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Judge Nancy Baskin

Attorneys for Plaintiff Platte River Insurance Company

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PLATTE RIVER INSURANCE COMPANY,
a Nebraska corporation,

Plaintiff,

v.

BYRDDAWG MOTORS, LLC, an Idaho
limited liability company, ADAM BAIN, an
individual, TERRY BYRD, an individual,
MICHEL ALAN BAIN, an individual, KELLI
LOPEZ, an individual, JACQUELINE
NORMAN, an individual, HUNTER ALLEN,
an individual, CADE W. ROWLAND, an
individual, RONALD MARTIN, an
individual, NICHOLAS GENSBURGER, an
individual, IZIC CRUZ, an individual,
CHARLES FORTIK, an individual,
LOOKOUT FEDERAL CREDIT UNION, an
Idaho credit union, BEEHIVE FEDERAL
CREDIT UNION, an Idaho credit union,
AMERICA FIRST CREDIT UNION DBA
AMERICA FIRST FEDERAL CREDIT
UNION, a Utah credit union, POTLATCH

Case No. CV-01-22-15779

SUMMONS BY PUBLICATION

SUMMONS BY PUBLICATION - 1

2009.002-02103330; 1

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NO 1 FINANCIAL CREDIT UNION, an Idaho credit union, IDAHO CENTRAL CREDIT UNION , an Idaho credit union, LAURA J. LANE, an individual, EMILY BERNAL, an individual, LONDON R. MILLER, an individual, MICHAEL HOMEISTER, an individual, LISA HOMEISTER, an individual, RELIABLE CREDIT ASSOCIATION, INC, an Oregon corporation, JOHN MURPHY, an individual, MICHAEL CLAYTON, an individual, KADEN RODRIGUEZ, an individual, KAINAN HAWKINS, an individual, MICHAEL MCCOLL, an individual, CONNOR RHOTON, an individual, ABEL RODRIGUEZ, an individual, CANYON FINANCIAL OF CALDWELL, INC., an Idaho corporation, WALTER WRIGHT an individual, CHANDRA CRAIN, an individual, LENDMARK FINANCIAL SERVICES, LLC a Georgia limited liability company, BRANDON DOWNING, an individual, GOODWILL FINANCE, LLC, an Idaho limited liability company, JOANNA SHERMAN, an individual, FINCO HOLDING COMPANY LLC DBA EQUITABLE FINANCE, an Oregon limited liability company, KAITLYN GREENLAND, an individual, ITXASO E. EIGUREN, an individual, CAPITAL ELEVEN AUTO, LLC DBA CAPITAL AUTO LOAN, an Idaho limited liability company, MISTY GARCIA, an individual, EAST IDAHO CREDIT UNION, an Idaho Credit Union, TRISTAN WICKARD, an individual, CAROL WICKARD, an individual, ROLANDO CASTILLO, an individual, JOSE A. DIAZ, an individual, CONNER WIDMER, an individual, WILLIAM WIDMER, an individual, CAPEL CREDIT UNION, an Idaho credit union, TIANNA VICTORIA CABRERA, an individual, PIONEER FEDERAL CREDIT UNION, an Idaho

SUMMONS BY PUBLICATION - 2

2009.002-02103330; 1

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credit union, JOH NKYA ELLISON, an individual, HORIZON CREDIT UNION, a Washington credit union, ALEXANDRA KAYLYN VRVALEN, an individual, LESLIE SALAZAR, an individual, ABEL RODRIGUEZ, an individual, ZACHARY FAILING, an individual, NATASHA M. AGEE, an individual, IDAHO UNITED CREDIT UNION, an Idaho credit union, NEXTGEAR CAPITAL, INC., a Delaware corporation, JOHN DOES 1-10, individuals,

Defendants.

To: Bryddawg Motors, LLC, Adam Bain, Jacqueline Norman, Hunter Allen, Izic Cruz, Charles Fortik, No 1 Financial Credit Union, Idaho Central Credit Union, Laura J. Lane, Emily Bernal, Landon R. Miller, Michael Homeister, Lisa Homeister, Reliable Credit Association, Inc., John Murphy, Michael Clayton, Kaden Rodriguez, Kainan Hawkins, Michael Mccoll, Connor Rhoton, Abel Rodriguez, Canyon Financial of Caldwell, Inc., Walter Wright, Chandra Crain, Lendmark Financial Services, LLC, Brandon Downing, Goodwill Finance, LLC, Joanna Sherman, Finco Holding Company LLC dba Equitable Finance, Kaitlyn Greenland, Itxaso E. Figuren, Capital Eleven Auto, LLC dba Capital Auto Loan, Misty Garcia, Tristan Wichard, Carol Wichard, Rolando Castillo, Jose A Diaz, Conner Widmer, William Widmer, Caped Credit Union, Tianna Victoria Cabrera, Pioneer Federal Credit Union, Johnkya Ellison, Horizon Credit Union, Alexandra Kaylyn Vrvalen, Leslie Salazar, Abel Rodriguez, Zachary Failing, Natasha M. Agee, Idaho United Credit Union, Nextgear Capital, Inc.

You have been sued by Platte River Insurance Company, the Plaintiff, in the District Court in and for Ada County, Idaho, Case No. CV-01-22-15779.

The nature of the claim against you is that you may have a claim against motor vehicle dealer bond no. PR2709687 arising out of your financing, flooring, or purchase of vehicles from ByrdDawg Motors, LLC.

The nature of the claims against Adam Bain and ByrdDawg Motors, LLC is for breach of the indemnity agreement arising out of numerous claims against the Bond.

SUMMONS BY PUBLICATION - 3

2009.002-02103330; 1

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Any time after 21 days following the last publication of Summons, the court may enter a judgment against you without further notice, unless prior to that you have a filed a written response in the proper form, including the case number, and paid any required filing fee to the Clerk of the Court at 200 W. Front St., Boise, ID 83702 and telephone number (208) 287-6900 and served a copy of your response on the other party, who mailing address and telephone number are:

Sokol Larkin
Jan D. Sokol, ISB #6498
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Email: jdsokol@sokol-larkin.com

A copy of the Summons and Complaint/Motion can be obtained by contacting either the Clerk of the Court or the other party. If you wish legal assistance, you should immediately retain an attorney to advise you in this matter.

Date: 11/28/2022 3:30:50 PM

PHIL McGRANE
Ada County District Court

Typed/printed name

By: *Eric Rowell*
Deputy Clerk



SUMMONS BY PUBLICATION - 4

SOKOL & LARKIN

2009.002-02103330; 1

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Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PLATTE RIVER INSURANCE COMPANY,
a Nebraska corporation,

Plaintiff,

v.

BYRDDAWG MOTORS, LLC, an Idaho
limited liability company, ADAM BAIN, an
individual, TERRY BYRD, an individual,
MICHEL ALAN BAIN, an individual, KELLI
LOPEZ, an individual, JACQUELINE
NORMAN, an individual, HUNTER ALLEN,
an individual, CADE W. ROWLAND, an
individual, RONALD MARTIN, an
individual, NICHOLAS GENSBURGER, an
individual, IZIC CRUZ, an individual,
CHARLES FORTIK, an individual,
LOOKOUT FEDERAL CREDIT UNION, an
Idaho credit union, BEEHIVE FEDERAL
CREDIT UNION, an Idaho credit union,
AMERICA FIRST CREDIT UNION DBA
AMERICA FIRST FEDERAL CREDIT
UNION, a Utah credit union, POTLATCH
NO 1 FINANCIAL CREDIT UNION, an
Idaho credit union.

Defendants.

CV01-22-15779
Case No.

COMPLAINT

**(Interpleader; Breach of Indemnity
Agreement)**

COMPLAINT - 1

2009.002-02093686; 1

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Plaintiff Platte River Insurance Company ("Platte River"), by and through counsel, alleges as follows:

PARTIES

1. Platte River is a Nebraska corporation that is licensed to do business and to post bonds in the state of Idaho and has its principal place of business in the State of Wisconsin.

2. Defendant ByrdDawg Motors, LLC ("ByrdDawg") is now, and at all relevant times was, an Idaho limited liability corporation with its principal place of business in Ada County, Idaho.

3. Defendant Adam Bain ("Bain") is an individual who resides in Ada County, Idaho.

4. Defendant Terry Byrd ("Byrd") is an individual who resides in Canyon County, Idaho.

5. Defendant Michel Alan Bain ("Alan Bain") is an individual who resides in Baker County, Oregon.

6. Defendant Kelli Lopez ("Lopez") is an individual who, upon information and belief, resides in Canyon County, Idaho.

7. Defendant Jacqueline Norman ("Norman") is an individual who resides in Park County, Montana.

8. Defendant Hunter Allen ("Allen") is an individual who resides in Canyon County, Idaho.

9. Defendant Cade W. Rowland ("Rowland") is an individual who resides in Ada County, Idaho.

10. Defendant Ronald Martin ("Martin") is an individual who resides in Canyon County, Idaho.

11. Defendant Nicholas Gensburger ("Gensburger") is an individual who resides in Ada County, Idaho.

12. Defendant Izic Cruz ("Cruz") is an individual who resides in Canyon County, Idaho.

13. Defendant Charles Fortik ("Fortik") is an individual who resides in Canyon County, Idaho.

14. Defendant Lookout Federal Credit Union ("LFCU") is an Idaho credit union with its principal place of business in the state of Idaho.

15. Defendant Beehive Federal Credit Union ("BFCU") is an Idaho credit union with its principal place of business in the State of Idaho.

16. Defendant America First Credit Union dba America First Federal Credit Union ("AFFCU") is a Utah non-profit corporation conducting business in the State of Idaho with its principal place of business in the state of Utah.

17. Defendant Potlatch No 1 Financial Credit Union ("P1FCU") is an Idaho Credit Union with its principal place of business in the state of Idaho.

18. Defendants Alan Bain, Lopez, Norman, Allen, Rowland, Martin, Gensburger, Cruz, Fortik, LFCU, BFCU, AFFCU, and P1FCU are referred to collectively herein as "Claimants."

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction over this action pursuant to Idaho Code ("IC") § 1-705.

COMPLAINT - 3

2009.002-02093686; 1

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20. Venue is proper in Ada County, Idaho pursuant to IC § 5-404 because at least some of the Defendants reside in Ada County, Idaho and the conduct giving rise to this action occurred in Ada County, Idaho.

FIRST CLAIM FOR RELIEF

(Interpleader IC § 5-321 – Against Claimants)

21. Platte River incorporates by reference herein the allegations contained in Paragraphs 1 through 20.

22. Platte River, as surety, posted a motor vehicle dealer bond# PR2709687, in the penal sum of \$20,000.00 on behalf of ByrdDawg, as principal, payable to the State of Idaho, as obligee (the "Bond"). The Bond was cancelled on August 22, 2022.

23. Claimants have asserted, or may assert, claims against the Bond, which, in the aggregate, exceed Platte River's obligations as surety under the Bond. Platte River hereby makes available, subject to further order of this Court, the sum of \$20,000.00, less attorneys' fees, costs and disbursements incurred herein, for the payment of such Claimant(s) who may establish their claims and may be entitled proportionately to share in the aggregate remaining penal limit of the Bond.

24. Pursuant to IC § 5-321 and Idaho Rule of Civil Procedure 22, it would be just and proper for the Court to exonerate and discharge Platte River upon tender of the Bond proceeds with respect to all of its obligations and liabilities as surety under said Bond, to require Claimants, and each of them, to interplead and settle amongst themselves their rights, if any, to the net penal limit of the Bond, and to enjoin and restrain Claimants, and each of them, from making any claims against Platte River on account of
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COMPLAINT - 4

2009.002-02093686; 1

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the Bond, or from filing or prosecuting any lawsuits against Platte River on the Bond, except in this interpleader action.

25. It would be just and proper under IC § 5-321 to award Platte River out of the proceeds made available to this Court, Platte River's attorneys' fees, costs, and disbursements incurred in the filing of and service of this action.

26. Platte River has no plain, speedy or adequate remedy at law.

SECOND CLAIM FOR RELIEF

(Breach of Indemnity Agreement – Against ByrdDawg, Bain, and Byrd)

27. Platte River incorporates by reference herein the allegations contained in Paragraphs 1 through 26.

a. In partial consideration for the posting of the Bond, Bain and Byrd, individually and on behalf of ByrdDawg, executed in favor of Platte River an Indemnity Agreement (the "Indemnity Agreement"). Under the Indemnity Agreement, ByrdDawg, Bain, and Byrd agreed to indemnify Platte River and hold Platte River harmless against all loss, liability, costs, claims, damages, and expenses, including but not limited to attorneys' fees, of whatever kind or nature that Platte River incurred in connection with the Bond.

b. Under the terms of the Indemnity Agreement, Platte River is entitled to recover its reasonable attorneys' fees incurred, which may be awarded by the Court.

c. Platte River has performed all conditions precedent, conditions and obligations on its part to be performed, and has no plain, speedy or adequate remedy at law.

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d. As a direct result of ByrdDawg's, Bain's, and Byrd's breach of the Indemnity Agreement, Platte River is entitled to a judgment against ByrdDawg, Bain, and Byrd in the amount of all sums that Platte River incurs to pay Claimants, and for costs, fees and other damages that Platte River sustains as a result of posting the Bond. Without limitation, Platte River is entitled to a judgment against ByrdDawg, Bain, and Byrd for the following amounts: (a) the amount that Platte River deposits with the Court in connection with this interpleader action; (b) the amount that Platte River has incurred to investigate, analyze, and respond to claims; (c) the amount that Platte River incurs for attorneys' fees and costs associated with this action; and (d) any fees and costs that Platte River incurs in the collection of amounts awarded in favor of Platte River herein.

WHEREFORE, Platte River prays for relief as follows:

1. On its First Claim for Relief:

a. A judgment enjoining and restraining Claimants, and each of them, from filing or prosecuting suit or action against Platte River on account of its obligations under the Bond, except in this interpleader action;

b. A judgment declaring and determining the rights of Claimants and the validity of their claims under the Bond, and in the event the amount of said claims exceed the penal limit of the Bond, \$20,000.00, appropriately pro-rating said amount among Claimants whose claims have been validated by this Court, and in the event the amount of said claims do not exceed the remaining penal limit of the Bond, \$20,000.00, disbursing any remaining, unclaimed Bond funds to Platte River;

c. A judgment exonerating and discharging Platte River with respect to all of its obligations or liabilities under the Bond; and

COMPLAINT - 6

2009.002-02093686; 1

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d. A judgment awarding Platte River, out of the funds made available to the Court, Platte River's costs and disbursements incurred herein, including filing, publication and service fees, together with Platte River's reasonable attorneys' fees incurred in bringing and prosecuting this action.

2. On its Second Claim for Relief, a judgment in favor of Platte River, and against ByrdDawg, Bain, and Byrd, in the amount of all sums that Platte River incurs to pay Claimants, and for costs, attorneys' fees and other damages that Platte River sustains as a result of posting the Bond, including without limitation: (a) the amount that Platte River deposits with the Court in connection with this interpleader action; (b) the amount that Platte River has incurred to investigate, analyze and respond to claims; (c) the amount that Platte River incurs for attorneys' fees and costs associated with this action; and (d) any fees and costs that Platte River incurs in the collection of amounts awarded in favor of Platte River herein, together with interest thereon from the date said amount is paid until repaid.

3. On all Claims for Relief, for such other and further relief as the Court deems just and equitable.

DATED this 18th day of October, 2022.

SOKOL LARKIN

By: /s/ Jan D. Sokol

Jan D. Sokol, ISB #6498
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Attorneys for Plaintiff

COMPLAINT - 7

2009.002-02093686; 1

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Attorneys for Plaintiff Platte River Insurance Company

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

PLATTE RIVER INSURANCE COMPANY,
a Nebraska corporation,

Plaintiff,

v.

BYRDDAWG MOTORS, LLC, an Idaho
limited liability company, ADAM BAIN, an
individual, TERRY BYRD, an individual,
MICHEL ALAN BAIN, an individual, KELLI
LOPEZ, an individual, JACQUELINE
NORMAN, an individual, HUNTER ALLEN,
an individual, CADE W. ROWLAND, an
individual, RONALD MARTIN, an
individual, NICHOLAS GENSBURGER, an
individual, IZIC CRUZ, an individual,
CHARLES FORTIK, an individual,
LOOKOUT FEDERAL CREDIT UNION, an
Idaho credit union, BEEHIVE FEDERAL
CREDIT UNION, an Idaho credit union,
AMERICA FIRST CREDIT UNION DBA
AMERICA FIRST FEDERAL CREDIT
UNION, a Utah credit union, POTLATCH

Case No. CV01-22-15779

PLAINTIFF'S AMENDED COMPLAINT

**(Interpleader; Breach of Indemnity
Agreement)**

PLAINTIFF'S AMENDED COMPLAINT - 1

2009.002-02101197; 1

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PLAINTIFF'S AMENDED COMPLAINT - 2

2009.002-02101197; 1

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credit union, JOH NKYA ELLISON, an individual, HORIZON CREDIT UNION, a Washington credit union, ALEXANDRA KAYLYN VRVALEN, an individual, LESLIE SALAZAR, an individual, ABEL RODRIGUEZ, an individual, ZACHARY FAILING, an individual, NATASHA M. AGEE, an individual, IDAHO UNITED CREDIT UNION, an Idaho credit union, NEXTGEAR CAPITAL, INC., a Delaware corporation, JOHN DOES 1-10, individuals,

Defendants.

Plaintiff Platte River Insurance Company ("Platte River"), by and through counsel, alleges as follows:

PARTIES

1. Platte River is a Nebraska corporation that is licensed to do business and to post bonds in the state of Idaho and has its principal place of business in the State of Wisconsin.

2. Defendant ByrdDawg Motors, LLC ("ByrdDawg") is now, and at all relevant times was, an Idaho limited liability corporation with its principal place of business in Ada County, Idaho.

3. Defendant Adam Bain ("Bain") is an individual who resides in Ada County, Idaho.

4. Defendant Terry Byrd ("Byrd") is an individual who resides in Canyon County, Idaho.

5. Defendant Michel Alan Bain ("Alan Bain") is an individual who resides in Baker County, Oregon.

6. Defendant Kelli Lopez (“Lopez”) is an individual who, upon information and belief, resides in Canyon County, Idaho.

7. Defendant Jacqueline Norman (“Norman”) is an individual who resides in Park County, Montana.

8. Defendant Hunter Allen (“Allen”) is an individual who resides in Canyon County, Idaho.

9. Defendant Cade W. Rowland (“Rowland”) is an individual who resides in Ada County, Idaho.

10. Defendant Ronald Martin (“Martin”) is an individual who resides in Canyon County, Idaho.

11. Defendant Nicholas Gensburger (“Gensburger”) is an individual who resides in Ada County, Idaho.

12. Defendant Izic Cruz (“Cruz”) is an individual who resides in Canyon County, Idaho.

13. Defendant Charles Fortik (“Fortik”) is an individual who resides in Canyon County, Idaho.

14. Defendant Lookout Federal Credit Union (“LFCU”) is an Idaho credit union with its principal place of business in the state of Idaho.

15. Defendant Beehive Federal Credit Union (“BFCU”) is an Idaho credit union with its principal place of business in the State of Idaho.

16. Defendant America First Credit Union dba America First Federal Credit Union ("AFFCU") is a Utah credit union conducting business in the State of Idaho with its principal place of business in the state of Utah.

17. Defendant Potlatch No 1 Financial Credit Union ("P1FCU") is an Idaho credit union with its principal place of business in the state of Idaho.

18. Defendant Idaho Central Credit Union ("ICCU") is an Idaho credit union with its principal place of business in the state of Idaho.

19. Defendant Laura J. Lane ("Lane") is an individual who resides in Canyon County, Idaho.

20. Defendant Emily Bernal ("Bernal") is an individual who resides in Ada County, Idaho.

21. Defendant Landon R. Miller ("Miller") is an individual who resides in Canyon County, Idaho.

22. Defendant Michael Homeister and Defendant Lisa Homeister (the "Homeisters") are individuals who reside in Ada County, Idaho.

23. Defendant Reliable Credit Association, Inc. ("RCA") is an Oregon corporation conducting business in the State of Idaho with its principal place of business in the state of Oregon.

24. Defendant John Murphy ("Murphy") is an individual who, upon information and belief, resides in Valley County, Idaho.

25. Defendant Michael Clayton ("Clayton") is an individual who resides in Ada County, Idaho.

26. Defendant Kaden Rodriguez ("Rodriguez") is an individual who resides in Canyon County, Idaho.

27. Defendant Kainan Hawkins ("Hawkins") is an individual who resides in Ada County, Idaho.

28. Defendant Michael McColl ("McColl") is an individual who resides in Ada County, Idaho.

29. Defendant Connor Rhoton ("Rhoton") is an individual who resides in Ada County, Idaho.

30. Defendant Abel Rodriguez ("Abel Rodriguez 1") is an individual who resides in Canyon County, Idaho.

31. Defendant Canyon Financial of Caldwell, Inc. ("CFCI") is an Idaho corporation with, upon information and belief, its principal place of business in the state of Idaho.

32. Defendant Walter Wright ("Wright") is an individual who resides in Canyon County, Idaho.

33. Defendant Chandra Crain ("Crain") is an individual who resides in Canyon County, Idaho.

34. Defendant Lendmark Financial Services, LLC ("Lendmark") is a Georgia limited liability company conducting business in the State of Idaho with its principal place of business in the state of Georgia.

35. Defendant Brandon Downing ("Downing") is an individual who resides in Washington, County Idaho.

36. Defendant Goodwill Finance, LLC (“Goodwill”) is an Idaho limited liability company with its principal place of business in the state of Idaho.

37. Defendant Joanna Sherman (“Sherman”) is an individual who resides in Ada County, Idaho.

38. Defendant Finco Holding Company LLC dba Equitable Finance (“Finco”) is an Oregon limited liability company doing business in the state of Idaho with its principal place of business in the state of Oregon.

39. Defendant Kaitlyn Greenland (“Greenland”) is an individual who resides in Ada County, Idaho.

40. Defendant Itxaso E. Eiguren (“Eiguren”) is an individual who resides in Ada County, Idaho.

41. Defendant Capital Eleven Auto, LLC dba Capital Auto Loan (“Capital”) is an Idaho limited liability company with its principal place of business in the state of Idaho.

42. Defendant Misty Garcia (“Garcia”) is an individual who resides in Ada County, Idaho.

43. Defendant East Idaho Credit Union (“EICU”) is an Idaho credit union with its principal place of business in the state of Idaho.

44. Defendant Tristan Wickard and Defendant Carol Wickard (the “Wickards”) are individuals who reside in Ada County, Idaho.

45. Defendant Rolando Castillo (“Castillo”) is an individual who resides in Canyon County, Idaho.

46. Defendant Jose A. Diaz (“Diaz”) is an individual who resides in Ada County, Idaho.

47. Defendant Conner Widmer and Defendant William Widmer (the “Widmers”) are individuals who reside in Payette County, Idaho.

48. Defendant CapEd Credit Union (“CapEd”) is an Idaho credit union with its principal place of business in the State of Idaho.

49. Defendant Tianna Victoria Cabrera (“Cabrera”) is an individual who resides in Gooding County, Idaho.

50. Defendant Pioneer Federal Credit Union (“PFCU”) is an Idaho credit union with its principal place of business in the State of Idaho.

51. Defendant Johnkya Ellison (“Ellison”) is an individual who resides in Payette County, Idaho.

52. Defendant Horizon Credit Union (“HCU”) is a Washington credit union conducting business in the state of Idaho with its principal place of business in the State of Washington.

53. Defendant Alexandra Kaylyn Vrvalen (“Vrvalen”) is an individual who resides in Canyon County, Idaho.

54. Defendant Leslie Salazar (“Salazar”) is an individual who resides in Ada County, Idaho.

55. Defendant Abel Rodriguez (“Abel Rodriguez 2”) is an individual who resides in Ada County, Idaho.

56. Defendant Zachary Failing (“Failing”) is an individual who resides in Ada County, Idaho.

57. Defendant Natasha M. Agee (“Agee”) is an individual who resides in Ada, Idaho.

58. Defendant Idaho United Credit Union (“IUCU”) is an Idaho credit union with its principal place of business in the state of Idaho.

59. Defendant Nextgear Capital, Inc. (“Nextgear”) is a Delaware corporation conducting business in the state of Idaho with its principal place of business in Indiana.

60. Defendants John Does 1-10 are individuals or entities who may reside in the state of Idaho and who may bring a claim against motor vehicle dealer bond no. PR2709687.

61. Defendants Alan Bain, Lopez, Norman, Allen, Rowland, Martin, Gensburger, Cruz, Fortik, LFCU, BFCU, AFFCU, P1FCU, ICCU, Lane, Bernal, Miller, the Homeisters, RCA, Murphy, Clayton, Rodriguez, Hawkins, McColl, Abel Rodriguez 1, CFCI, Wright, Crain, Lendmark, Downing, Goodwill, Sherman, Finco, Greenland, Eiguren, Capital, Garcia, EICU, the Wickards, Castillo, Diaz, the Widmers, CapEd, Cabrera, PFCU, Ellison, HCU, Vrvalen, Salazar, Abel Rodriguez 2, Failing, Agee, IUCU, Nextgear, and John Does 1-10 are referred to collectively herein as “Claimants.”

JURISDICTION AND VENUE

62. This Court has subject matter jurisdiction over this action pursuant to Idaho Code (“IC”) § 1-705.

63. Venue is proper in Ada County, Idaho pursuant to IC § 5-404 because at least some of the Defendants reside in Ada County, Idaho and the conduct giving rise to this action occurred in Ada County, Idaho.

FIRST CLAIM FOR RELIEF

(Interpleader IC § 5-321 – Against Claimants)

64. Platte River incorporates by reference herein the allegations contained in Paragraphs 1 through 63.

65. Platte River, as surety, posted a motor vehicle dealer bond no. PR2709687, in the penal sum of \$20,000.00 on behalf of ByrdDawg, as principal, payable to the State of Idaho, as obligee (the “Bond”). The Bond was cancelled on August 22, 2022.

66. Claimants have asserted, or may assert, claims against the Bond, which, in the aggregate, exceed Platte River’s obligations as surety under the Bond. Platte River hereby makes available, subject to further order of this Court, the sum of \$20,000.00, less attorneys’ fees, costs and disbursements incurred herein, for the payment of such Claimant(s) who may establish their claims and may be entitled proportionately to share in the aggregate remaining penal limit of the Bond.

67. Pursuant to IC § 5-321 and Idaho Rule of Civil Procedure 22, it would be just and proper for the Court to exonerate and discharge Platte River upon tender of the Bond proceeds with respect to all of its obligations and liabilities as surety under said Bond, to require Claimants, and each of them, to interplead and settle amongst themselves their rights, if any, to the net penal limit of the Bond, and to enjoin and restrain

Claimants, and each of them, from making any claims against Platte River on account of the Bond, or from filing or prosecuting any lawsuits against Platte River on the Bond, except in this interpleader action.

68. It would be just and proper under IC § 5-321 to award Platte River out of the proceeds made available to this Court, Platte River's attorneys' fees, costs, and disbursements incurred in the filing of and service of this action.

69. Platte River has no plain, speedy or adequate remedy at law.

SECOND CLAIM FOR RELIEF

(Breach of Indemnity Agreement – Against ByrdDawg, Bain, and Byrd)

70. Platte River incorporates by reference herein the allegations contained in Paragraphs 1 through 69.

71. In partial consideration for the posting of the Bond, Bain and Byrd, individually and on behalf of ByrdDawg, executed in favor of Platte River an Indemnity Agreement (the "Indemnity Agreement"). Under the Indemnity Agreement, ByrdDawg, Bain, and Byrd agreed to indemnify Platte River and hold Platte River harmless against all loss, liability, costs, claims, damages, and expenses, including but not limited to attorneys' fees, of whatever kind or nature that Platte River incurred in connection with the Bond.

72. Under the terms of the Indemnity Agreement, Platte River is entitled to recover its reasonable attorneys' fees incurred, which may be awarded by the Court.

73. Platte River has performed all conditions precedent, conditions and obligations on its part to be performed, and has no plain, speedy or adequate remedy at law.

74. As a direct result of ByrdDawg's, Bain's, and Byrd's breach of the Indemnity Agreement, Platte River is entitled to a judgment against ByrdDawg, Bain, and Byrd in the amount of all sums that Platte River incurs to pay Claimants, and for costs, fees and other damages that Platte River sustains as a result of posting the Bond. Without limitation, Platte River is entitled to a judgment against ByrdDawg, Bain, and Byrd for the following amounts: (a) the amount that Platte River deposits with the Court in connection with this interpleader action; (b) the amount that Platte River has incurred to investigate, analyze, and respond to claims; (c) the amount that Platte River incurs for attorneys' fees and costs associated with this action; and (d) any fees and costs that Platte River incurs in the collection of amounts awarded in favor of Platte River herein.

WHEREFORE, Platte River prays for relief as follows:

1. On its First Claim for Relief:

a. A judgment enjoining and restraining Claimants, and each of them, from filing or prosecuting suit or action against Platte River on account of its obligations under the Bond, except in this interpleader action;

b. A judgment declaring and determining the rights of Claimants and the validity of their claims under the Bond, and in the event the amount of said claims exceed the penal limit of the Bond, \$20,000.00, appropriately pro-rating said amount among Claimants whose claims have been validated by this Court, and in the event the

amount of said claims do not exceed the remaining penal limit of the Bond, \$20,000.00, disbursing any remaining, unclaimed Bond funds to Platte River;

c. A judgment exonerating and discharging Platte River with respect to all of its obligations or liabilities under the Bond; and

d. A judgment awarding Platte River, out of the funds made available to the Court, Platte River's costs and disbursements incurred herein, including filing, publication and service fees, together with Platte River's reasonable attorneys' fees incurred in bringing and prosecuting this action.

2. On its Second Claim for Relief, a judgment in favor of Platte River, and against ByrdDawg, Bain, and Byrd, in the amount of all sums that Platte River incurs to pay Claimants, and for costs, attorneys' fees and other damages that Platte River sustains as a result of posting the Bond, including without limitation: (a) the amount that Platte River deposits with the Court in connection with this interpleader action; (b) the amount that Platte River has incurred to investigate, analyze and respond to claims; (c) the amount that Platte River incurs for attorneys' fees and costs associated with this action; and (d) any fees and costs that Platte River incurs in the collection of amounts awarded in favor of Platte River herein, together with interest thereon from the date said amount is paid until repaid.

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3. On all Claims for Relief, for such other and further relief as the Court deems just and equitable.

DATED this 11th day of November, 2022.

SOKOL LARKIN

By: /s/ Jan D. Sokol

Jan D. Sokol, ISB #6498

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Attorneys for Plaintiff Platte River

Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **PLAINTIFF'S AMENDED**

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by the following indicated method or methods:

by **mailing** a full, true and correct copy thereof in a sealed, first-class postage-paid envelope, and addressed to the attorney as shown above, the last-known office address of the attorney, and deposited with the United States Postal Service at Portland, Oregon on the date set forth below.

by **e-mailing** a full, true and correct copy thereof to the party as shown above, at the last known electronic mail address reflected above, on the date set forth below.

CERTIFICATE OF SERVICE - 1

SOKOL  LARKIN

DATED this 11th day of November, 2022.

SOKOL LARKIN

By: /s/ Jan D. Sokol

Jan D. Sokol, ISB #6498

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2009.002-02101197; 1

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