

STATE OF NORTH CAROLINA  COUNTY OF CABARRUS	IN THE GENERAL COURT OF JUSTICE DISTRICT COURT DIVISION 15-CVD-_____
AVIS RENT A CAR SYSTEMS, LLC,  Plaintiff,  v.  NITSY ANDREWS and VANESSA LOYE ANDREWS,  Defendants.	4  VERIFIED COMPLAINT (ACCT)

Plaintiff, complaining of Defendants, alleges and says:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff is a Delaware corporation licensed and doing business under the laws of the State of North Carolina.
2. Upon information and belief, Defendants Nitsy Andrews ("Nitsy") and Vanessa Loye Andrews ("Andrews") are citizens and residents of Brooklyn, New York, are not minors, are not under any legal disability and are not members of the Armed Forces of the United States.
3. This Court has jurisdiction over the parties and the subject matter of this action.
4. Venue is proper in Cabarrus County.

**FACTUAL ALLEGATIONS**

5. On or about September 24, 2013, Nitsy entered into a Rental Agreement (the "Agreement") with Plaintiff for the rental of a 2013 Chevrolet.
6. Pursuant to the Additional Terms and Conditions of the Agreement, Nitsy agreed to be responsible for, and to pay to Plaintiff, the retail value of replacing and/or repairing all losses and damages to the rental vehicle during the rental period.
7. Upon information and belief, on or about September 27, 2013, Andrews, while driving the vehicle rented by Nitsy, was driving South on I-85, in the inside lane and attempted to

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 CLERK OF COURT  
 STAMPER

merge into the outside lane and collided with the vehicle driven by one Toby Joe Hill, causing damage to Plaintiff's vehicle as well as Toby Joe Hill's vehicle.

8. The North Carolina Highway Patrol arrived at the scene of the accident and prepared an accident report based on their investigation. A copy of the accident report is attached hereto as Exhibit A.

9. As a result of the accident, Plaintiff paid Toby Joe Hill \$10,470.00 for damages to his vehicle.

10. Plaintiff has made repeated demands upon Defendants for payment on the monies owed under the terms of the Agreement, but Defendants have refused to pay the amount owed.

11. Pursuant to the terms of the Agreement, Nitsy agreed to pay Plaintiff any and all damages, appraisal fees, administrative fees, loss of use costs, towing and storage costs and diminished value costs associated with an accident or with the collection of any debt. Nitsy also agreed to pay its attorneys' fees incurred in relation to collection of any debts.

12. To the extent that the requirements of N.C. Gen. Stat. § 6-21.2 were not met by previous demands on Defendants by Plaintiff, Nitsy is hereby notified that unless the total outstanding balance due to Plaintiff is paid within thirty-five days of service of this Complaint, Nitsy will be liable for Plaintiff's reasonable attorneys' fees incurred in bringing this action, in an amount equal to fifteen percent (15%) of the principal balance owed.

13. The Agreement was breached as of September 27, 2013, when, upon information and belief, Andrews operated the rental vehicle in such a manner as to cause an accident.

14. Unless you notify this office within 35 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 35 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a Judgment (if one has been entered) and mail you a copy of such verification or Judgment. If you request this office in writing within 35 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. (15 U.S.C. 1606 Et. Seq.) This letter is sent in an attempt to collect a debt and any information obtained will be used for that purpose.

**FIRST CAUSE OF ACTION**  
**[Breach of Contract]**

15. The preceding paragraphs are re-alleged and incorporated as if fully set forth.

16. The Agreement between Plaintiff and Nitsy constitutes a contract between Plaintiff and Pratt.

17. Plaintiff performed all of its obligations under the terms of the contract. Specifically, Plaintiff provided Nitsy with a rental vehicle.

18. Nitsy has failed to perform his obligations under the terms of the contract. Specifically, upon information and belief, Nitsy allowed Andrews, an unauthorized driver, to operate the rental vehicle which resulted in the rental vehicle being involved in an accident. Furthermore, Nitsy has refused to pay for the damages caused by the accident.

19. Upon information and belief, Nitsy's act of allowing Andrews, as an unauthorized driver, to operate the rental vehicle constitutes a breach of contract.

20. Nitsy's failure to pay for the damages to the vehicle owned by Toby Joe Hill constitutes a breach of contract.

21. Plaintiff has been injured as a direct and proximate result of Nitsy's actions.

22. Plaintiff is entitled to recover damages to Toby Joe Hill's vehicle from Nitsy in the amount of \$10,470.00.

#### SECOND CAUSE OF ACTION

##### [Negligence]

23. The preceding paragraphs are re-alleged and incorporated as if fully set forth.

24. Andrews owed Plaintiff a duty to use reasonable care in the operation of the rental vehicle.

25. Andrews breached her duty to Plaintiff by negligently operating the rental vehicle on September 27, 2013, thereby causing an accident.

26. The acts and omissions of Andrews, as described above, were the proximate cause of the damage to the vehicle of Toby Joe Hill.

27. As a direct and proximate result of Andrews negligence, Plaintiff is entitled to recover from Pratt the monies Plaintiff paid to Toby Joe Hill for damages to his vehicle, to wit: \$10,470.00.

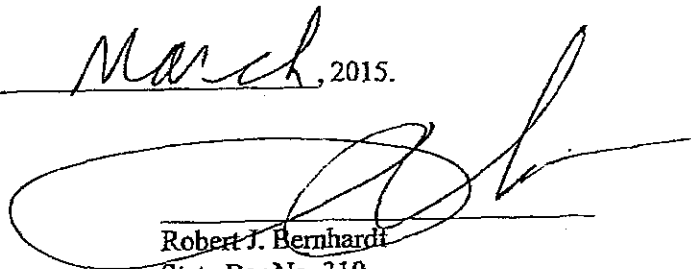
#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for Judgment against Defendants as follows:

1. As to Defendants, jointly and severally, in the principal amount of \$10,470.00.
2. As to Defendants for interest, jointly and severally, at the rate of 8% per annum from September 27, 2013, until paid.
3. As to reasonable attorney fees as to Defendant Nitsy Andrews equal to 15% of the principal balance due, to wit: \$1,570.50.

4. As to court costs jointly and severally.
5. For such other and further relief which the Court may deem just and proper.

This the 9 day of March, 2015.



Robert J. Bernhardt  
State Bar No. 310  
Bernhardt and Strawser, P.A.  
5821 Fairview Road, Suite 100  
Charlotte, North Carolina 28209  
[rjb@bernhardtlaw.net](mailto:rjb@bernhardtlaw.net)  
704-335-0444 (phone)  
704-335-0551 (fax)  
*Attorneys for Plaintiff*

VERIFICATION

Affiant, being first duly sworn, deposes and says that Affiant has read the foregoing **Verified Complaint** and knows the contents thereof; that the statements of fact contained therein are true of Affiant's own knowledge, except the matters and things set forth upon information and belief; and as to those such matters and things, Affiant believes them to be true.

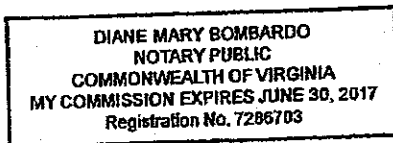
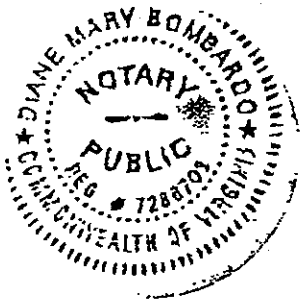


on behalf of Plaintiff

Sworn to and subscribed before me  
this 12th day of February, 2015.

Diane Mary Bombardo  
Notary Public

My Commission Expires: \_\_\_\_\_



DMV-349 (Rev.12/2009)

THIS REPORT IS FOR THE USE OF THE DIVISION OF MOTOR VEHICLES. THE DATA IS COLLECTED FOR STATISTICAL ANALYSIS AND SUBSEQUENT HIGHWAY SAFETY PROGRAMMING. DETERMINATIONS OF "FAULT" ARE THE RESPONSIBILITY OF INSURERS OR OF THE STATE'S COURTS.

Do not write in these spaces

2

103859359

No. of Units Involved

Form 1 of 1

Supplemental Report

Non-Reportable

DMV Certified Copy  
4/11/13  
License Report, Driver's  
Vehicle Services

Date Received by DMV  
09/28/2013

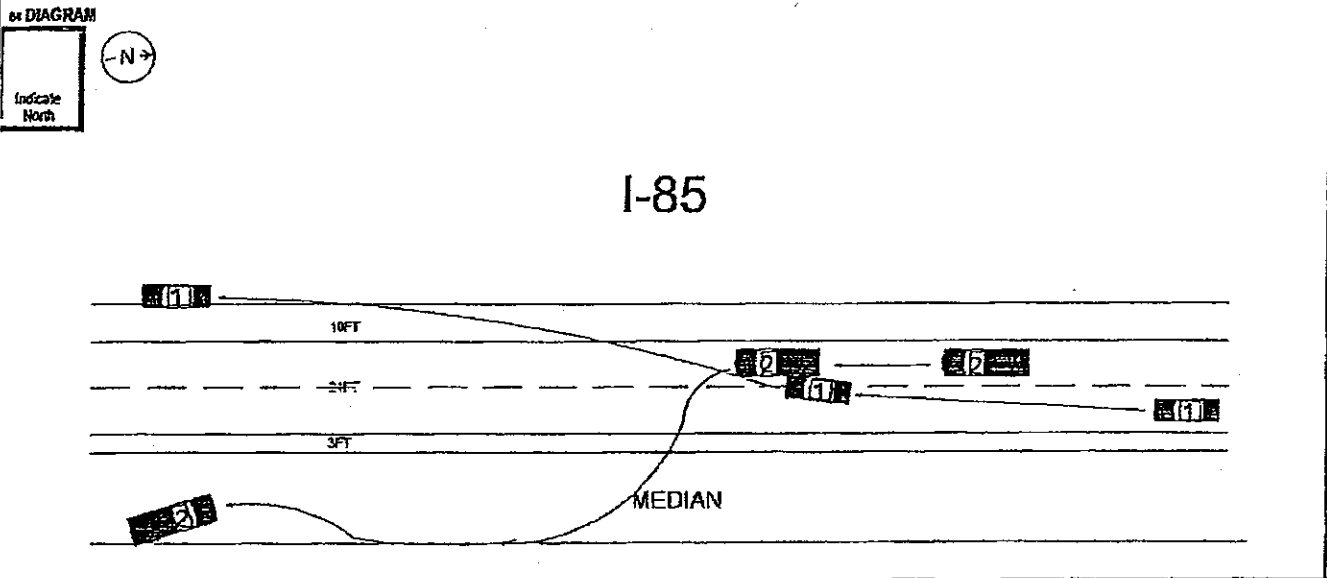
2	Date <b>09/27/2013</b>	County <b>CABARRUS</b>	Time <b>08:12</b> (24 Hour Clock)	Local Use/Patrol Area <b>130927031EA/01</b>	
3	Relation to Roadway Surface <input type="checkbox"/> 1 Crash occurred <input checked="" type="checkbox"/> In <input type="checkbox"/> Near <b>KANNAPOLIS</b> Municipality or _____ Miles N S E W <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> outside municipality on <b>185</b> Highway Number, or Highway, Street, (If Ramp or Service Road, Indicate on Fee) Ramp or Service Road (R.R. Crossing # _____) <b>00.10</b> Miles (If L-Intersection) N S E W (If available) #/ from <b>SR 2180</b> Use Highway Number, Street Name or Adjacent County or State Line N S E W toward <b>MILE 62</b> Use Highway Number, Street Name or Adjacent County or State Line Longitude Altitude				
1	UNIT #1 <input checked="" type="checkbox"/> VEHICLE <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> HIT & RUN <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> VEHICLE Driver <b>VANESSA LOYE ANDREWS</b> First Middle Last Suffix Address <b>18 AVENUE V APT 2F</b> City <b>BROOKLYN</b> State <b>NY</b> Zip <b>11223</b> Same Address on Driver's License? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Driver's Phone Number <b>H (347) 587-2829</b> W ( ) D.L. # <b>998917513</b> D.L. Class <b>D</b> State <b>NY</b> DOB <b>10/11/1990</b> 34 Vision Obstruction <b>00</b> 35 Physical Condition <b>01</b> 36 D.L. Restrictions <b>0</b> 37 Alcohol/Drugs Suspected <b>0</b> 38 Alcohol/Drugs Test <b>0</b> 39 Results (if known) <b>0</b> 40 Vehicle Seizure (DMV) <input type="checkbox"/>		UNIT #2 <input checked="" type="checkbox"/> VEHICLE <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> HIT & RUN <input type="checkbox"/> OTHER Driver <b>TOBY JOE HILL</b> First Middle Last Suffix Address <b>615 THOMAS RD</b> City <b>LEXINGTON</b> State <b>NC</b> Zip <b>27295638</b> Same Address on Driver's License? <input type="checkbox"/> Yes <input type="checkbox"/> No Driver's Phone Number <b>H (336) 764-0757</b> W ( ) D.L. # <b>000001549266</b> D.L. Class <b>A</b> State <b>NC</b> DOB <b>04/23/1937</b> 34 Vision Obstruction <b>00</b> 35 Physical Condition <b>01</b> 36 D.L. Restrictions <b>0</b> 37 Alcohol/Drugs Suspected <b>0</b> 38 Alcohol/Drugs Test <b>0</b> 39 Results (if known) <b>0</b> 40 Vehicle Seizure (DMV) <input type="checkbox"/>		
2	Owner <b>PV HOLDING CORP</b> Same as Driver? <input type="checkbox"/> Address <b>375 MCCLELLAN HWY</b> Same Address as Driver? <input type="checkbox"/> City <b>E. BOSTON</b> State <b>MA</b> Zip <b>02128</b> Plate # <b>3MCS40</b> Plate State <b>MA</b> Plate Year <b>2014</b> VIN <b>1G1JE6SB6D4224159</b> Vehicle <b>CHEV</b> Vehicle <b>2013</b> 41 Vehicle Style (Type) <b>1</b> 42 Vehicle <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Make Year Driveable 43 TAD <b>RFQ-3,LFQ-2,LP-2</b> 44 Estimated Damage <b>\$5000</b>		Owner <b>TOBY JOE HILL</b> Same as Driver? <input checked="" type="checkbox"/> Address <b>615 THOMAS RD</b> Same Address as Driver? <input type="checkbox"/> City <b>LEXINGTON</b> State <b>NC</b> Zip <b>27295638</b> Plate # <b>XB5547</b> Plate State <b>NC</b> Plate Year <b>2013</b> VIN <b>1GCEC14V44Z282038</b> Vehicle <b>CHEV</b> Vehicle <b>2004</b> 41 Vehicle Style (Type) <b>2</b> 42 Vehicle <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Make Year Driveable 43 TAD <b>LD-3,RD-3</b> 44 Estimated Damage <b>\$3000</b>		
1	20 COMMERCIAL VEHICLE: Cargo, Carrier Name, Address, Source Unit _____ 45 Cargo Body Type _____ <input type="checkbox"/> Same Address as Owner? _____ Source: <input type="checkbox"/> Truck <input type="checkbox"/> Shipping papers <input type="checkbox"/> Other _____ Carrier Identification Numbers, GVWR, Axles US DOT# _____ ICC# _____ Axles on Vehicle Including Trailers _____ State _____ State# _____ FTA# _____ FE# _____ Fleet# _____ Gross Vehicle Weight Rating _____				

		21	22	23	24	25	26	27	28	29	30	31	32	Names and Addresses for All Persons (Unit 1/Unit 2 Dmv, Ped, etc. - See Above); use check blocks if address same as Driver
A	1	1	1	1	Unit 1-Dmv, Fed, etc see above	B	F	2	1	0	2	1	5	see above Unit 1 Towed Tolly:
B	2	1	1	1	Unit 2-Dmv, Fed, etc see above	W	M	2	1	1	2	1	3	see above Unit 2 Towed Tolly:
C	1	2	3	3	12/29/1989	B	F	2	1	1	2	1	5	TIFFANY CORBIN 675 LINDEN BLVD APT 4A, BROOKLYN, NY, 11203
D														
E														
F														
G														
H														



46 Name of EMS **B-CABARRUS EMS** 46 Name of EMS \_\_\_\_\_  
 47 Injured Taken by EMS to **REFUSED** (Resort Facility and City or Town) 47 Injured Taken by EMS to \_\_\_\_\_ (Resort Facility and City or Town)

48. POINTS OF INITIAL CONTACT (Write in Code)		Unit 1 20 Unit 2 6 7		VEHICLE INFO.		Veh # 1	Veh # 2	ROADWAY INFO.		WORK ZONE RELATED	
CRASH SEQUENCE (Unit Level)		Unit 1	Unit 2	60 Authorized Speed Limit	75	65	69 Road Feature	0	76 Workzone Area	5	
49 Vehicle Maneuver/Action	5	4	61 Estimate of Original Traveling Speed	75	65	70 Road Character	1	79 Work Activity			
50 Non-Motorist Action			62 Estimate of Speed at Impact	75	65	71 Road Classification	1	80 Work Area Marked			
51 Non-Motorist Location Prior to Impact			63 Tire Impressions Before Impact (ft)	0	42	72 Road Surface Type	4	81 Crash Location			
52 Crash Sequence - First Event for This Unit	28	28	64 Distance Traveled After Impact (ft)		61	73 Road Configuration	4	TRAILER INFO. Unit 1 Unit 2			
53 Crash Sequence - Second Event			65 Emergency Vehicle Use			74 Access Control	2	82 Trailer Type	00	00	
54 Crash Sequence - Third Event			66 Post Crash Fire (if "Yes" check block)	<input type="checkbox"/>	<input type="checkbox"/>	75 Number of Lanes	4	1st Trailer No. Axles			
55 Crash Sequence - Fourth Event			67 School Bus - Contact Vehicle	<input type="checkbox"/>	<input type="checkbox"/>	76 Traffic Control Type	0	Width (inches)			
56 Most Harmful Event for This Unit	28	28	68 School Bus - Noncontact Vehicle	<input type="checkbox"/>	<input type="checkbox"/>	77 Traffic Control Open		Length (feet)			
57 Distance/Direction to Object Struck	0	0	COMMERCIAL VEHICLE: Hazardous Materials Involvement Unit <input type="checkbox"/> <input type="checkbox"/> Haz Mat Placard <input type="checkbox"/> Yes <input type="checkbox"/> No From Placard indicate: <input type="checkbox"/> Hazardous Cargo <input type="checkbox"/> Yes <input type="checkbox"/> No 4-digit placard number or 1-digit number from <input type="checkbox"/> Released (does not include fuel tank fuel tank) from diamond or box bottom of diamond Carrying Haz Mat <input type="checkbox"/> Yes <input type="checkbox"/> No				2nd Trailer No. Axles				
58 Vehicle Underlides/Overlides	3	3					Width (inches)				
59 Vehicle Defects	0	0					Length (feet)				



I-85

Unit 1 was:  Traveling  Parked Facing H S E W on I 85  
 Unit 2 was:  Traveling  Parked Facing N S E W on I 85

65 NARRATIVE (include pertinent and essential aspects, which are not listed elsewhere on the form) **VEH#1 AND #2 WERE TRAVELING SOUTH ON I-85. VEH#1 ATTEMPTED TO MERGE INTO THE RIGHT LANE, STRIKING VEH#2. VEH#1 SPUN STRIKING VEH#1 ON THE LEFT SIDE, THEN INTO THE MEDIAN. VEH#2 CAME TO REST IN THE CABLE MEDIAN WIRE. VEH#1 CAME TO REST ON THE RIGHT SHOULDER.**

66 Type of Owner: **CABLE MEDIAN-**  
 Owner Address: **615 CONCORD RD. ALBEMARLE, NC 28001-7049820104**  
 State: **NC** Estimated Damage: **\$700**

WITNESSES  
 Name: **LEE E YERBY** Address: **2474 WALNUT ST. CARY, NC 27518** Phone No. **(919) 602-4997**  
 Name: **SAMMANtha HILL** Address: **210 BRADFORD DR. SALISBURY, NC 28146** Phone No. **(704) 213-7697**

Name: **VANESSA LOYE ANDREWS** Charge(s): **UNSAFE LANE CHANGE**  
 (Officer # optional) Charge(s):

Officer Name: **E K Wooten** Officer Number: **1806** Department: **North Carolina State Highway P** Date of Report: **09/27/2013**

**DRIVER EXCHANGE / REQUEST FOR MOTOR VEHICLE INFORMATION FORM**  
**NORTH CAROLINA DIVISION OF MOTOR VEHICLES**

TRCS-DMV 2008

<b>Driver Information</b>						
U N I T O O 1	First Name <b>VANESSA</b>	Middle Name <b>LOYE</b>	Last Name <b>ANDREWS</b>		Suffix	
	Address 1 <b>18 AVENUE V APT 2F</b>	Address 2	City <b>BROOKLYN</b>	State <b>NY</b>	Zip Code <b>11223</b>	
	Home Phone <b>(347) 587-2829</b>	Work Phone	Date of Birth <b>10/11/1990</b>	<input checked="" type="checkbox"/> Address Same on DL	<input type="checkbox"/> CDL	Driver's License Number <b>998917513</b> State <b>NY</b>
<b>Owner Information</b>						
	First Name	Middle Name	Last Name		Suffix	
	Address 1 <b>375 MCCLELLAN HWY</b>	Address 2	City <b>E. BOSTON</b>	State <b>MA</b>	Zip Code <b>02128</b>	
	<input type="checkbox"/> Owner Same as Driver	Company Name <b>PV HOLDING CORP</b>				
	License Plate Number <b>2MCS40</b>	License Plate State <b>MA</b>	License Plate Year <b>2014</b>	Vehicle Make <b>CHEV</b>	Year <b>2013</b>	VIN Number <b>1G1JE6SB6D4224159</b>
	Insurance Company <b>TRAVELERS</b>	Insurance Policy Number <b>NA</b>				

<b>Driver Information</b>						
U N I T O O 1	First Name <b>TOBY</b>	Middle Name <b>JOE</b>	Last Name <b>HILL</b>		Suffix	
	Address 1 <b>515 THOMAS RD</b>	Address 2	City <b>LEXINGTON</b>	State <b>NC</b>	Zip Code <b>27295-5638</b>	
	Home Phone <b>336-764-0757</b>	Work Phone	Date of Birth <b>11/23/1937</b>	<input type="checkbox"/> Address Same on DL	<input checked="" type="checkbox"/> CDL	Driver's License Number <b>000001549266</b> State <b>NC</b>
<b>Owner Information</b>						
	First Name	Middle Name	Last Name		Suffix	
	Address 1 <b>616 THOMAS RD</b>	Address 2	City <b>LEXINGTON</b>	State <b>NC</b>	Zip Code <b>27295-5638</b>	
	<input type="checkbox"/> Owner Same as Driver	Company Name				
	License Plate Number <b>XB5547</b>	License Plate State <b>NC</b>	License Plate Year <b>2013</b>	Vehicle Make <b>CHEV</b>	Year <b>2004</b>	VIN Number <b>1GCEC14V44Z282038</b>
	Insurance Company <b>SOUTHERN GUARANTY</b>	Insurance Policy Number <b>A972038</b>				

<b>Crash Data</b>				
Reportable <b>Y</b>	Accident Date <b>09/27/2013</b>	Accident County <b>CABARRUS</b>	Officer Name <b>WOOTEN, E K</b>	Local Report Number <b>130927031EA</b>

I hereby request a copy of a Crash Report:  
 I am qualified to obtain this information for my own personal use as a driver and/or owner of vehicle involved in this crash.

<b>Send Crash Report to the following Address</b>			
Address	City	State	Zip Code
Requestor Name (please print)		Requestor Signature (REQUIRED)	

For fee information contact the Crash Reporting and Processing Unit at  
 919-861-3098 or visit the Traffic Records web site:  
<http://www.ncdot.org/dmv> and click "Other Services"  
 Make Check or Money Order payable to NCDMV



**North Carolina State Highway Patrol  
Collision Information**

Collision Information					
Date	Time	County	Location	Number Vehicles	Report Date
09/27/2013	08:12	Cabarrus	SR 2180	2	09/27/2013

Vehicle 1 of 2								
Year	Make	Type	Num Passengers	Contributing Circumstances	Damage	Speed Limit	Est. Original Speed	Est. Impact Speed
2013	CHEV	Passenger Car	1	1) Inattention 2) Improper Lane Change	1) Right Side Front Quarter 2) Left Side Front Quarter 3) Left Side (Door)	65	75	75
Occupants								
Name/Address				Age	Alc/Drugs Susp. (Test Results)			
1. VANESSA L. ANDREWS (Driver) 18 AVENUE V APT 2F BROOKLYN, NY 11223				22	No (No Test)			
2) TIFFANY CORBIN (Passenger) 675 LINDEN BLVD APT 4A BROOKLYN, NY 11203				23				

Vehicle 2 of 2								
Year	Make	Type	Num Passengers	Contributing Circumstances	Damage	Speed Limit	Est. Original Speed	Est. Impact Speed
2004	CHEV	Pickup	0	No Contributing Circumstances Indicated	1) Left Side Distributed 2) Right Side Distributed	65	65	65
Occupants								
Name/Address				Age	Alc/Drugs Susp. (Test Results)			
1. TOBY J. HILL (Driver) 615 THOMAS RD LEXINGTON, NC 27295-5638				76	No (No Test)			

Narrative: VEH#1 AND #2 WERE TRAVELING SOUTH ON I-85. VEH#1 ATTEMPTED TO MERGE INTO THE RIGHT LANE, STRIKING VEH#2. VEH#1 SPUN STRIKING VEH#1 ON THE LEFT SIDE, THEN INTO THE MEDIAN. VEH#2 CAME TO REST IN THE CABLE MEDIAN WIRE. VEH#1 CAME TO REST ON THE RIGHT SHOULDER.

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

COUNTY OF CABARRUS

15-CVD-918

AVIS RENTA A CAR SYSTEMS, LLC,

Plaintiff,

v.

NITSY ANDREWS and VANESSA  
LOYE ANDREWS,

Defendants.

FILED  
2015 APR 28 A 11:31

COURT REPORTER

BY

MOTIONS TO DISMISS, ANSWER, AND  
MOTION FOR ATTORNEY'S FEES  
(Jury Trial Demanded)

NOW COME Defendant Nitsy Andrews (hereinafter, "Nitsy") and Defendant Vanessa Loye Andrews (hereinafter, "Vanessa"), by and through the undersigned counsel, responding to Plaintiff's Complaint, alleging and stating:

**FIRST DEFENSE and MOTION TO DISMISS**  
**(Insufficiency of Service of Process)**

In accordance with N.C. GEN. STAT. § 1A-1, Rule 12(b)(5), Vanessa moves the Court to dismiss Plaintiff's action due to Plaintiff's insufficiency of service of process.

**SECOND DEFENSE and MOTION TO DISMISS**  
**(First Cause of Action – Breach of Contract)**

In accordance with N.C. GEN. STAT. § 1A-1, Rule 12(b)(6), Defendants move the Court to dismiss Plaintiff's action due to New York law controlling Plaintiff's First Cause of Action and Plaintiff's failure to state a claim upon which relief can be granted.

**THIRD DEFENSE and MOTION TO DISMISS**  
**(Second Cause of Action – Negligence)**

In accordance with N.C. GEN. STAT. § 1A-1, Rule 12(b)(6), Defendants move the Court to dismiss Plaintiff's action due to the Economic Loss Rule barring Plaintiff's Second Cause of Action and Plaintiff's failure to state a claim upon which relief can be granted.

**FOURTH DEFENSE and ANSWER**

Defendants now answer the allegations of Plaintiff's Complaint by way of like-numbered paragraphs, as follows:

1. Admitted upon information and belief.

2. Admitted.

3. The allegations of Paragraph 3 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 3 are denied.

4. The allegations of Paragraph 4 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 4 are denied.

5. With respect to the allegations contained in Paragraph 5, Defendants admit to the existence of an Agreement however, with respect to any such details and/or obligations, the Agreement in question speaks for itself. Except as expressly admitted, the allegations contained in Paragraph 5 are denied.

6. With respect to the allegations contained in Paragraph 6, Defendants admit to the existence of an Agreement however, with respect to any such details and/or obligations, the Agreement in question speaks for itself. Except as expressly admitted, the allegations contained in Paragraph 6 are denied.

7. With respect to the allegations contained in Paragraph 7, Defendants admit that a collision occurred on or about September 27, 2013 between the 2013 Chevrolet operated by Vanessa and the 2004 Chevrolet operated by Toby Joe Hill. Except as expressly admitted, the allegations contained in Paragraph 6 are denied.

8. With respect to the allegations contained in Paragraph 8, Defendants admit to the existence of an Accident Report completed by the North Carolina Highway Patrol however, the Accident Report in question speaks for itself. Except as expressly admitted, the allegations contained in Paragraph 8 are denied.

9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9. To the extent a response is required, the allegations of Paragraph 9 are denied.

10. Denied.

11. With respect to the allegations contained in Paragraph 11, Defendants admit to the existence of an Agreement however, with respect to any such details and/or obligations, the Agreement in question speaks for itself. Except as expressly admitted, the allegations contained in Paragraph 11 are denied.

12. The allegations of Paragraph 12 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 12 are denied.

13. The allegations of Paragraph 13 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 13 are denied.

14. The allegations of Paragraph 14 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 14 are denied.

15. The allegations of Paragraph 15 do not require a response. To the extent a response is required, the allegations of Paragraph 15 are denied.

16. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16 and/or the identity of "Pratt". Further, the allegations of Paragraph 16 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 16 are denied.

17. With respect to the allegations contained in Paragraph 17, Defendants admit to the existence of an Agreement however, with respect to any such details and/or obligations, the Agreement in question speaks for itself. Further, the allegations of Paragraph 17 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, except as expressly admitted, the allegations contained in Paragraph 17 are denied.

18. The allegations of Paragraph 18 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 18 are denied.

19. The allegations of Paragraph 19 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 19 are denied.

20. The allegations of Paragraph 20 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 20 are denied.

21. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 21. Further, the allegations of Paragraph 21 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 21 are denied.

22. The allegations of Paragraph 22 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 22 are denied.

23. The allegations of Paragraph 23 do not require a response. To the extent a response is required, the allegations of Paragraph 23 are denied.

24. The allegations of Paragraph 24 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 24 are denied.

25. The allegations of Paragraph 25 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 25 are denied.

26. The allegations of Paragraph 26 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 26 are denied.

27. The allegations of Paragraph 27 are not allegations of fact, but rather conclusions of law, which do not require a response. To the extent a response is required, the allegations of Paragraph 27 are denied.

**FIFTH DEFENSE and MOTION FOR ATTORNEY'S FEES**  
(Non-justiciable Issue)

In accordance with N.C. GEN. STAT. § 6-21.5, Defendants move the Court to award a reasonable attorney's fee to Defendants due to the complete absence of a justiciable issue of either law or fact raised by Plaintiff in its Complaint.

**SIXTH DEFENSE**  
(Reservation of Defenses)

Defendants reserve their right to add additional defenses, including affirmative defenses, for which they may be entitled as may be determined through discovery in this action.

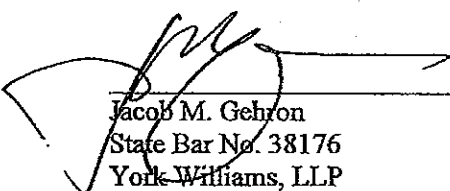
**PRAYER FOR RELIEF**

WHEREFORE, having answered Plaintiff's Complaint, Defendants pray the Court as follows:

1. That Plaintiff's Complaint be dismissed, with prejudice;
2. That, in accordance with N.C. GEN. STAT. § 1A-1, Rule 12(b)(5), the Court dismiss this action against Vanessa, with prejudice;
3. That, in accordance with N.C. GEN. STAT. § 1A-1, Rule 12(b)(6), the Court dismiss Plaintiff's First Cause of Action against Defendants, with prejudice;
4. That, in accordance with N.C. GEN. STAT. § 1A-1, Rule 12(b)(6), the Court dismiss Plaintiff's Second Cause of Action against Defendants, with prejudice;
5. That Plaintiff have and recover nothing against Defendants;

6. That there be a trial by jury as to all issues raised in the pleadings;
7. That the costs of this action be taxed against some other responsible party;
8. That, in accordance with N.C. GEN. STAT. § 6-21.5, the Court award a reasonable attorney's fee to Defendants; and
9. For such other and further relief as the Court deems just and proper.

THIS the 27<sup>th</sup> day of April, 2015.



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Tel: 704-731-7770  
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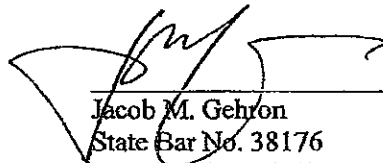
*Attorney for Defendant Nitsy Andrews and  
Vanessa Loye Andrews*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he has delivered a true copy of the foregoing document by facsimile (where identified) and by depositing the same in an official depository under the exclusive care and custody of the United States Postal Service for mailing, first class, postage prepaid, addressed as follows:

Robert J. Bernhardt  
Bernhardt and Strawser, P.A.  
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FAX: 704-335-0551  
*Attorney for Plaintiff*

THIS the 27<sup>th</sup> day of April, 2015.



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