collision and her death, Tiffany Cabral, deceased, was an individual residing in the County of Hudson, State of New Jersey.

15. At the time of the collision and her death, Tiffany Cabral, deceased, was the sister of plaintiff Jesenia Aybar.

16. On the 11th day of November 2012, prior to the commencement of this action, Jesenia Aybar was granted sole custody of Keila Cabral, a minor, pursuant to an Order of the Superior Court of New Jersey, Chancery Division-Family Part, County of Hudson.

17. Jesenia Aybar as Legal Guardian of Keila Cabral, a minor, brings this action on behalf of the minor plaintiff, Keila Cabral ("plaintiff Keila Cabral").

18. Plaintiff Anna Aybar is an individual residing in the County of Queens, State of New York.

FACTS

19. On or about June 17, 2012, plaintiff Jose Aybar brought his vehicle, a 2002 Ford Explorer, to defendant US Tires and Wheels of Queens, LLC for service.

20. At the time of this service, plaintiff Jose Aybar brought with him tires to be inspected and examined and, if suitable for use, installed by defendant for Mr. Aybar's use in driving to Disney World in Orlando, Florida.

21. Upon information and belief, defendant did not properly and adequately inspect, examine, check and/or test the tires and placed them on plaintiff Jose Aybar's vehicle knowing that the vehicle would be driven with those tires.

22. The defendant had a duty to properly and adequately inspect, examine, check and/or test the tires prior to placing them on plaintiff Jose Aybar's vehicle and to warn Mr. Aybar if they were not in a safe condition to use, and defendant negligently and carelessly disregarded that duty.

23. The defendant had a duty to not place unsafe tires on plaintiff Jose Aybar's vehicle so that plaintiff Jose Aybar and his passengers would be reasonably safe in his vehicle and defendant negligently and carelessly disregarded that duty.

24. Upon information and belief, defendant had actual and constructive knowledge prior to placing the tires on plaintiff Jose Aybar's vehicle that the tires were not fit for use on plaintiff Jose Aybar's vehicle due to their poor condition.

25. Upon information and belief, on July 1, 2012, plaintiff Jose Aybar was driving his vehicle on Interstate 85 in Virginia as part of a return trip from Disney World to New York when the left rear tire of the vehicle failed, causing plaintiff Jose Aybar to lose control of his vehicle, the vehicle to overturn, strike a guard rail and then strike a tree.

26. Upon information and belief, the collision occurred solely as a result of the negligence and carelessness of the defendant because the tires were not fit for safe use

on the vehicle and defendant placed them on the vehicle anyway without warning Mr. Aybar about their condition.

27. The tires were unsafe, very low on tread and there were visible signs of dry rot prior to and at the time defendant placed them on plaintiff Jose Aybar's vehicle.

28. Upon information and belief, defendant provided no warning to plaintiff Jose Aybar about the condition of the tires.

29. The collision was caused by reason of the negligent and careless service performed by defendant, by reason of the failure of the defendant to properly and adequately inspect, examine, check and/or test the tires prior to placing them on plaintiff Jose Aybar's vehicle, by reason of defendant's the placement of the unsafe tires on the vehicle despite their poor and unfit condition for use and by reason of the failure of defendant to provide plaintiff Jose Aybar with any warning after making the negligent and careless decision to place the defective tires on the vehicle.

30. At the time of the collision, plaintiff Jose Aybar was operating his vehicle and plaintiff Orlando Gonzales, plaintiff Anna Aybar, plaintiff Keila Cabral, a minor, Tiffany Cabral, Crystal Cruz-Aybar and Noelia Oliveras were passengers in the vehicle.

31. As a result of the collision, caused solely by the negligence and carelessness of the defendant, jointly, severally and collectively, Jose Aybar, Orlando Gonzales, Anna Aybar, Keila Cabral, a minor, Tiffany Cabral, Crystal Cruz-Aybar and Noelia Oliveras were injured and/or died.

32. As a result of the collision, caused solely by the negligence and carelessness of the defendant, plaintiff Jose Aybar suffered severe and permanent injuries, including but not limited to two herniated disks, two bilateral disk bulges,

lacerations on his arms and legs and broken blood vessels in his eye. Mr. Aybar underwent medical treatment and rehabilitation and will be in need for future medical care and expense. He has undergone and will continue to undergo pain and suffering, mental anguish and loss of life's pleasures.

33. As a result of the collision, caused solely by the negligence and carelessness of the defendant, plaintiff Orlando Gonzales suffered severe and permanent injuries, including but not limited to fractured ribs, fracture of his left arm, two herniated disks, and lacerations. Mr. Gonzalez underwent medical treatment and rehabilitation and will be in need for future medical care and expense. He has undergone and will continue to undergo pain and suffering, mental anguish and loss of life's pleasures.

34. As a result of the collision, caused solely by the negligence and carelessness of the defendant, plaintiff Anna Aybar suffered severe and permanent injuries, including but not limited to crushed bones in her left hand, broken bones in her left foot, a dislocated pelvis, a dislocated right leg, and various cuts and bruises. She has had multiple surgeries, medical treatment and rehabilitation. Ms. Aybar will be in need for future medical care and expense. She has undergone and will continue to undergo pain and suffering, mental anguish and loss of life's pleasures.

35. As a result of the collision, caused solely by the negligence and carelessness of the defendant, plaintiff Keila Cabral, a minor, suffered severe and permanent injuries, including but not limited to a fractured pelvis and multiple lacerations resulting in scarring. Ms. Cabral underwent medical treatment and rehabilitation and will be in need for future medical care and expense. She has undergone and will continue to undergo pain and suffering, mental anguish and loss of life's pleasures.

36. As a result of the collision, caused solely by the negligence and carelessness of the defendant, Tiffany Cabral was ejected from the vehicle and died as a result of her injuries.

37. As a result of the collision, caused solely by the negligence and carelessness of the defendant, Crystal Cruz-Aybar was ejected from the vehicle and died as a result of her injuries.

38. As a result of the collision, caused solely by the negligence and carelessness of the defendant, Noelia Oliveras was partially ejected from the vehicle and died as a result of her injuries.

**AND AS FOR THE FIRST CAUSE OF ACTION
NEGLIGENCE**

**(On behalf of plaintiff Jose Aybar against
defendant US Tires and Wheels of Queens)**

39. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

40. Plaintiff Jose Aybar was operating his motor vehicle at the time of the aforementioned collision that is the subject of this lawsuit.

41. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Jose Aybar was caused to suffer severe bodily injuries.

42. Plaintiff Jose Aybar's injuries were caused without any fault and/or negligence on the part of plaintiff Jose Aybar or any other plaintiff or passenger in his vehicle.

43. That by reason of the foregoing, plaintiff Jose Aybar was caused to sustain serious injuries described above.

44. That by reason of the foregoing, plaintiff Jose Aybar was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE SECOND CAUSE OF ACTION
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

(On behalf of plaintiff Jose Aybar against defendant US Tires and Wheels of Queens)

45. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

46. Plaintiff Jose Aybar was operating his motor vehicle at the time of the aforementioned collision that is the subject of this lawsuit.

47. Plaintiff Jose Aybar's wife, Crystal Cruz-Aybar, deceased, his mother, Noelia Oliveras, deceased, and his sister, Tiffany Cabral, deceased, were all passengers in plaintiff Jose Aybar's vehicle and were killed as a result of the collision caused solely by the negligence and carelessness of the defendant.

48. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Jose Aybar witnessed the injuries and death of his wife, mother and sister.

49. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Jose Aybar was within the zone of danger and feared for his own safety and was in fact injured as well.

50. That by reason of the foregoing, plaintiff Jose Aybar was caused to sustain serious injuries including shock, mental anguish and emotional distress; that these injuries are permanent and ongoing; and as a result of said injuries plaintiff Jose Aybar

has been and will be caused to incur expenses for medical care and attention and as a further result plaintiff Jose Aybar was and will be rendered unable to perform his normal activities and duties and has sustained a resultant loss therefrom.

51. That by reason of the foregoing, plaintiff Jose Aybar was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE THIRD CAUSE OF ACTION
NEGLIGENCE**

(On behalf of plaintiff Orlando Gonzales against
defendant US Tires and Wheels of Queens)

52. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

53. Plaintiff Orlando Gonzales was a front seat passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

54. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Orlando Gonzales was caused to suffer severe bodily injuries.

55. Plaintiff Orlando Gonzales' injuries were caused without any fault and/or negligence on the part of plaintiff Jose Aybar or any other plaintiff or passenger in the vehicle.

56. That by reason of the foregoing, plaintiff Orlando Gonzales was caused to sustain serious injuries described above.

57. That by reason of the foregoing, plaintiff Orlando Gonzales was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE FOURTH CAUSE OF ACTION
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**
(On behalf of plaintiff Orlando Gonzales against
defendant US Tires and Wheels of Queens)

58. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

59. Plaintiff Orlando Gonzales was a front seat passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

60. Plaintiff Orlando Gonzales' fiancée, Noelia Oliveras, deceased, was also a passenger in plaintiff Jose Aybar's vehicle and was killed as a result of the collision caused solely by the negligence and carelessness of the defendant.

61. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Orlando Gonzales witnessed the injuries and death of his fiancée. Plaintiff Orlando Gonzales was a front seat passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

62. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Orlando Gonzales was within the zone of danger and feared for his own safety and was in fact injured as well.

63. That by reason of the foregoing, plaintiff Orlando Gonzales was caused to sustain serious injuries including shock, mental anguish and emotional distress; that these injuries are permanent and ongoing; and as a result of said injuries plaintiff Orlando Gonzales has been and will be caused to incur expenses for medical care and attention and as a further result plaintiff Orlando Gonzales was and will be rendered unable to perform his normal activities and duties and has sustained a resultant loss therefrom.

64. That by reason of the foregoing, plaintiff Orlando Gonzales was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE FIFTH CAUSE OF ACTION
WRONGFUL DEATH**

(On behalf of plaintiff The Estate of Crystal Cruz-Aybar against defendant US Tires and Wheels of Queens)

65. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

66. Plaintiff Jose Aybar as the Administrator of the Estate of Crystal Cruz-Aybar brings this claim on behalf of the Estate of Crystal Cruz-Aybar and all those entitled to recover damages on behalf of the Estate of Crystal Cruz-Aybar, including her surviving husband plaintiff Jose Aybar.

67. Plaintiff Jose Aybar as Administrator of the Estate of Crystal Cruz-Aybar brings this claim for the wrongful death of his wife Crystal Cruz-Aybar, deceased.

68. Crystal Cruz-Aybar, deceased, was a second row passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

69. Crystal Cruz-Aybar, deceased, was injured, ejected from the vehicle and killed as a result of the collision that is the subject of this lawsuit and which was caused solely by the negligence and carelessness of the defendant.

70. Crystal Cruz-Aybar, deceased, was injured and killed without any fault and/or negligence on the part of plaintiff Jose Aybar or any other plaintiff or passenger in the vehicle.

71. Crystal Cruz-Aybar, deceased, was 22 years old at the time of her death and was in good health, sober, industrious, and in possession of all of her faculties and was steadily employed as a secretary/receptionist.

72. The surviving husband, plaintiff Jose Aybar, and all other distributees of the Estate of Crystal Cruz-Aybar, deceased, were dependent upon Crystal Cruz-Aybar, deceased, for support, comfort and maintenance, and have been and will be deprived of this support, comfort and maintenance.

73. Furthermore, the additional relatives of Crystal Cruz-Aybar, deceased, have been and will be deprived of their relationship and communion with Crystal Cruz-Aybar, deceased.

74. In connection with the injuries and death sustained by Crystal Cruz-Aybar, deceased, all caused solely by the negligence and carelessness of the defendant, the Estate of Crystal Cruz-Aybar, deceased, necessarily incurred expenses in various and diverse amounts, including but not limited to medical and funeral expenses, and will necessarily incur expenses in various and diverse amounts in the settlement of the Estate of Crystal Cruz-Aybar, deceased.

75. That by reason of the foregoing, plaintiff the Estate of Crystal Cruz-Aybar, deceased, surviving husband plaintiff Jose Aybar and the other distributes, have suffered damages and claim all pecuniary losses in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE SIXTH CAUSE OF ACTION
SURVIVAL ACTION/CONSCIOUS PAIN AND SUFFERING
(On behalf of plaintiff The Estate of Crystal Cruz-Aybar against
defendant US Tires and Wheels of Queens)**

76. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

77. Solely by reason of the carelessness and negligence of the defendant, as alleged herein, Crystal Cruz-Aybar, deceased, was caused to suffer severe injuries and be ejected from plaintiff Jose Aybar's vehicle at the time of the collision, upon which time Crystal Cruz-Aybar, deceased, suffered grievous pain, agony and mental anguish and upon information and belief she was conscious after being injured and then died at the scene of the collision.

78. That by reason of the foregoing, plaintiff the Estate of Crystal Cruz-Aybar, deceased, have suffered damages in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

AND AS FOR THE SEVENTH CAUSE OF ACTION
WRONGFUL DEATH

(On behalf of plaintiff The Estate of Noelia Oliveras against
defendant US Tires and Wheels of Queens)

79. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

80. Jesenia Aybar as the Administratrix of the Estate of Noelia Oliveras brings this claim on behalf of the Estate of Noelia Oliveras and all those entitled to recover damages on behalf of the Estate of Noelia Oliveras, including Jose Aybar, Anna Aybar, Keila Cabral and Jesenia Aybar.

81. Jesenia Aybar as the Administratrix of the Estate of Noelia Oliveras brings this claim for the wrongful death of Noelia Oliveras, deceased.

82. Noelia Oliveras, deceased, was a third row passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

83. Noelia Oliveras, deceased, was injured, partially ejected from the vehicle and killed as a result of the collision that is the subject of this lawsuit and which was caused solely by the negligence and carelessness of the defendant.

84. Noelia Oliveras, deceased, was injured and killed without any fault and/or negligence on the part of plaintiff Jose Aybar or any other plaintiff or passenger in the vehicle.

85. Noelia Oliveras, deceased, was 42 years old at the time of her death and was in good health, sober, industrious, and in possession of all of her faculties and was steadily employed as a real estate agent.

86. The distributees of the Estate of Noelia Oliveras, deceased, including her son plaintiff Jose Aybar and daughters Jesenia Aybar, Anna Aybar, and Keila Cabral were dependent upon Noelia Oliveras, deceased, for support, comfort and maintenance, and have been and will be deprived of this support, comfort and maintenance.

87. Furthermore, the additional relatives of Noelia Oliveras, deceased, have been and will be deprived of their relationship and communion with Noelia Oliveras, deceased.

88. In connection with the injuries and death sustained by Noelia Oliveras, deceased, all caused solely by the negligence and carelessness of the defendant, the Estate of Noelia Oliveras, deceased, necessarily incurred expenses in various and diverse amounts, including but not limited to medical and funeral expenses, and will necessarily incur expenses in various and diverse amounts in the settlement of the Estate of Noelia Oliveras, deceased.

89. That by reason of the foregoing, plaintiff the Estate of Noelia Oliveras, deceased, her surviving next of kin including her son plaintiff Jose Aybar and daughters Jesenia Aybar, Anna Aybar and Keila Cabral and the other distributees, have suffered damages and claim all pecuniary losses in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE EIGHTH CAUSE OF ACTION
SURVIVAL ACTION/CONSCIOUS PAIN AND SUFFERING
(On behalf of plaintiff The Estate of Noelia Oliveras against
defendant US Tires and Wheels of Queens)**

90. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

91. Solely by reason of the carelessness and negligence of the defendant, as alleged herein, Noelia Oliveras, deceased, was caused to suffer severe injuries and be partially ejected from plaintiff Jose Aybar's vehicle at the time of the collision, upon which time Noelia Oliveras, deceased, suffered grievous pain, agony and mental anguish and upon information and belief she was conscious after being injured and then died while being transported to the hospital.

92. That by reason of the foregoing, plaintiff the Estate of Noelia Oliveras, deceased, have suffered damages in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE NINTH CAUSE OF ACTION
NEGLIGENCE
(On behalf of plaintiff Keila Cabral, a minor, against
defendant US Tires and Wheels of Queens)**

93. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

94. Jesenia Aybar as Legal Guardian of Keila Cabral, a minor, brings this claim on behalf of Keila Cabral, a minor.

95. Plaintiff Keila Cabral, a minor, was a third row passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

96. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Keila Cabral, a minor, was caused to suffer severe bodily injuries.

97. The injuries sustained by Keila Cabral, a minor, were caused without any fault and/or negligence on the part of plaintiff Jose Aybar or any other plaintiff or passenger in the vehicle.

98. That by reason of the foregoing, plaintiff Keila Cabral, a minor, was caused to sustain serious injuries, as described above.

99. That by reason of the foregoing, plaintiff Keila Cabral, a minor, was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AS AND FOR THE TENTH CAUSE OF ACTION
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

(On behalf of plaintiff Keila Cabral against
defendant US Tires and Wheels of Queens)

100. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

101. Plaintiff Keila Cabral was a third row passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

102. Plaintiff Keila Cabral's mother, Olivia Oliveras, deceased, and her sister, Tiffany Cabral, deceased, were all passengers in plaintiff Jose Aybar's vehicle and were killed as a result of the collision caused solely by the negligence and carelessness of the defendant.

103. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Keila Cabral witnessed the injuries and death of her mother and sister.

104. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Keila Cabral was within the zone of danger and feared for her own safety and was in fact injured as well.

105. That by reason of the foregoing, plaintiff Keila Cabral was caused to sustain serious injuries including shock, mental anguish and emotional distress; that these injuries are permanent and ongoing; and as a result of said injuries plaintiff Keila Cabral has been and will be caused to incur expenses for medical care and attention and as a further result plaintiff Keila Cabral was and will be rendered unable to perform her normal activities and has sustained a resultant loss therefrom.

106. That by reason of the foregoing, plaintiff Jose Keila Cabral was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE ELEVENTH CAUSE OF ACTION
NEGLIGENCE**

**(On behalf of plaintiff Anna Aybar against
defendant US Tires and Wheels of Queens)**

107. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

108. Plaintiff Anna Aybar, was a second row passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

109. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Anna Aybar was caused to suffer severe bodily injuries and be ejected from the vehicle.

110. The injuries sustained by Anna Aybar were caused without any fault and/or negligence on the part of plaintiff Jose Aybar or any other plaintiff or passenger in the vehicle.

111. That by reason of the foregoing, plaintiff Anna Aybar was caused to sustain serious injuries described above.

112. That by reason of the foregoing, plaintiff Anna Aybar was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE TWELTH CAUSE OF ACTION
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

(On behalf of plaintiff Anna Aybar against
defendant US Tires and Wheels of Queens)

113. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

114. Plaintiff Anna Aybar was a second row passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

115. Plaintiff Anna Aybar's mother, Noelia Oliveras, deceased, and her sister, Tiffany Cabral, deceased, were all passengers in plaintiff Jose Aybar's vehicle and were killed as a result of the collision caused solely by the negligence and carelessness of the defendant.

116. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Anna Aybar witnessed the injuries and death of her mother and sister.

117. As a result of the collision caused solely by the negligence and carelessness of the defendant, as set forth above, plaintiff Anna Aybar was within the zone of danger and feared for her own safety and was in fact injured as well.

118. That by reason of the foregoing, plaintiff Anna Aybar was caused to sustain serious injuries including shock, mental anguish and emotional distress; that these injuries are permanent and ongoing; and as a result of said injuries plaintiff Anna Aybar has been and will be caused to incur expenses for medical care and attention and as a further result plaintiff Anna Aybar was and will be rendered unable to perform her normal activities and duties and has sustained a resultant loss therefrom.

119. That by reason of the foregoing, plaintiff Anna Aybar was damaged in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE THIRTEENTH CAUSE OF ACTION
WRONGFUL DEATH**

(On behalf of plaintiff The Estate of Tiffany Cabral, a deceased minor, against defendant US Tires and Wheels of Queens)

120. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

121. Jesenia Aybar, as Administratrix of the Estate of Tiffany Cabral, a deceased minor, brings this claim on behalf of the Estate of state of Tiffany Cabral, a deceased minor, and all those entitled to recover damages on behalf of the Estate of Tiffany Cabral, including Jesenia Aybar, Jose Aybar, Anna Aybar and Keila Cabral.

122. Jesenia Aybar, as Administratrix of the Estate of Tiffany Cabral, a deceased minor, brings this claim for the wrongful death of Tiffany Cabral, a deceased minor.

123. Tiffany Cabral, a deceased minor, was a second row passenger in the motor vehicle operated by plaintiff Jose Aybar at the time of the aforementioned collision that is the subject of this lawsuit.

124. Tiffany Cabral, a deceased minor, at the time of the collision was the sister of plaintiffs Jesenia Aybar, Jose Aybar and Keila Cabral and the daughter of Noelia Oliveras, deceased.

125. Tiffany Cabral, a deceased minor, was injured, ejected from the vehicle and killed as a result of the collision that is the subject of this lawsuit and which was caused solely by the negligence and carelessness of the defendant.

126. Tiffany Cabral, a deceased minor, was injured and killed without any fault and/or negligence on the part of plaintiff Jose Aybar or any other plaintiff or passenger in the vehicle.

127. Tiffany Cabral, a deceased minor, was 8 years old at the time of her death and was in good health, sober, industrious, and in possession of all of her faculties and was a young student with the majority of her life remaining.

128. The relatives of Tiffany Cabral, a deceased minor, have been and will be deprived of their relationship and communion with Tiffany Cabral, a deceased minor.

129. In connection with the injuries and death sustained by Tiffany Cabral, a deceased minor, all caused solely by the negligence and carelessness of the defendant, the Estate of Tiffany Cabral, a deceased minor, necessarily incurred expenses in various and diverse amounts, including but not limited to medical and funeral expenses, and will necessarily incur expenses in various and diverse amounts in the settlement of the Estate of Tiffany Cabral, a deceased minor.

130. That by reason of the foregoing, plaintiff the Estate of Tiffany Cabral, a deceased minor, surviving next of kin and the other distributees, have suffered damages and claim all pecuniary losses in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

**AND AS FOR THE FOURTEENTH CAUSE OF ACTION
SURVIVAL ACTION/CONSCIOUS PAIN AND SUFFERING
(On behalf of plaintiff The Estate of Tiffany Cabral, a deceased minor,
against US Tires and Wheels of Queens)**

131. Plaintiffs repeat and reallege each and every allegation set forth in the preceding paragraphs, as if fully set forth herein.

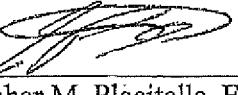
132. Solely by reason of the carelessness and negligence of the defendant, as alleged herein, Tiffany Cabral, a deceased minor, was caused to suffer severe injuries and be ejected from plaintiff Jose Aybar's vehicle at the time of the collision, upon which time Tiffany Cabral, a deceased minor, suffered grievous pain, agony and mental anguish and upon information and belief she was conscious after being injured and then died at the scene of the collision.

133. That by reason of the foregoing, plaintiff the Estate of Tiffany Cabral, a deceased minor, has suffered damages and claim all pecuniary losses in an amount to be determined upon the trial of this action and in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

WHEREFORE, all plaintiffs demand judgment against defendant on all claims and in an amount to be determined upon the trial of this action together with the costs and disbursements of this action.

Dated: Sept. 23, 2014
Red Bank, NJ

COHEN, PLACITELLA & ROTH, P.C

By: 

Christopher M. Placitella, Esquire
Attorney No. 2202497
Joel S. Rosen, Esquire
Mark B. Goodheart, Esquire
Jared M. Placitella, Esquire
Attorney No. 5216817
2001 Market Street, Suite 2900
Philadelphia, PA 19103
Attorneys for all Plaintiffs

VERIFICATION

STATE OF NEW YORK)

COUNTY OF NEW YORK)

ANNA AYBAR, hereby duly sworn, deposes and says:

I am the Plaintiff in the within action; I have read the foregoing COMPLAINT and know the contents thereof; the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.

Anna Aybar

ANNA AYBAR

Sworn to before me on this
30th day of May 2014

Margaret Rheinstader
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

MARGARET RHEINSTADER, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2015

VERIFICATION

STATE OF NEW YORK)

COUNTY OF NEW YORK)

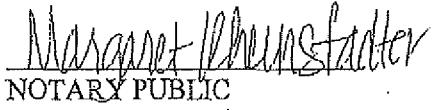
JESENIA AYBAR, hereby duly sworn, deposes and says:

I am the Plaintiff in the within action; I have read the foregoing COMPLAINT and know the contents thereof; the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.



JESENIA AYBAR

Sworn to before me on this
30th day of May 2014



MARGARET RHEINSTADTER
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

MARGARET RHEINSTADTER, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2016

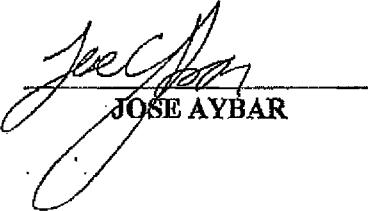
VERIFICATION

STATE OF NEW YORK)

COUNTY OF NEW YORK)

JOSE AYBAR, hereby duly sworn, deposes and says:

I am the Plaintiff in the within action; I have read the foregoing COMPLAINT and know the contents thereof; the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.



JOSE AYBAR

Sworn to before me on this
30th day of May 2014



MARGARET RHEINSTADTER
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

MARGARET RHEINSTADTER, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2016

VERIFICATION

STATE OF NEW YORK)

COUNTY OF NEW YORK)

ORLANDO GONZALEZ, hereby duly sworn, deposes and says:

I am the Plaintiff in the within action; I have read the foregoing COMPLAINT and know the contents thereof; the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true.



ORLANDO GONZALEZ

Sworn to before me on this
30th day of May 2014

Margaret Rheinstadter
NOTARY PUBLIC.

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

MARGARET RHEINSTADTER, Notary Public
City of Philadelphia, Phila, County
My Commission Expires October 11, 2016

Index No. 9344/2014

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS**

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.

AMENDED VERIFIED COMPLAINT

COHEN, PLACITELLA & ROTH, P.C.
Attorneys for Plaintiffs
2001 Market Street
Suite 2900
Philadelphia, PA 19103

Tel: (215) 567-3500