

D-1-GN-23-005603

CAUSE NO. _____

**TRAVELERS INSURANCE
COMPANY,**
Plaintiff,

v.

**HAIL SPECIALISTS AUTO BODY &
COLLISION,**
Defendant.

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IN THE DISTRICT COURT OF

98TH, DISTRICT COURT

_____ **JUDICIAL DISTRICT**

TRAVIS COUNTY, TEXAS

PLAINTIFF'S APPLICATION FOR WRIT OF SEQUESTRATION
OF 2021 TOYOTA TACOMA

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff, **TRAVELERS INSURANCE COMPANY**, filing this Application for Writ of Sequestration against the Defendant, **HAIL SPECIALISTS AUTO BODY & COLLISION**, for possession of personal property of a 2021 Toyota Tacoma located in Travis County, Texas, and in support would show:

A. DISCOVERY CONTROL PLAN

1. Plaintiff intends that discovery be conducted under Discovery Level I.

B. PARTIES

2. Plaintiff, **TRAVELERS INSURANCE COMPANY** (hereinafter "TRAVELERS"), is a duly incorporated insurance company authorized to do business in and doing business in the state of Texas.
3. Defendant, **HAIL SPECIALISTS AUTO BODY & COLLISION** (hereinafter "HAIL SPECIALISTS"), is a duly incorporated auto repair company authorized to do business in and doing business in the state of Texas. Service of process may be made on its registered agent: Michael Chanata, CFO Hail Specialists, 10611 N. Interstate 35 Frontage Road, Austin, Texas, 78753. Issuance of process and citation is requested at this time.

C. JURISDICTION AND VENUE

4. Venue is proper in Travis County, Texas, pursuant to the Texas Civil Practice & Remedies Code Defendant is located in Travis County and the transactions giving rise to the claims occurred in Travis County. Jurisdiction is proper because the Court has personal jurisdiction over all parties and the amount in controversy is within the jurisdictional limits of the Court.
5. Plaintiff has been damaged in a sum within the jurisdictional limits of this Court and pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff seeks monetary relief under \$100,000.

D. PROPERTY DESCRIPTION

6. The Defendant, HAIL SPECIALISTS AUTO BODY & COLLISION, is in possession of personal property located in Travis County, Texas, specifically described as follows:

2021 Toyota Tacoma 4WD, Color Black, VIN#: 3TMGZ5ANXMM405667

7. The amount in controversy in this action is \$14,050 in storage fees.
8. The personal property at issue in this action has a market value of \$46,148.63. Plaintiff is the owner of this personal property and is entitled to its possession.
9. Plaintiff is informed and believes, and on that basis alleges, that unless the court promptly issues a writ of sequestration, the defendant will conceal or dispose of the subject truck.
10. Plaintiff's information and belief is based on the supporting Affidavit of Trey Mathews that is attached and incorporated by reference.

E. FACTS OF CLAIM

- II. Defendant is holding the Plaintiff's vehicle hostage trying to collect excessive storage fees before releasing the vehicle.

12. After a traffic collision on August 2, 2023, the Defendant HAIL SPECIALIST obtained possession of the subject vehicle that was owned with a finance agreement by Plaintiff TRAVELERS' insured Kevin Gates at that time. No repairs were performed on the subject vehicle.
13. On August 25, 2023 the Plaintiff, TRAVELERS' agent Copart, Inc. attempted to make arrangements to pick up the subject vehicle from the Defendant HAIL SPECIALISTS, but was notified that the vehicle would not be released until payment was made to Defendant HAIL SPECIALIST in the amount of \$14,050 calculated by adding Gate Charges \$300.00; Storage 08/17/2023 To 08/28/2023 @\$500.00/Day totaling \$6,000.00; Estimating Fees \$2,950.00; and Misc Fees \$4,800.00. Plaintiff TRAVELERS refused to pay the excessive storage fees and brings this action.
14. On August 29, 2023, The Plaintiff TRAVELERS purchased the subject vehicle from the lien holder (Exhibit A) to obtain legal ownership and currently owns the subject vehicle.

F. LEGAL AUTHORITIES & ARGUMENTS

15. The Texas Civil Practice & Remedies Code 62.001 states:

A writ of sequestration is available to a plaintiff in a suit if:

(1) the suit is for title or possession of personal property or fixtures or for foreclosure or enforcement of a mortgage, lien, or security interest on personal property or fixtures and a reasonable conclusion may be drawn that there is immediate danger that the defendant or the party in possession of the property will conceal, dispose of, ill-treat, waste, or destroy the property or remove it from the county during the suit; . . .

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. 9/1/1985.

16. Plaintiff TRAVELERS requests the Court to issue a writ of sequestration because there is

a reasonable conclusion that may be drawn that there is immediate danger that the Defendant will conceal or dispose of the property.

G. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, TRAVELERS prays that the Court will issue a Writ of Sequestration for the subject vehicle and set a hearing within 10 days to determine the issues with judgment to be entered for the Plaintiff against Defendant, HAIL SPECIALISTS, and for Court costs and for such other and further relief as the Court deems equitable.

Respectfully submitted,

DEAS & ASSOCIATES
PHYSICAL ADDRESS
960I McAllister Freeway, Suite 713
San Antonio, Texas 78216
MAILING ADDRESS
P.O. Box 64093
St. Paul, Minnesota 55164-0093
(210) 525-2100 Main
(855) 848-0737 Facsimile

BY: 

CAMERON COOKE
State Bar No. 24001919
ccooke4@travelers.com

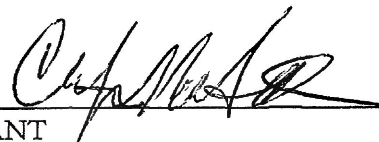
***E-SERVICE EMAIL ONLY**
eservsana@travelers.com

ATTORNEY FOR PLAINTIFF

**AFFIDAVIT OF PLAINTIFF IN SUPPORT OF
REQUEST FOR EX PARTE WRIT OF SEQUESTRATION**

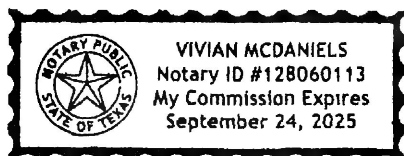
STATE OF TEXAS §
COUNTY OF HARRIS §


Before me, the undersigned notary public, on this day personally appeared Trey Mathews, who being by me duly sworn on his oath stated that he is authorized corporate representative and claims adjuster working for the Plaintiff, THE TRAVELERS INSURANCE COMPANY (hereinafter "TRAVELERS"), in the above-entitled and numbered cause; that he has read the above and foregoing Plaintiff's Original Application for Writ of Sequestration of 2021 Toyota Tacoma and the attached exhibits and after review Affiant swears that every factual statement in the foregoing Application is within his personal knowledge and true and correct.



AFFIANT

SUBSCRIBED AND SWORN TO by the above before me, the undersigned authority, on this the 19th day of September, 2023.





Notary Public in and for
The State of TEXAS



Capital One Auto Finance
7933 Preston Road
Plano, TX 75024
1-800-735-8693

LETTER OF GUARANTEE

TRAVELERS INSURANCE
Katie Siewyer
60 LAKEFRONT BLVD
BUFFALO, NY 14202-0000

Account Number:	6201030752446
Vehicle:	21 TOYOTA TACOMA
VIN:	3TMG25ANXM1405667
Per Diem:	\$4,3642
10-Day Payoff:	\$20,098.24

Dear TRAVELERS INSURANCE,

Claim Number: INP2211001
Customer Name: KEVIN W GATES



Upon receipt of \$20,098.24, Capital One Auto Finance agrees to release the title, or will provide a release of lien, for the vehicle referenced above, in accordance with state law, to TRAVELERS INSURANCE. **Liability for the underlying debt is not released.**

As of 08/28/2023, the 10-day payoff on the Capital One Auto Finance account referenced above is \$20,098.24, with a Per Diem of \$4,3642. This payoff quote is good until 09/07/2023, unless the financial status of the account changes. **Please complete the following steps to ensure prompt release of the title or lien:**

1. Please make the insurance proceeds check payable to "Capital One Auto Finance" and reference the account number, 6201030752446, on the check to avoid processing delays; and mail it using regular or overnight mail to the following address, respectively:

Regular Mail
Capital One Auto Finance
PO Box 60511
City of Industry, CA 91716-0511

Overnight Mail
Capital One Auto Finance
2525 Corporate Place
2nd Floor, Suite #250
Monterey Park, CA 91754

2. Fax the following documents to 1-888-214-3107, Attn: 6201030752446, for our records:

- Full Vehicle Evaluation
- Settlement Breakdown
- Declaration Page
- Police Report (if available)



¹ This payoff quote is good through 09/07/2023, unless the financial status of the account changes.

Per the information you provided, the customer is not retaining salvage. Should that decision change, you are responsible for notifying us. If we are not notified, you are responsible for returning the title to us. Under no circumstances should a clear title be sent to the customer.

Capital One Auto Finance is a division of Capital One, National Association; successor to Onyx Acceptance Corporation and NFB Funding, Inc

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Citibank, N.A.
One Penns Way
New Castle DE 19720

TRAVELERS

60 LAKEFRONT BLVD.
BUFFALO NY 14202
(877) 331-0238

883H 32196116

62-20
311

DATE	ACCOUNT NUMBER	FILE NUMBER
08/29/23	J98	233 PP INP2211 K
TWENTY THOUSAND NINETY EIGHT AND 24/100		

VOID IF NOT PRESENTED WITHIN
ONE YEAR AFTER DATE OF ISSUE

PAY: \$***20,098.24

KLSY

PAY
TO THE
ORDER OF

CAPITAL ONE AUTO FINANCE
PO BOX 60511
CITY OF INDUS CA 91716

003050
SA01502

Yancy Mills
AUTHORIZED SIGNATURE

⑈ 32196116 ⑈

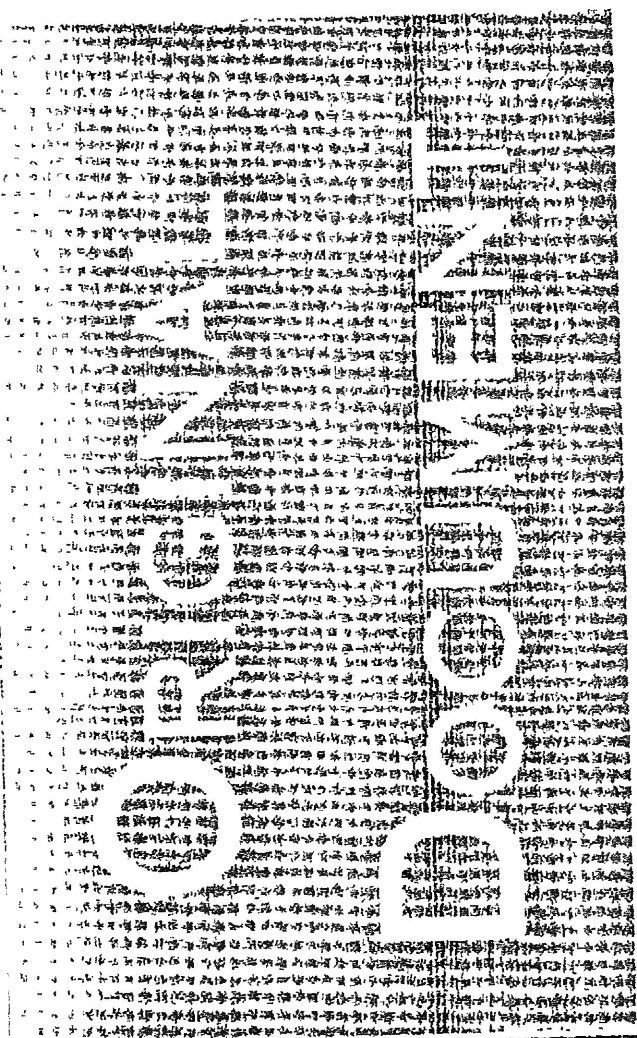
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ENDORSE HERE

For Deposit To
Capital One NA - COAF
Account 37516-06006
09/06/2023

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