

**CAUSE NO. 24-DCV-323048**

<b>ANDREW LEHMAN, AN INDIVIDUAL</b>	§	<b>IN THE DISTRICT COURT</b>
	§	
<b>V.</b>	§	
	§	<b>FORT BEND COUNTY, TEXAS</b>
<b>DARNCO LLC , A TEXAS LIMITED</b>	§	
<b>LIABILITY COMPANY, SCOTT</b>	§	
<b>DARNELL AN INDIVIDUAL, REBECCA</b>	§	<b>268TH JUDICIAL DISTRICT</b>
<b>DARNELL, AN INDIVIDUAL</b>	§	

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**DEFENDANT DARNCO LLC'S PLEA TO THE JURISDICTION**

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COMES NOW, DARNCO LLC, Defendant in the above-entitled and numbered cause and files this Plea to the Jurisdiction, asserting that this Court lacks subject matter jurisdiction over the claims asserted by Plaintiff, ANDREW LEHMAN, due to Plaintiff's lack of standing to pursue said claims. In support hereof, Defendant would respectfully show the Court as follows:

**STANDARD OF LAW**

"When assessing a plea to the jurisdiction, our analysis begins with the live pleadings. We may also consider evidence submitted to negate the existence of jurisdiction—and we must consider such evidence when necessary to resolve the jurisdictional issue. We construe the plaintiff's pleadings liberally, taking all factual assertions as true, and look to the plaintiff's intent. We must grant the plea to the jurisdiction if the plaintiff's pleadings affirmatively negate the existence of jurisdiction. And we must grant the plea if the defendant presents undisputed evidence that negates the existence of the court's jurisdiction." *Heckman v. Williamson County*, 369 S.W.3d 137, 150 (Tex. 2012).

**ARGUMENT AND AUTHORITIES**

"Subject matter jurisdiction is essential to the authority of a court to decide a case. Standing is implicit in the concept of subject matter jurisdiction. . . . Subject matter jurisdiction is never presumed and cannot be waived." *Texas Ass'n of Business v. Texas Air Control Bd.*, 852 S.W.2d

440, 443–44 (Tex. 1993). “For standing, a plaintiff must be personally aggrieved.” *DaimlerChrysler Corp. v. Inman*, 252 S.W.3d 299, 304–05 (Tex. 2008).

Plaintiff’s claims all arise from alleged damage to a specific vehicle.<sup>1</sup> However, there is no evidence in the record demonstrating that Plaintiff owns said car. Instead, the record evidence supplied by Plaintiff Lehman to the Defendants in support of an alleged Texas Deceptive Trade Practices Act claim conclusively shows that this vehicle is owned by Platinum Tax Relief, Inc. – *not* Plaintiff Andrew Lehman.<sup>2</sup> Platinum Tax Relief, Inc. is not a party to this litigation. “Although the name on a certificate of title is not conclusive of ownership, evidence of the name in which an automobile is registered raises a presumption of ownership. That presumption vanishes only when positive evidence to the contrary is introduced.” *Grant v. Espiritu*, 470 S.W.3d 198, 202 (Tex. App.—El Paso 2015, no pet.). Only the registered owner of a vehicle has the justiciable interest in a vehicle necessary to sue for alleged damage to that vehicle. *Id.* at 203. Without proof of ownership, Plaintiff Lehman lacks standing to sue for alleged damage to the Maserati, this Court lacks subject-matter jurisdiction over his claims, and this case must be dismissed.

### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant, DARNCO LLC, respectfully requests that this Court:

1. Sustain this Plea to the Jurisdiction;
2. Dismiss Plaintiff’s claims for lack of subject matter jurisdiction;
3. Award Defendant all costs of court; and

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<sup>1</sup> Pl.’s Orig. Pet. (Nov. 12, 2024) at 14, para. 44 (alleging Defendants committed fraud “in the destruction of Plaintiff’s vehicle”); *id.* at 15, para. 49 (alleged failure “to perform the oil change service with reasonable care and honesty”); *id.* at 51 (breach of contract “leading to severe damage to Plaintiff’s vehicle”); *id.* at 53 (alleging the “conversion of Plaintiff’s vehicle”); *id.* at 20, para. 60 (alleging DTPA damages consisting of “the cost of repairs, loss of use of the vehicle, and replacement of the entire vehicle engine, and/or the entire automobile”); *id.* at para. 64 (same damages for negligence).

<sup>2</sup> **Exhibit A:** Buyer’s Slip for Maserati VIN 9812 (Mar. 3, 2023).

4. Grant such other and further relief to which Defendant may be justly entitled.

Respectfully submitted,

**BAIN & BARKLEY**

*A Partnership of Professional Corporations*



**BY:**

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**DARNCO LLC**

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Steve Bain on behalf of Steve Bain

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