

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Plaintiff,

-against-

M.V.B. COLLISION INC. d/b/a
MID ISLAND COLLISION

Defendant.

-----X

Index No.:

Date Purchased:

SUMMONS

Basis of Venue is

Defendant's Residence:

20 Lakeview Avenue

Rockville Centre, NY 11570

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 plaintiff's attorney(s) within 20 days after service of the summons, exclusive of the day of service (or written 30 days after 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 complaint.

DATED: New York, New York
July 12, 2017

Yours, etc.,

RUBIN, FIORELLA & FRIEDMAN LLP
Attorneys for STATE FARM
630 Third Avenue, 3rd Floor
New York, New York 10017
(212) 953-2381
Our File No: 0223-34329

TO: M.V.B. Collision, Inc.
d/b/a Mid Island Collision
20 Lakeview Avenue
Rockville Centre, New York 11570

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

----- X
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Index No.:

Plaintiff,

-against-

**VERIFIED
COMPLAINT**

M.V.B. COLLISION INC. d/b/a
MID ISLAND COLLISION,

Defendant.
----- X

Plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, by its attorneys, RUBIN, FIORELLA & FRIEDMAN LLP, as and for its Verified Complaint, alleges, upon information and belief, as follows:

1. That at all times hereinafter mentioned, plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY (hereinafter, "State Farm"), was and is an automobile insurer authorized to do business in the State of New York, with offices located at 1 State Farm Plaza, Bloomington, Illinois 61701.

2. That at all times hereinafter mentioned, defendant, M.V.B. COLLISION INC. d/b/a MID ISLAND COLLISION, (hereinafter, "MVBC"), was a domestic corporation duly organized and existing by and under the laws of the State of New York, having its principal place of business at 20 Lakeview Avenue, Rockville Centre, New York 11570 in the County of Nassau.

3. That in this action, State Farm seeks to recover an automobile that MVBC has unlawfully refused to release to State Farm and for which MVBC seeks compensation for alleged repairs that were not authorized or properly documented.

MVBC UNLAWFULLY RETAINS THE NISSAN

4. That prior to March 27, 2017, State Farm issued a policy of insurance to Courtney Pope covering any damages caused to a 2015 Nissan, VIN No.: 5N1AA0NC3FN613953 (hereinafter, "Nissan").

5. That the Nissan was owned by Pope and subject to a lien by TD Auto Finance, LLC (hereinafter, "TD").

6. That on March 27, 2017, the Nissan was damaged in a collision.

7. That pursuant to the terms of the policy, State Farm agreed to cover the property damage claim for the Nissan.

8. That the Nissan was taken to MVBC to determine the extent of damage and whether it could be repaired.

9. That if State Farm determines that the costs of repairing a vehicle are above a certain amount, the vehicle is considered a total loss and State Farm will pay the owner the actual cash value of the vehicle and take title.

10. That State Farm is entitled to inspect any damaged vehicle before it is repaired and must authorize repairs before an insured or garage can make a claim for repairs.

11. That MVBC refused to negotiate an agreed pricing for the repairs.

12. That despite MVBC's refusals to allow proper inspections, State Farm made good faith estimates as to the costs necessary to repair the Nissan and advised MVBC that any repairs in excess of these estimates would have to be approved by State Farm.

13. That MVBC did not cooperate with State Farm's numerous attempts to verify whether additional repairs were required or proper and how much MVBC was seeking for said repairs.

14. That based upon its own good faith estimates, State Farm paid MVBC \$28,410.76 for repairs to the Nissan.

15. That on or about June 15, 2017, the Nissan was declared a total loss and State Farm paid Pope and TD the actual cash value of the Nissan and took its title.

16. That on June 27, 2017, State Farm informed MVBC that it was now the owner of the Nissan and stated all repairs should cease and the vehicle should be released immediately.

17. That MVBC refused to release the Nissan and orally demanded \$21,042.68 in additional payments.

18. That on July 6, 2017, State Farm received a notice of lien and sale on behalf of MVBC seeking \$50,728.44 for alleged repairs to the Nissan, which MVBC acknowledged had a value of no more than \$36,000.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST MVBC
(REPLEVIN)

19. State Farm repeats, reiterates and realleges each and every allegation contained in preceding paragraphs "1" through "18", inclusive, with the same force and effect as though more fully set forth at length herein.

20. The detention of the Nissan is wrongful because MVBC will not release it until it is paid for purported repairs that either were not made or were not authorized to

be made, or were caused by MVBC through carelessness, negligence, recklessness and lack of due care, or an intent to fraudulently inflate the repair bills.

21. Prior to the commencement of this action, State Farm has duly demanded possession of the Nissan, offered payment to cover any authorized repairs, and sought information to verify the bona fides of the MVBC's alleged additional claims.

22. MVBC, has refused to accept such tender, refused to provide information necessary to verify the additional charges, and will not deliver the possession of the Nissan until payment for the entire amount of the purported repair bills is made.

23. State Farm is entitled to immediate possession of the Nissan and is harmed by MVBC's improper retention of this vehicle and, on information and belief, the sale of the Nissan is designed to deprive State Farm of its right to inspect the alleged repairs made to the vehicle.

24. State Farm has no adequate remedy at law.

25. State Farm has made no prior request for replevin of the Nissan.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST MVBC
(Violation of Lien Law 201a)

26. State Farm repeats, reiterates and realleges each and every allegation contained in preceding paragraphs "1" through "25", inclusive, with the same force and effect as though more fully set forth at length herein.

27. MVBC has filed a lien with notice of sale for the Nissan.

28. Any purported lien and notice of sale violates Lien Law 184a and 201a because such lien is not properly charged in that the services were not rendered as claimed,

some or all of the repairs were unauthorized, the lien exceeds the fair and reasonable value of the services allegedly performed, and the lien seek amounts in excess or written estimates.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST MVBC
(Declaratory Relief)

29. State Farm repeats, reiterates and realleges each and every allegation contained in preceding paragraphs "1" through "28", inclusive, with the same force and effect as though more fully set forth at length herein.

30. MVBC has billed for services that were not properly charged in that the services were not rendered as claimed, some or all of the repairs were unauthorized, the lien exceeds the fair and reasonable value of the services allegedly performed, and the lien seek amount in excess or written estimates.

31. State Farm is entitled to a hearing to a declaration that it has no obligation to pay MVBC any additional amounts sought for alleged work on the Nissan.

WHEREFORE, State Farm demands judgment against MVBC adjudging that:

- a) On the First Cause of Action that the State Farm is entitled to immediate possession of the Nissan, the aforesaid chattel;
- b) On the Second Cause of Action that State Farm is entitled to vacatur of any lien that has been filed or will be filed on the Nissan and possession of the aforesaid chattel;
- c) On the Third Cause of Action that State Farm is entitled to a declaration that it has no obligation to pay MVBC any additional amounts sought for alleged work on the Nissan; and

- d) Together with such other and further relief as to the Court may deem just, proper, and equitable.

DATED: New York, New York
July 12, 2017

Yours, etc.



Charles T. Rubin, Esq.
RUBIN, FIORELLA & FRIEDMAN LLP
Attorneys for Plaintiff, STATE FARM
630 Third Avenue, 3rd Floor
New York, New York 10017
(212) 953-2381
Our File No.: 0223.34329

ATTORNEY VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

CHARLEST. RUBIIN, an attorney duly admitted to practice law in the State of New York, affirms:

That the undersigned is an associate of the firm of RUBIN, FIORELLA & FRIEDMAN LLP, attorneys of record for plaintiff, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, in the within action; that the undersigned has read the foregoing Verified Complaint and knows the contents thereof; that the same are true to affirmant’s own knowledge, except as to those matters therein stated to be alleged on information and belief; and as to those matters affirmant believes them to be true.

The undersigned further states that the reason this affirmation is made by the undersigned and not by plaintiff is because said party does not reside or have a place of business in New York County, where the affirmant’s office is located.

The grounds of affirmant’s belief as to all matters not stated to be upon affirmant’s own knowledge, are investigative material contained in affirmant’s file.

The undersigned affirms that the foregoing statements are true, under penalty of perjury.

DATED: New York, New York
 July 12, 2017



CHARLES T. RUBIN