

XXXXXX-XX-XX-XX-XXX

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In the Matter of the Claim of:

JOSE DIAZ,

Claimant,

-against-

GEORGE LOPEZ,

Respondent,

-----x

Date: XXX

Time:

File: XXXXXX-XX-XX-XX-XXX

STATUTORY HEARING in the above entitled matter, at the above date and time, taken by electronic recording device, held at the office of XXX. The electronic recording has been transcribed by XXX, and is a fair and accurate transcription of the proceeding herein.

A P P E A R A N C E S:

JOSE GALLIANO DIAZ
30 Bridal Path North
Sandspoint, NY 11050
BY: Lisa Cisro

GEORGE LOPEZ
XXX
BY: XXX

1 Q: Raise your right hand sir.
2 Solemnly swear that the testimony you are
3 about to give is the truth, the whole truth
4 and nothing but the truth, so help you God.

5 A: I do.

6 Q: Could you please state your name &
7 address sir?

8 A: Jose Galliano Diaz. 30 Bridal Path
9 North Sandspoint, NY 11050.

10 Q: And Mr. Diaz are you employed?

11 A: I'm self-employed, yes.

12 Q: And what type of employment is that?

13 A: It's a corporation that operates
14 movie theatres, motion picture houses in
15 New York area.

16 Q: Is... do you have a name for the
17 corporation?

18 A: Queens Circuit Management Corp.

19 Q: And sir do you own any motor
20 vehicles?

21 A: Yes.

22 Q: And how many motor vehicles do you
23 own?

24 A: I own one... two... three.

1 Q: And who has permission to use those
2 vehicles at this time?

3 A: My wife and my daughter.

4 Q: Do you have any other sons or
5 daughters other than Joey Diaz?

6 A: No. Oh, I have, yeah, I have my
7 eldest, Linda Diaz. Her name is Linda ***.

8 Q: In the year 2000, I know it's a
9 little while back, but do you remember
10 owning a Ford motor vehicle?

11 A: Well, the Ford company owns it I
12 leased it.

13 Q: Okay. You leased that motor vehicle
14 and did you lease any other motor vehicles
15 back then in the year 2000?

16 A: No. Just that.

17 Q: Did you own any motor vehicles back
18 in the year 2000?

19 A: Oh yeah. I must have owned two or
20 three in New York.

21 Q: And were those vehicles insured
22 through Federal National Insurance?

23 A: We call it Chubb, yeah.

24 Q: Okay.

25 A: Chubb? Yeah.

1 Q: Okay. And did your daughter and wife have
2 consent and permission to use all those vehicles
3 that you owned or leased back in the year 2000?

4 A: Oh yes.

5 Q: Did you ever learn about an accident
6 involving the Ford motor vehicle that
7 occurred in July of 2000?

8 A: I got a call from the adjuster from
9 Chubb telling me that there was a... the car,
10 the Explorer, was involved in an accident
11 and that he was gonna go ahead and do the
12 paperwork to get it fixed.

13 Q: Okay. And that would have been
14 somewhere around July or August in 2000?

15 A: Yes more or less.

16 Q: And did you learn anything else
17 about that accident?

18 A: No. That ended there.

19 Q: Did you ever speak to your daughter
20 about that accident, Joey?

21 A: No. Not at the time.

22 Q: Did she tell you that the vehicle
23 was involved in an accident?

24 A: Yeah, she mentioned that. That's why
25 the insurance company got in touch with us.

1 Q: And after you spoke to the insurance
2 company about the accident to begin with in
3 July or August, did you ever speak to them
4 again about the accident?

5 A: No. The adjuster, I... I spoke once
6 more with the adjuster and the car was
7 fixed.

8 Q: Okay.

9 A: I don't remember if there was a
10 deductible, I don't know the technicalities
11 but I spoke to them twice.

12 Q: Okay. Did you have any reason to
13 believe that the gentleman that was
14 operating the vehicle involved in this
15 accident in July 2000 was operating it
16 without the consent or permission of your
17 daughter?

18 A: No. I did not know.

19 Q: Well, your answer was I'm sorry 'I did
20 not know'?

21 A: No. I have no... no recollection of
22 her calling me and asking me for permission
23 to lend the car to George.

24 Q: Okay. Did you not know George Lopez?

25 A: I met him once.

1 Q: Well, my question is do you believe
2 George was operating the vehicle without
3 Joey's consent?

4 A: No. That I don't know. No. I was
5 here 1800 miles from Miami in New York and
6 the last thing on my mind was to call her
7 up and ask her who she's lending the car
8 to?

9 Q: I... I... I understand that, but I just
10 want to clarify one issue, did Joey ever say that
11 George stole the vehicle from me that day?

12 A: No. No. No. That wasn't said.

13 Q: Okay. Did Joey ever indicate to you
14 though that George, you know, wasn't
15 supposed to run an errand on that day to
16 use that car?

17 A: No. No.

18 Q: Now Joey, she is living with you at
19 this time?

20 A: Yes.

21 Q: And did you ever speak to Mr. Lopez
22 about the accident, that is George.

23 A: No.

1 Q: You said you met him on one
2 occasion. Did you ever meet him any other
3 occasion, other than the one time?

4 Ms. Lisa: Object to the form.

5 A: No.

6 Q: And where did you meet him?

7 A: He came up to us to New York for a
8 few days.

9 Q: Did you ever come down to Miami?

10 A: I've been to... I've been to Miami...

11 Ms. Lisa: Wait. Wait. Let him finish
12 the question.

13 Q: I was almost done. It was my fault.
14 Let me strike it. Did you ever come to
15 Miami while your daughter was in school
16 down here?

17 A: Yes.

18 Q: And when you would come down here
19 where would you stay?

20 A: Hotel. And then finally when she got
21 the house... rented a house I stood in the
22 house.

23 Q: Okay. Did you ever meet George when
24 you were in Miami?

1 A: No. Oh, wait a minute yes, yes. Yes,
2 I did meet him once. We went out for
3 dinner. Right.

4 Q: Okay. And, I don't want to get too
5 personal but was George and Joey ever
6 living or residing together at any point in
7 time that you remember?

8 A: The answer is yes.

9 Q: Now your wife she was... is it fair to
10 say also a named insured on the insurance
11 policy involving the Ford motor vehicle?

12 A: Yeah it was on both names. Oh one,
13 the insurance... the insurance was in both
14 names, but the vehicle was only in my name.

15 Q: Okay. And you're talking about
16 registration wise?

17 A: Registration wise and leased wise.

18 Q: Okay. Has anybody indicated to you
19 that they are going to deny this claim
20 because your wife was not the registered
21 owner of the vehicle?

22 A: I don't understand. What do you mean
23 by the registered... when I went to... when I
24 went to Miami I leased the car under my
25 name. I got the tag what you guys call, I

1 call it registration and license plate, the
2 tag is under my name and the car was under
3 my name. Not under my wife's or not under
4 Joey Diaz's name.

5 Q: Okay.

6 A: I did this all myself.

7 Q: Okay. I understand that now. Let me
8 just ask you a question over here. Has
9 anybody indicated to you though that this
10 particular claim is being denied because
11 your wife is involved in this lawsuit and
12 not you?

13 A: No.

14 Q: Now you said you spoke to the
15 adjuster one time shortly after the
16 accident and I believe you said there was
17 another time. Was that more recently?

18 A: No. A week later... a week after the
19 accident.

20 Q: And did the adjuster ask for your
21 statement at that time?

22 A: I had no reason to give him a
23 statement. He just gave me the appraisal of
24 what happened... the accident... and... and they
25 paid out.

1 Q: Okay. So you spoke about the
2 property damage.

3 A: Yeah.

4 Q: Okay. Do you have any other
5 information about this accident?

6 A: No.

7 Q: And when you received the subpoena
8 to come to the deposition did you speak to
9 Joey about the accident at all?

10 A: No.

11 Q: Did you speak to anybody about the
12 accident?

13 A: My wife.

14 Q: And what did you and your wife speak
15 about?

16 A: That we were going to be depo,
17 deposed on the 25th of this month, which I'm
18 doing now and I've been with my lawyer
19 making arrangements to be deposed.

20 Q: Okay. Is it fair to say that you
21 never reported the vehicle being stolen on
22 July 31, 2000?

23 Ms. Lisa: Object to the form.

24 Ms. Lisa: Object to the form.

25 A: No. It was never stolen.

1 Q: Okay. And do you... is it fair to say
2 fully expect your insurance company to
3 cover this loss for this claim?

4 A: By all means.

5 Ms. Lisa: Object to the form.

6 A: By all means. Yes.

7 Q: Okay. And if the... you know if the
8 Miami police officer looked at the
9 registration that had Elva Diaz's name on
10 it at the time of the accident would that
11 be incorrect?

12 A: That's incorrect.

13 Ms. Lisa: Object to the form.

14 A: Yes. That's incorrect.

15 Q: Okay. Now do you understand that the
16 plaintiff in this matter has made a demand
17 to settle the case within your policy
18 limits?

19 A: No. I am not aware of that.

20 Q: Okay. So you are not aware of any
21 demands that have been made in this case?

22 A: No. Just what I read on the
23 complaint.

1 Q: Okay. Do you have any coverage of
2 insurance that is known as Excess or
3 Umbrella coverage of insurance?

4 A: I do. I do.

5 Q: Okay. Is that also with Chubb?

6 A: That's with Chubb.

7 Q: Alright. And you never spoke to
8 George Lopez about the accident?

9 A: No.

10 Q: Does your other daughter Linda have
11 any information about the accident?

12 A: No. Not at all.

13 Q: Do you remember was... do you remember
14 if there was anybody else living with Joey
15 back around July 2000?

16 A: No. No.

17 Q: Okay I don't think I have any other
18 question.

19 Ms. Lisa: I have nothing in the ***.

20 Q: Okay. Thank you very much.

21 A: Good day.

22 Q: Have a nice day.

23 A: Bye bye.

24 Q: Bye.

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C E R T I F I C A T I O N

XXX hereby certifies:

THAT, THE WITNESS (es) whose
Testimony is hereinbefore set forth is
transcribed from tape recordings provided was
duly transcribed accurately; and

THAT, the within transcript is a true
and accurate record of the testimony given
by said witness (es).

XXX AND ITS EMPLOYEES further
certifies that it is not related either by
blood or marriage to any of the parties to
this action, and that it is in no way
interested in the outcome of the matter.

IN WITNESS WHEREOF, XXX has
authorized its Office Manager, XXX, to
hereunto set XXX hand this _____ day of
_____2004, to certify the accuracy of
this proceeding as set forth herein.

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XXX